

CANBY PLANNING COMMISSION

Regular Meeting

April 27, 1992

7:30 p.m.

APPROVED

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**I. ROLL CALL**

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

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

Others Present: Jack Hammond, DonnaJean and John McManamon, David Bury, Ben Maxwell, Dan Anderson, Robert and Belva Clark, Katherine and Art Ellickson, Dave Anderson, George Wilhelm, Ronald Berg.

**II. MINUTES**

The minutes of **March 26, 1992** were **approved** unanimously.  
The minutes of **April 13, 1992** were **postponed** to May 11, 1992.

**III. CITIZEN INPUT ON NON-AGENDA ITEMS**

None

**IV. COMMUNICATIONS**

Jack Hammond, attorney for Mimi Chitty, requested that ZC 92-01 and CPA 92-01, scheduled for May 11, 1992, be continued for another month. He explained that the delay is due to the applicants being in negotiations with Johnson Controls, as Johnson Controls has indicated interest in purchasing the property.

The Commission discussed whether the applicant should withdraw the applications and re-submit them at a later date. Mr. Hammond requested that the Commission continue the hearings one additional month, as withdrawing the applications would hinder negotiations. The Commission agreed, in a 4-2 vote, to continue the hearings to June 8, 1992, and advised Mr. Hammond there would be no further requests for continuances considered. The Commission also asked staff to advise all interested parties of the continuance.

## V. FINDINGS

**Commissioner Fenske moved for approval of DR 92-02 Findings, Conclusions and Order, incorporating the amended Landscape Plan submitted with the Order. Commissioner Zieg seconded the motion and it carried 5-2, with Chairman Schrader voting no and Commissioner Gustafson abstaining.**

## VI. NEW BUSINESS

**ANN 92-01**, a request to add a 0.8 acre parcel to the request by the Canby Elementary School District's application to annex a 20 acre site which fronts on S. Redwood Street and Township Road (Tax Lot 1100 of Tax Map 4-1E-3) to the City of Canby.

Although the Commission has already recommended approval of the annexation request by the Elementary School District, Mr. Hoffman explained that he would like the Commission to consider adding an additional .8 acre parcel to the original request. After the process was begun to partition the property, it was discovered the property, which includes the home on Redwood Street, would become too small a parcel for the County to accept. Therefore, the County raised some questions. The current owner of the home began to consider the consequences if his drainfield or well caused problems or did not function well, and decided to annex along with the 20 acres. If acceptable to the Commission, to pass a positive recommendation to the City Council to include this .8 parcel, the Boundary Commission would hear both requests on May 7, 1992. The same conditions would apply. As part of the partitioning process, the owner would be required to dedicate land for improvements along Township. In response to an inquiry by the Commission, Mr. Hoffman explained that the owner is aware of the dedication of land, but he did not know if the owner was aware of having to provide sidewalks. Mr. Hammond stated that he believes they are aware that, as a condition of the partition application, a condition relating to sidewalks could be applied.

The Commission agreed unanimously to include this .8 acre parcel to the request for annexation of a 20 acre parcel as the new elementary school site.

**ANN 92-03**, an application by Dave Nelson to annex a 2.37 acre parcel located at the end of S. Elm Street into the City of Canby (Tax Lots 1200 and 1300 of Tax Map 4-1E-4C).

Mr. Hoffman suggested that the Commission consider this application in conjunction with the Conditional Use application regarding the same parcel. He suggested moving the Design Review application up and hearing it first.

## **VII. PUBLIC HEARINGS**

**DR 92-03**, an application by Dan Anderson (applicant) and Marlon Financial Services (owners) for approval of a Site and Design Review application for the construction of a 5-unit apartment complex on a 15,180 square foot parcel on the southwest corner of S.E. 3rd Avenue and Knott Street (Tax Lots 8200 and 8300 of Tax Map 3-1E-33DC).

Jim Wheeler presented the staff report. He explained that the site is approximately .35 acres. Mr. Wheeler reviewed the applicable criteria and explained that the property is zoned R-2, High Density Residential. He then reviewed the background of this property and surrounding areas.

The parcel immediately to the south of the subject parcel has been using a strip of land approximately 12' wide and 90' long from S. Knott Street. The applicant has stated that the owner of the adjacent parcel has been made aware of the correct property boundary, and of the proposed use of the subject parcel.

