

# CANBY PLANNING COMMISSION

Regular Meeting

July 13, 1992

7:30 p.m.

APPROVED

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## I. ROLL CALL

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

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

Others Present: Gary Swatzel, David Herman, Sue Regan, George Wilhelm, Carl Mosley.

## II. MINUTES

The minutes of **June 29, 1992** were continued to July 27, 1992.

## III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

## IV. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission discussed developing committees, within a month's time, to work on the most important issues (Advance Funding, the Tree Ordinance, Design Review, Parks, and the Comprehensive Plan Review). Finding resource people, and notifying the Commissioners of meetings so they can arrange to attend, setting up agendas with the first six months' goals spelled out, and setting up timelines in which to meet them, exploring what other cities are doing, are additional priorities. For example, Commissioner Fenske explained he would like to look at the Advance Funding issue, see what is in place already and how to use it to accomplish set objectives. He suggested requesting that Mike Jordan, John Kelley, and a member of the banking

community help form the committee. With regard to the Comprehensive Plan, it was agreed that the first step would be in understanding what the City wants to accomplish with it and how to use it to its best advantage. Citizen input should be sought. It was generally agreed to form committees within a month's time and various methods of enlisting committee members was discussed. Commissioner Mihata asked staff to contact various cities to get copies of their Tree Ordinances. The Commission also agreed to review the Design Review Ordinance with regard to how much of it could be handled administratively by staff. Commissioner Schrader explained that he'd hoped to get something on the ballot with regard to the Parks Plan funding. Chairman Schrader suggested each committee chairperson submit his or her ideas in writing, to be submitted to the entire Commission so each member would be aware, prior to the meeting discussion, what type of agenda was planned. He further suggested that Commissioners meet with staff to discuss those ideas. At the next discussion, Commissioner Fenske should be able to present a review of the existing Ordinance and propose revisions. Commissioner Schrader would, at that same meeting, talk to the issue of recreation districts.

With regard to smaller issues, Mr. Hoffman explained that he planned to submit numerous ordinance revisions to the Commission in October, which should coincide with Comprehensive Plan amendments. Staff encourages the Commission to submit their list of proposed revisions.

Mr. Hoffman explained that he met with DLCD with regard to Periodic Review requirements. By the end of September wetlands must be defined as must the primary plans for preserving them; an updated Capital Improvement Program must be accomplished, focusing on how Canby is going to implement the economic development areas through that program; and industrial sites must be targeted and impediments involved in developing them must be explained. Additionally, we have to arrive at a new contract with the County defining Canby's responsibilities with regard to facilities Capital Improvement Projects.

## **V. COMMUNICATIONS**

None

## **VI. FINDINGS**

The Commission asked if staff verified the easement on the lot abutting the eastern portion of Lot #3. Staff explained the easement was verified to be 12 feet on the adjoining property, and the Commission agreed to amend Condition #4, allowing a 6 foot easement along the eastern portion of Lot #3. The Commission unanimously

moved and seconded its approval of **MLP 92-03 (Pat Harmon) Findings, Conclusions and Order.** Commissioners Schrader and Wiegand abstained.

The Commission questioned whether such verification would precipitate changing the easement on the adjoining property. Mr. Hoffman explained that it does not happen automatically and suggested that the Commission consider amending the ordinance to facilitate doing it administratively, rather than having to go through City Council action for each such change.

## **VII. PUBLIC HEARINGS**

**SUB 92-02**, an application by Dave Herman for approval of a 109-lot, three-phase single-family residential subdivision on approximately 25.28 acres. The lots are proposed to range in size from 7000 square feet to 13,800 square feet. Phase I consists of 43 lots. The site is located just north of S.E. 13th Avenue, east of S. Ivy Street (Tax Lot [part] 1900 of Tax Map 4-1E-3).