Set in 12' from the south property line, and aligned east to west, is a line of evergreen trees. In consideration for the use of backyard space for the proposed five-plex, and for solar access, the trees are proposed to be removed. There is a strip approximately 7' wide between the subject parcel and S.E. Third Avenue, owned by Marlon Financial Services, the same owners of the subject parcel. This strip is a portion of the parcel adjoining the subject parcel to the west.

Mr. Wheeler then reviewed the proposal for its consistency with the Comprehensive Plan. The project is entirely within the City limits and within the Urban Growth Boundary. It fully meets the intent of Canby goals and policies regarding the Comprehensive Plan Urban Growth Chapter. All necessary urban services are provided for the site. The proposal is a five-plex residential building which is to be located on a flat site. The zoning classification for the subject parcel is Medium Density Residential (R-2), which is equivalent to the Comprehensive Plan Designation of High Density Residential. The surrounding land use is a mixture of single family and multi-family residential structures. A five-plex residential building will be compatible with the surrounding land use. The sewer treatment plant, at this time, is determined to have the capacity to handle the proposed residential units. Access for

the five-plex is proposed to be from S.E. Third Avenue. Off-street parking will be provided for on-site. A sidewalk will be needed for the property frontage along S.E. Third Avenue and along S. Knott Street. An easement will be needed to secure the access for the proposed development across the 7' strip of the adjoining property. A handicap ramp will be needed for the sidewalk at the corner of S.E. Third Avenue and S. Knott Street.

The applicant is proposing approximately 6,600 square feet of landscaping (43%), with approximately 2000 square feet of the landscaping consisting of bark (30%). The maximum percentage of bark landscaping allowed for credit is 30%. The trees proposed to be kept or planted are not positioned in such a way as to inhibit the solar access of the subject parcel or any adjacent parcel. The landscaping includes a large area covered by grass, four new trees along the west side of the residential structure, numerous shrubs and flower beds, surrounded by bark dust, encompassing the residential structure, and the existing locust tree in front of the residential structure. The height of the shrubs range from 1' to 15'. Mr. Wheeler suggested the following modifications to the landscaping plan that should be considered by the Planning Commission:

- 1) The landscaped area surrounding the existing locust tree is proposed to include bark dust. This area would be more suitable for use by the residents of the five-plex, aesthetically and practically, with a grass covering in place of the proposed bark dust.
- 2) The shape of the landscaped area around the existing locust tree should be altered to allow for a more convenient and safe use of the parking lot. The southeast corner of the landscaped area should be indented toward parking space #2, thus allowing a vehicle to park without make a wide swing around the landscaped area. The southern boundary of the landscaped area should be even across the concrete walk out to the western edge. This would provide both a less confusing parking configuration for spaces #10 and #11, and a full width concrete walk for its full length.
- 3) In the original landscape plan, the applicant proposed 10' to 15' high shrubs along the west side of the trash dumpster. In a revision that included three additional trees in between the trash dumpster and S. Knott Street, the shrubs were excluded. Retention of the shrubs in the landscape plan would provide proper and needed visual screening of the trash dumpster.
- 4) The sidewalk that will be required along S.E. Third Avenue will leave only a 2' strip of land between the sidewalk and the parking lot. Landscaping of this strip, however slight it is, would be appropriate to provide a visual, as well as a physical separation between the street and sidewalk, and the parking lot of the development.

With regard to the parking requirement of 2 spaces per dwelling unit, 10 parking spaces are required and indicated on the plan. Originally, 12 were designated, but after a revised landscape plan was submitted to protect the existing locust tree, 2 parking spaces had to be eliminated to allow for more pervious surface to surround the existing locust tree. Further temporary protection will be needed during construction, such as fencing off the tree and landscaped area within the tree's drip line.

Access for passenger vehicles to the five-plex is from S.E. 3rd Avenue. An easement for access across the adjoining property will be necessary to secure access from S.E. Third Avenue.

With regard to architecture, lap siding will be used on the north and east sides of the residential structure (facing the streets). The colors are proposed to be Buttercup Beige for the body and Bronze Buckeye for the trim.

Mr. Wheeler stated that once the Planning Commission is satisfied with the landscape plan, staff would recommended approval, with conditions, as follows:

1. Sidewalks shall be installed along S. Knott Street for the full length of the property boundary, and along S.E. Third Avenue equivalent to the full length of the property boundary.
2. A handicap ramp shall be installed for the sidewalk at the intersection of S.E. Third Avenue and S. Knott Street.
3. The landscape plan shall be include the following changes:
  - a. the landscaped area surrounding the existing locust tree shall have a grass covering;
  - b. the southeast corner of the landscaped area around the existing locust tree shall be indented toward parking space #2, and the southern boundary of the said landscaped area shall be straight across the concrete walk to the western edge of the landscaped area;
  - c. the shrubs proposed in the original landscape plan for the eastern edge of the trash dumpster shall be retained; and,
  - d. the two foot strip of land in between the sidewalk along S.E. Third Avenue and the parking area shall be landscaped with small shrubs and bark dust.

3. A revised landscape plan shall be submitted to the City Planner for review and approval for consistency with required changes.
4. The tree identified for preservation shall be protected by fencing specified by a qualified arborist, nurseryman or landscape architect. The fencing shall be at the perimeter of the identified landscape area within the drip line of the preserved tree.
5. A copy of an easement for access to the subject parcel from S.E. Third Avenue shall be provided to the Canby Planning Department.

### Applicant

**Dan Anderson, 1056 N.E. 8th Place**, stated that he concurs with the staff report. He further stated that he believes the proposal will improve and enhance the neighborhood. It will be a Super Good Cents home with ten parking spaces, a complete underground sprinkler system that work on a timer, and vinyl windows.

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

Issues discussed:

The Commission agreed that:

1. the proposed use of the site is consistent with the applicable requirements and policies of the Comprehensive Plan and the development ordinance;
2. the characteristics of the site are suitable for the proposed use;
3. that all required public facilities and services exist (or can be made to exist at the time of development) to adequately meet the needs of the proposed development;
4. the proposed use will not alter the character of the surrounding areas in such a way as to substantially limit or preclude the uses allowed; and
5. the conditions listed are the minimum necessary to achieve the purposes of the Site and Design Review Ordinance, and do not unduly increase the cost of housing.

Based on the findings and conclusions in the staff report dated April 16, 1992, Commissioner Maher moved for approval of DR 92-03, eliminating both proposed conditions #3, and amending Condition #4, and incorporating the landscape plan dated April 27, 1992, as follows:

1. Sidewalks shall be installed along S. Knott Street for the full length of the property boundary, and along S.E. Third Avenue equivalent to the full length of the property boundary.
2. A handicap ramp shall be installed for the sidewalk at the intersection of S.E. Third Avenue and S. Knott Street.
3. The tree identified for preservation shall be protected temporarily, during construction, by fencing specified by a qualified arborist, nurseryman or landscape architect. The fencing shall be at the perimeter of the identified landscape area within the drip line of the preserved tree.
4. A copy of an easement for access to the subject parcel from S.E. Third Avenue shall be provided to the Canby Planning Department.

Commissioner Gustafson seconded the motion and it carried 7-0.

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**ANN 92-03**, an application by Dave Nelson to annex a 2.37 acre parcel located at the end of S. Elm Street into the City of Canby (Tax Lots 1200 and 1300 of Tax Map 4-1E-4C).

**CUP 92-04**, an application by Dave Nelson for a Conditional Use approval of a proposed 5-unit manufactured home park at the end of S. Elm Street (Tax Lot 1300 of Tax Map 4-1E-4C).

Chairman Schrader explained that the Conditional Use approval would be dependent upon the annexation approval by City Council. Dr. Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site and drawing no conclusions, there was none expressed.

Bob Hoffman presented the staff reports. He explained that Mr. and Mrs. Ellickson, the people most affected by the proposal, wish to annex their property [1.2 acres] into the City of Canby, along with this 2.37 acres. The Ellickson's access to Elm is by