Chairman Schrader explained the hearing process and procedures. He asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Mr. Wheeler explained that the applicant proposes to subdivide the subject parcel into 109 lots, in three phases. The first phase will include 10.6 acres along S.E. 13th Avenue, which is proposed to be developed into 43 lots. In the past, the subject parcel was used agriculturally. In the most recent times, it has not been used at all. Development of the site will be coordinated, as much as possible, with the development of Township Village and the new elementary school, immediately to the northeast of the subject site. (Mr. Wheeler referred to the Master Plan for Township Village, which was hung up along side the Hood View Estates Master Plan [Phase I], especially Phase 10, when referring to alignment of streets.) In a recent meeting, the Planning Commission requested that Phase 5 of Township Village include the extension of Pine Street to S.E. 13th Avenue, which is adjacent to the west of the subject parcel. There was recent approval for a major remodel and addition to Ackerman Junior High School, which lies just to the west of the southern portion of the Township Village project. To the east and south of the subject parcel are farm lands, and to the north is partial rural residential and a farm/nursery. To the immediate west is a tree farm which is planned to be developed single-family residential.

The property in question was recently approved for annexation to the City of Canby and is presently in the process of awaiting approval from the Portland Metropolitan Local Government Boundary Commission. When annexed, it will be zoned R-1, Low Density Residential.

With regard to sewer capacity, Mr. Wheeler explained that the sewer treatment plant is undergoing upgrade and expansion, and a Stipulated Final Order has been signed by the City, and is awaiting a final signature from DEQ. The Order will be in effect until August, 1994, allowing the treatment plant to operate at less stringent standards while undergoing upgrade and expansion, which is expected to be completed in May of 1994. At the current growth rate, there is capacity for 2 to 2-1/2 more years of growth. Two options currently are available for servicing the subdivision with sanitary sewer. The first is through the Township Village project and the second is through the sewer that will be extended for the new elementary school in S. Redwood Street. The preferable way of bringing the sewer to this site is through Redwood, which depends on the timing of the Redwood improvements.

A water line is located and available along the western property line. Service providers have indicated the ability to service this site. Canby's storm and sanitary sewer procedure will provide protection for ground water and surface water. Drywells, to handle stormwater, are proposed for this development.

S.E. 13th Avenue is an arterial road, but east of S. Ivy, it has not been widened, nor have sidewalks been installed. A street widening project, with sidewalks and curbs, is proposed with the expansion of Ackerman Junior High School, which will start from S. Ivy Street and run easterly to the eastern property line of the school. This is expected to be completed this summer. The Planning Commission has indicated that the next phase of the Township Village project should include the extension of the collector street, S. Pine, to S.E. 13th Avenue. When S. Pine is extended, further widening and improvement of S.E. 13th Avenue would occur. Half of the necessary improvements along this arterial would be provided when S.E. 13th Avenue is widened along the frontage of the subject parcel, in conjunction with the Township Village and Ackerman Junior High School improvements. The sidewalk along S.E. 13th Avenue will need to be located next to the curb, without the intervening space shown on the Master Plan, in order to continue the pattern from S. Ivy Street along S.E. 13th Avenue. The other half of S.E. 13th Avenue, that portion lying to the south, is not within the City limits.

Mr. Wheeler explained that it is essential that the developer coordinate the internal road system of the proposed subdivision with both the new elementary school and Township Village. It is currently proposed that a connection with Township Village be made at the northern portion of the subject site. Continuing S. Redwood Street south, would provide a connection with the new elementary school, which would also provide a second connecting road east of S. Ivy Street, between S. Township Road and S.E. 13th Avenue. Mr. Wheeler indicated that the applicant's proposed Master Plan should be modified to connect this project and Township Village, along proposed S.E. 10th Avenue.

An area to the east of this parcel has been designated as a future park. Township Village is dedicating six acres of land for park purposes, which will be used in conjunction with the recreational facilities of the public schools on adjoining land. Negotiations are currently underway for dedication of part of the 20 acre site of the new elementary school for a mini-park. Park System Development Charges will be required of all homes built within this subdivision, as contributing their "fair share" to the City development of parks and open space.