way of a 25' drive immediately adjacent to the 2.37 acre subject property. Mr. Hoffman explained that it would be advantageous to the City if the steep bank was protected. He further explained that Elmwood Mobile Home Park is considering dedicating a portion of the property they own to the City, which would bring City ownership up to the edge of the Ellickson's property and almost to the Nelson property. The conditions of the tentative agreement between the Ellicksons and Mr. Nelson includes provision that the Ellicksons be held harmless from sewer and water costs and, in return, would donate the embankment area when they annex. In discussing how the annexation criteria is met, Mr. Hoffman explained that this would be considered a Double Majority Annexation procedure because the parcels are contiguous to the current City limits. The advantage for Mr. Nelson is that he would gain the Ellickson's drainfield easement and could build on that area, which would allow homes to be set back properly from Elm Street. Mr. Hoffman stated that staff recommends approving the annexation of both properties. The recommendation includes the stipulation that the City and Mr. Nelson share the costs of hooking the Ellicksons up to sewer and water. With regard to the land lying outside the Urban Growth Boundary, he explained that there is an advantage to the City in seeing that the steep bank is given protection and also, that the City has the ability to get a path through it to the new roadway which could, eventually, reach as far as Good's Bridge, along the embankment. The adopted Parks Plan recommended that the City pursue the Molalla River Greenway and particularly orient it to pedestrian bike paths. The Boundary Commission is encouraging that annexations go as far as the lower edge of the embankment so that it can be protected, as well as protecting the stream at the bottom. The City has not yet heard from L.C.D.C. as to their reaction about annexing property outside the UGB, although the City could own and maintain it, just as it did the Logging Road.

With regard to the **Conditional Use (CUP 92-04)**, Mr. Hoffman explained that this application covers only the Nelson portion of the property, but includes the well on the embankment on Mr. and Mrs. Ellickson's property. Mr. Hoffman then reviewed how the application meets the applicable criteria and Comprehensive Plan goals. The proposal is for a mobile home park containing five homes and is being considered under a conditional use, rather than a subdivision, because it is Mr. Nelson's intention to lease or rent the property to individual manufactured home owners, rather than selling the lots, the same as was proposed under the original Village on the Lochs. The slope along the Molalla River Embankment in the hazard area, which is part of this proposal, is addressed in the Comprehensive Plan as being an area needing special consideration, is not proposed to be developed. This part of the site would not be within the Urban Growth Boundary, which ends at the top of the slope, while the property extends to the bottom of the slope. Mr. Nelson is proposing dedication of the slope area to the City so the City can coordinate its protection and add it to its recreation and open space land. The extensions of service that will be provided to develop Phase I of Village on the Lochs will be available to serve this area. The developer will share the cost of extending these services. The site will be zoned R-1,



and the steep slope portion will be zoned with a Hazard Overlay to protect it. Setbacks from the edge of the slope are necessary to protect development from slumping. As part of the previous action on the Village of the Lochs project, Elm Street was approved to be extended as a public road. It will need to be improved, and sidewalks and curbs provided as part of the development process. Mr. Hoffman added that the application does not address erosion-control during construction or after regrading, which should be a condition of any approval. An adjustment of approximately 5 feet will have to be made to the two units which do not meet the required 25 foot setback distance from the public street. The main access via the Elm Street extension has the required County approvals. Sidewalks on wide side of the main road are indicated in the plans, but since this will be a public road, sidewalks on both sides are required. After each unit is sited, a 150 square foot patio is required for each site. A 24 x 24 enclosed carport will be present on all sites, with room for 2 cars. The applicant has proposed to dedicate an area in excess of 1/2 acre for public open space, with an additional private recreation area available at the base of the hillside. The landscape plan that has been submitted will be reviewed under the Site and Design Review hearing process. The existing septic drainfield is proposed to be protected, but if it is eliminated as a constraint, the sites can be shifted to include covering the 70 x 70 foot area, facilitating the placement of double-wide or triple-wide units. The applicant proposes lots of approximately 4,000 - 9,800 square feet, with the average ranging 7,500 square feet. Mr. Beck, the neighbor to the east, has expressed concern about the impact this project will have on his home. A major barrier is needed to separate uses. The barrier would have to be examined to ensure its compatibility as an entry wall, to make sure it has no adverse impact. Mr. Hoffman then reviewed the proposed conditions of approval and added that the conditions of approval of the previous project, which affect this project, must be fulfilled before this project moves forward including dedication of the slope, dedication of the roadway down the hill, the design of the roadway and the walkway related to it, and the bike path design. Mr Hoffman amended proposed Condition #3 to read **7 foot** sound barrier wall. The Ellicksons have requested, and Mr. Nelson has agreed to provide a sight-obscuring, good neighbor, natural finish cedar or redwood fence along the western lot line. He amended proposed Condition #4 to reflect this. Proposed Condition #8 was amended to read: "An alternative stormwater collection system shall be provided, designed to the requirements of the Director of Public Works.". The first sentence of proposed Condition #17 shall be amended to read: "All units shall be double- or triple-wide. All double-wide models shall be a minimum of 1,300 square feet; all triple-wide models shall be a minimum of 1,600 share feet. No units shall have metal exterior sides or roof. All units shall have skirting or perimeter foundations attached at the time of occupancy." Mr. Hoffman explained that part of the agreement between Mr. Nelson and the Ellicksons deals with architectural features which will result in the units being comparable in scale, architecture and value, to the Ellickson home. Ultimately, for this to work, the City must agree that the drainfield would be replaced by connection through a sewer connection manhole for the Ellicksons and a water connection to their home, which could go down their driveway or through an easement

through the park. The Ellicksons are not interested in annexing, though, unless they are held harmless from the costs of hooking up to the sewer or water systems, in exchange for dedicating their easement on the embankment to the City. In essence, the City would have to share the costs of the hook-ups with Mr. Nelson. Staff recommends approval with conditions, as modified earlier.

### **Applicant**

**Dave Nelson, 25610 S.W. Mountain Road, West Linn**, stated that he concurs with Mr. Hoffman's report. He added that he supports the nature path at the bottom of the hill, which would open the City park access from Elm Street. As part of the Eagle Scout program, the Boy Scouts of America will assist in working on that trail. The existence of the drainfield will increase the size of the five homes, where they will be more similar to the Ellickson's home.

### **Proponents**

**Catherine Ellickson, 1625 S. Elm Street**, requested a continuance of the Conditional Use application until the agreement is signed by the City and Mr. Nelson. She further stated she is not requesting a continuance for the Annexation application because she understands that can be rescinded.

Mr. Hoffman stated that he supports Mrs. Ellickson's request.

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

Issues discussed:

1. The Commission agreed the continuance for the Conditional Use permit portion of the hearing was in order.
2. The Commission discussed whether or not to consider the Annexation further, at this meeting. Mr. Hoffman explained that it takes approximately 3 months for the annexation to get through the Boundary Commission, and that if it did go through and was approved, it could still be withdrawn.
3. Mr. Hoffman stated that the applicant was willing to submit a waiver of the 120 day requirements for the Conditional Use application. Mr. Nelson requested that the Commission complete the Annexation part of the discussion because it is a very time-consuming process, as it could always be modified or withdrawn. He stated that he has no objection to continuing the Conditional Use application hearing. Art Ellickson stated that he agreed with Mr. Nelson.

4. The Commission discussed its opinions about annexing land that lies outside the Urban Growth Boundary. The Comprehensive Plan refers to doing so as requiring amendments to both the City's and the County's Comprehensive Plan. The Commission discussed whether such an act should be preceded by an Urban Growth Boundary amendment. Mr. Hoffman explained that the area in question is a natural resource area which needs protection. The Canby Comprehensive Plan policies related to Annexation and the Urban Growth Boundary, with respect to the embankment, express concerns about the intensive development within the embankment. This is a unique area in Canby, he added, and the Comprehensive Plan is very consistent in its desire to protect the embankment.
5. The Commission discussed the suitability of the old roadway as a bike path, and whether or not it is too steep. The Commission agreed to seeking input from the Director of Public Works regarding the roadway configuration, and whether it was suitable for use as a bike path. The Commission discussed the financial liability involved in repairing the scar in the hillside prior to turning it into a bike path.
6. The Commission discussed whether or not to consider recommending approval of the Annexation at this hearing or to continue it. The Commission agreed 5-2, to continue the Annexation to May 11, 1992.
7. The Commission discussed the City's possible liability in accepting the bank in its present condition and requested the City Attorney's input regarding whether or not the City should accept such land outside the Urban Growth Boundary.
8. The Commission discussed the State's response to annexing land outside the UGB.