With regard to the Solar Access Ordinance, Mr. Wheeler explained that of the 43 proposed lots, 32 (74%) will meet the basic requirements. Seven lots along S. Redwood will not meet the requirements due to the required street layout recommended by staff, extending Redwood to 13th. If Redwood was designed further to the east, only half-street improvements would be built, as opposed to the full-street improvements planned for the Redwood siting to the west.

The Master Plan shows a continuation of S. Redwood Street, with a 50' right-of-way to the northern property line, and alignment changes to connect with the portion of S. Redwood Street that the elementary school developer will be paving. There will need to be a revision to the alignment of the proposed connection of the westerly portion of S.E. 10th Avenue in this project, with the S.E. 10th Avenue proposed in the Township Village project. Staff believes that both projects should modify the alignment of their S.E. 10th Avenues to provide a better transition. Staff also believes that another street, extending to the east, would be appropriate between 10th Avenue and 13th Avenue, a distance of 1,100 feet. Section 16.64.030, the Easement section of the Ordinance, requires walkways at least 10 feet in width for any block in excess of 800 feet. Due to the separation created by the proposed loop road designs, staff finds that two walkways are appropriate. One should be required in Phase I, possibly located on S.E. 12th Loop, between Lots 11 and 12. Options for the location of a walkway in Phase II, along S.E. 11th Loop, are similar to that suggested in Phase I. Both should be shown on future Master Plans. Street names, as proposed, are acceptable to staff and meet the requirements of the street-naming ordinance.

Phase I of Hood View Estates will have a 40 foot right-of-way for S.E. 12th Loop, and a 50 foot right-of-way for S. Redwood Street. The applicant has indicated a 30 foot road dedication from the centerline of S.E. 13th Avenue, but a 40 foot road dedication is required from the centerline. Only one access point for the subdivision is desired from S.E. 13th Avenue, and is appropriate. If approved, conditions will need to be imposed to cover dead-ended streets which are eventually expected to be continued, and temporary turnarounds will need to be required.

The proposed lots will all range in size from 7,000 square feet to 13,800 square feet, meeting the minimum requirements. They will be of such dimensions as not to preclude development with single-family homes with regard to setbacks, and will be of

such size as to preclude further subdivision or partition. A distance of 19 feet must be maintained between the back of the sidewalks and the face of the garages to provide sufficient on-site parking. To provide a safer traffic pattern and use of S.E. 13th Avenue, access will be restricted to Lots 1-9 and 23 from this arterial. Those lots have frontage on S.E. 13th Avenue, as well as on S.E. 12th Loop and S. Redwood Street.

The street design and stormwater drainage systems will need to be designed to City and county standards and be approved by the Director of Public Works.

Traffic impact on the intersection of S.E. 13th Avenue and S. Ivy concerns staff. Staff believes eventual use of traffic signals to control traffic at that intersection will become a reality in the near future and that each development adding significant impact should be held responsible for its "fair-share" of the costs of improvements.

Mr. Wheeler stated that, after reviewing State statutes, the proposed condition suggesting the use of Blocks and lot numbers for the purposes of legal descriptions, is no longer necessary.

Staff finds the proposed subdivision to be consistent with the Comprehensive Plan and all applicable requirements of the Land Development and Planning Ordinance. The overall design and arrangements of lots is functional and will not unduly hinder use or development of adjacent properties. If approval is granted, as recommended, with conditions, it should be conditioned on the approval of the annexation of the property to the City. Staff recommends approving the application with conditions. Mr. Wheeler updated and revised proposed Conditions #13 and 15 to read:

13. Five (5) foot curbs and sidewalks, designed to City standards, shall be constructed along all street frontages. If the sidewalk is set back from the curb, it shall be four (4) feet wide. The setback for the garage, in that case, shall be measured from the back of the sidewalk in front of the garage, and shall provide nineteen (19) feet of parking.
15. The stormwater drainage system shall conform to City and County standards.

### **Applicant**

**George Wilhelm, 546 S.E. Township** stated that he concurs with the staff report. He added that he believes the proposal is in conformance with the text and applicable maps of the Comprehensive Plan and that the application is in conformance with all other applicable requirements of the Land Development and Planning Ordinance.

With regard to the walkways, Mr. Wilhelm stated that he disagrees with staff's interpretation of the ordinance with regard to walkways. Mr. Wilhelm added that he does not believe the ordinance was not intended to require walkways between adjacent developments. It was intended to discourage blocks longer than 800 feet. This development has block lengths that are approximately 600 feet. If the loops were over 800 feet, then walkways should be required somewhere in the middle. Experience with Township Village indicates walkways are not particularly desirable because they could encourage crime and add maintenance problems. Mr. Wilhelm stated that there are sidewalks along 13th Avenue and 10th, on both sides, which lead into the park area. The applicant would prefer not to be required to add the two walkways suggested by staff.

With regard to the "fair share" for traffic improvements at the intersection of 13th and Ivy. Because the lots are priced according to the developer's costs, the developer must know all of the costs involved before the lots are saleable.

The applicant found that bringing Redwood over to the eastern property line with only half-street improvements, is not particularly desirable. Further, Mr. Wilhelm stated that the City discourages half-street improvements. Half-street improvements at that location would be necessary because it would be an undue burden to make this property owner pay for improvements accessed equally by another property owner, which is why it is jogged over to the west.

Mr. Wilhelm suggested exchanging the designs for Phase II and III so as to put a through street in the middle and the loop street on the north end of the project. He suggested this might be a solution to the walkway problem and intersection design at 10th Avenue.

In response to a question from the Commission, Mr. Wilhelm stated that the Township Village park land is ready to be dedicated. Mr. Hoffman said it was his understanding that an offer to dedicate will be taken to City Council once it is formally made. City Council has not yet approved dedication.

**Mr. Herman** stated that planning efforts are being made toward beginning to build Phase I in the Fall, but that it might be delayed until Spring.

Mr. Hoffman explained that it was his understanding that there were one or two property owners to the north of Township, who the developers could not yet reach agreement with, as to which route to use for the new Redwood which would connect to Pine, through the industrial area, and the sewer system. Agreements have been reached with the majority of property owners needed to build the road and the sewer. Roy Hester has taken the position that the current connection through Locust does not have the capacity to handle major new development. Mr. Wilhelm explained that

there are negotiations in the works between Mr. Herman and Regan Enterprises with regard to extending the sewer line from Township Village, which is another option. The Regans have made an offer to provide the sewer to this development, but Mr. Herman has not formally accepted such offer as of this date. Mr. Hoffman added that the City would have to accept that the line to the north has adequate capacity to handle the new development. Mr. Wilhelm stated that the City previously required Township Village to install a 12" main on S. Pine to serve additional areas. The Commission expressed concern recently that the next phase of Township Village extend Pine all the way down to S.E. 13th. Mr. Klem's revised comments state: "At this time, all plans and actions have the sewer coming south on Redwood to serve this project, but not until the summer of 1993."

The Commission suggested that the sewer alignment coming out through Township Village, on Pine Street, might be appropriate for Phase I of this subdivision, with the understanding that the sewer in Redwood would be in place for subsequent phases.

With no further testimony, the public portion of the hearing was closed for Commission deliberation. Issues that the Commission discussed were:

1. Limiting access of the lots that have frontage on S.E. 13th Avenue to interior roads only, in order to provide a safer traffic pattern for S.E. 13th Avenue.
2. Requiring a walkway between S.E. 12th Loop and the Township Village project because a walkway in this location would provide a better and more efficient pedestrian traffic pattern between this subdivision and the recreational facilities located at the Philander Lee and Ackerman schools.
3. Enlarging the sewer line in S. Redwood Street from 8" to 12" in order to provide adequate capacity for this and future subdivisions.
4. That 5 feet is appropriate width for sidewalks, including the curb, when they are located next to the curb, and that four feet is appropriate when set back from the curb. In order to provide adequate parking space on-site, a distance of at least nineteen feet is required between the back of the sidewalk and the garage.
5. The uncertainty of using drywells in a County right-of-way, making it preferable that the specifics of the stormwater drainage system be determined prior to final plat. They must meet County and City standards though.
6. Dedication of forty feet of land, measured from the centerline of S.E. 13th Avenue to maintain the right-of-way pattern for the public portion of S.E. 13th Avenue.