**Commissioner Fenske moved to continue both ANN 92-03 and CUP 92-04, due to the request of Mrs. Ellickson, to May 11, 1992. The continuation of the Annexation request is to allow staff to respond to the following three questions:**

- 1. The State's response to annexing land outside the Urban Growth Boundary;**
- 2. The opinion of the Public Works Director as to the suitability of the road, as currently constructed, for use as a bike path; and**
- 3. The opinion of the City Attorney as to the City's liability in accepting the slope, and whether or not the City is interested in doing so.**

**Commissioner Maher seconded the motion and it carried unanimously.**

**SUB 92-01**, an application by Regan Enterprises for approval of Phase IV of Township Village. The subdivision application requests approval for 19 residential lots on 4.9 acres. The site is located south of Township Road, east of N. Ivy Street and west of S. Lupine (Tax Lot 600 [part] of Tax Map 4-1E-4A).

Chairman Schrader asked if any Commissioners had ex-parte contact or conflict of interest. The Commissioners who visited the site stated they had come to no conclusions. None expressed any ex-parte contact.

Chairman Schrader then explained the hearing procedure and guidelines.

Bob Hoffman presented the staff report. He reviewed the applicable criteria, and explained that a revised Master Plan for the entire Township Village subdivision has been submitted which is updated to include the conditions of approval of Phase III, including the dedicated park land. Mr. Hoffman compared the two Master Plans, pointing out the revisions.

Mr. Hoffman then discussed an agreement the Regans signed with the City, which states that any Systems Development Charges paid to the City by residents of Township Village will be returned if the approximate 6 acres of land is dedicated within one year. This agreement was dated November 15, 1990. As of this date, dedication has not yet been made to the City. He then reviewed the previous actions with regard to Township Village. The proposed 19 lots vary in size from 7,560 square feet to 11,050 square feet. An adjacent site of 8.5 acres was approved for rezoning to R-1.5, but the request for rezoning the remainder of the original site of 33.4 acres was denied, and remains zoned R-1. Mr. Hoffman then reviewed the conditions of approval for Phase II and noted whether or not they were met, or provided for on the new Master Plan. The southeast portion of the City does not have adequate sewer capacity to handle the entire area indicated within the Urban Growth Boundary. A major sewer route has been determined and initiated to serve this part of the City. Also, a collector road is needed to provide a connection between local areas and their arterials. That collector is being provided through Pine Street, a 50' right-of-way with 40 feet of pavement, being constructed with each phase of development. The proposed revised Master Plan provides for this collector on S. Pine, between Township and 13th Avenue. The new sewer collector will be provided for in each phase within this new right-of-way. A temporary connection has been extended west from 7th Avenue and north on Knott. Township Village provides for a desirable local street pattern which will discourage through traffic. Seventh Avenue in Phase IV will connect to 7th Avenue in the previous phase. The proposed Master Planned roadway connection may have to be modified as the subdivision design emerges, for the property immediately to the east which was recently sold to developers. With regard to the Solar Access Ordinance, Mr. Hoffman explained that in Phase IV, 79% of the lots meet the Solar Access Ordinance requirements, although the Ordinance requires

that 80% of the lots meet it. Because of the shape of the parcel and the need to make the connection to Knott Street, there aren't many options for gaining the additional lot that would bring them over 80%. In a situation like this, the Commission may reduce the requirement. Mr. Hoffman explained that it was his understanding of the ordinance that the entire development could not be averaged; that each phase must be considered separately.

With regard to the Knott Street connection, Mr. Hoffman referred to Mr. Klem's comments about implementing the connection as shown in the earlier actions on this subdivision. Mr. Hoffman stated that if it was accomplished as in the earlier version, the required 150 foot offset between 7th Avenue and Knott would not be accomplished. Staff recommends the latter version of the connection, as it appears on the revised Master Plan, as it appears to be a safer connection and could eventually connect to Ivy.

Staff recommends approval of Phase IV, with conditions. Due to the updated Master Plan showing the connection, proposed Condition #11 can be deleted. Proposed Condition #14 should be amended to read: The proposed Master Plan should be **reconsidered** by the developer for revision prior to submittal of Phase V, as follows: a) consider the Tofte property "Master Plan" and connection to the elementary school at Redwood and 10th Avenue, and providing a fence along the northern boundary of the Lee School and the eastern edge."

Mr. Hoffman pointed out that the current interpretation of the subdivision ordinance is that the Commission doesn't take action directly, upon approving a Master Plan. Instead, it is there to help facilitate and require that the developer think through his relationships and portray his current thinking about future phases. Once the Commission indicates what changes it requires, they can be shown on the updated Master Plan when the next phase comes in.

### **Applicant**

**George Wilhelm** stated that he concurs with the staff report. He addressed his concerns as follows:

1. The Fence Along the School Property. This has been addressed previously and will be installed.
2. Dedicated Park Land. Mr. Wilhelm explained that the park land was not dedicated yet because the applicant would like the Commission to approve the configuration as proposed. He further stated that the City can accept the dedication without going through the partition process. If it is acceptable, it can be dedicated within the next week. Mr. Wilhelm explained that it may take two years for the Regan's to harvest the trees on the site, and that this was agreed to between the City and the Regans.

3. **Knott Street Connection.** Mr. Wilhelm explained that the property between the Regan property and Ivy Street is fully accessible from Ivy. He said that the Public Works Supervisor, Roy Hester, suggested that S. Knott be extended to intersect with Ivy, which would not affect this property. The applicant was requested to provide access to the western edge of the Regan property, which is shown in Phase IV.

### **Opponents**

**Dave Bury, 360 S.E. Township** stated his concern with the walkway. He stated that people walking behind the church now, should have a walkway available from Knott. Mr. Bury further stated his concern that the connection to 13th Avenue be built much sooner than planned for by the developers. He questioned the need for the planned bend in the access road to 13th. Mr. Bury also stated that he was concerned that a signal light will become necessary at Ivy and Township intersection. He stated that there will be too much traffic congestion when the new school is built, coupled with the Township Village buildout. He further suggested that the new homes be fenced off from the older existing home and that the park should be located more toward Knott and Locust, nearer to Township Village than 13th Avenue. Additionally, he stated that Township, with all the added traffic, should be improved past Township Village, where it narrows.

**Donna Jean McManama, 525 S.E. 7th Place** stated that she was mainly concerned with the traffic problems at the Township Road access to Township Village, especially where emergency vehicles are concerned. Mrs. McManama submitted a copy of the CC&Rs, and stated she is concerned that Phase I has 9 pages, and subsequent phases have only 2 or 3 pages. One concern is that the "village look" will not be maintained. A clause on Page 5 of the latest CC&Rs concerned her, which stipulates that current residents do not oppose future plans.

**Belva Clark, 757 S. Lupine** stated that she is a resident of Township Village stated that she is concerned about the timing of the access to 13th Avenue. She stated it would be advantageous if it was put in now. She also noted her concerns with satellite dishes in front yards.

**Ben Maxwell, 561 S.E. 6th Place** stated that he is concerned that Township Road needs to be widened very badly, and that the access from Township to 13th Avenue should come in much sooner than planned. Mr. Maxwell stated that many more restrictions were imposed on residents in the first phase, than in the last two phases. As it is one entity, all residents should abide by the same CC&Rs.

## Rebuttal

**Dave Anderson, 641 N. Baker Drive** stated that in Phase I there was an architectural control committee, which was eliminated in subsequent phases. Residents in Phase I were to bring plans to this committee for approval, but only two homebuilders did. Fortunately, Phase I, II and III turned out well, but as there has been some complaints, they are considering reinstating the committee in Phase IV. The developer wants some sort of control, but is aware that similar architectural committees all over the country have been sued. In the original CC&Rs, many City ordinances were duplicated, which is the reason the length of subsequent CC&Rs are much shorter. Mr. Anderson explained a notice at the end of the CC&Rs, in Phase III, which informs buyers of the expansion, planned by future phases.

**George Wilhelm** explained the project timing, which is planned in phases. He further explained that the timing depends on phased tree planting. In the CC&Rs for Phases II and III, there is a clause which permits homeowners to sue other homeowners within the plat, and to recover their attorney fees, for violations of the CC&Rs.

With no further testimony, the public portion of the hearing was closed for Commission deliberations. As it was nearly 10:30 p.m., **Commissioner Fenske moved to continue the hearing for SUB 92-01 to May 4, 1992. Commissioner Zieg seconded the motion and it carried unanimously.**

## VIII. DIRECTOR'S REPORT

Mr. Hoffman reviewed the progress the Budget Committee is making, with regard to each department's priorities. Mr. Hoffman suggested that if the Commission had any ideas for new capital projects, to contact him in the morning, as City Council requested this input.

## IX. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

Respectfully submitted,

  
Joyce A. Faltus