7. Necessary improvements for S.E. 13th Avenue including road widening, curb, and sidewalks, to maintain a uniform road surface and width across the developed portions of that street.
8. The proposed placement of S. Redwood Street and its connection to the extension of S. Redwood Street proposed by the new elementary school project.
9. Limiting the number of lots required to meet the basic standards of the Solar Access Ordinance.
10. Provision for a "fair share" contribution from the applicant toward improvements at the intersection of S.E. 13th Avenue and S. Ivy Street, especially because the subdivision will impact the traffic pattern at that intersection, contributing to the need for improvements.
11. Future considerations of modifications to the Master Plan, as suggested by staff, in order to address potential difficulties in the design of the subdivision.

Based on the findings and conclusions in the staff report dated July 2, 1992, testimony presented, and Commission deliberations, **Commissioner Mihata moved for approval of SUB 92-02 [Phase I of Hood View Estates], with the following conditions, as revised:**

1. **The land divider shall follow the provisions of Section 16.64.070, Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a performance bond for subdivision improvements.**
2. **Access to Lots 1-9 and Lot 23 shall be limited to interior roads. Access to these lots shall not be allowed from S.E. 13th Avenue.**
3. **Any necessary utilities shall be constructed to the specifications of the provider.**
4. **Utility easements shall be provided and are to be twelve (12) feet along all streets and exterior parcel lines. Easements along all interior lot lines are to be six (6) feet wide off of each lot, for a total of twelve (12) feet.**
5. **"As-built" drawings shall be submitted to the City within sixty (60) days of completion.**
6. **Street name and traffic control signs shall be provided at the developer's expense. This shall include "dead-end" signs for the end of streets and "STOP" street signs, where required by the Director of Public Works.**

7. A one foot plug shall be provided at the end of dead-ended streets to prevent access to the north and east until annexed and/or platted.
8. The final plat shall reference this land use application - City of Canby, File No. SUB 92-02, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.
9. The final plat mylars must contain, in the form specified, all information necessary to satisfy all matters of concern to the County Surveyor, or his authorized Deputy, including, but not necessarily limited to, various matters related to land surveying, land title, plat security, and plat recordation.
10. The final plat mylars must be signed by the County Road Official.
11. A walkway connection between Lots 11 and 12 shall be provided, connecting Hood View Estates, Phase I, with the Township Village project.
12. The proposed sewer in S. Redwood Street shall be 12 inches in size.
13. Five (5) foot curbs and sidewalks, designed to City standards, shall be constructed along all street frontages. If the sidewalk is set back from the curb, it shall be four (4) feet wide. The setback for the garage, in that case, shall be measured from the back of the sidewalk in front of the garage, and shall provide nineteen (19) feet of parking.
14. Erosion-control during construction shall be provided by the following recommendations of the "Erosion Control Plans Technical Guidance Handbook" by Lori Faku and Rick Raety, dated November 1989, as revised (currently, January 1991).
15. The stormwater drainage system shall conform to City and County standards.
16. The applicant shall dedicate additional right-of-way along S.E. 13th Avenue to provide forty (40) feet of right-of-way measured from the centerline of S.E. 13th Avenue. Half-street improvements shall be provided by the developer and shall include pavement, curbs, and sidewalks, and shall meet City and County construction standards. The half-street improvements shall match the curb locations from Ivy to the east property line of the Ackerman Junior High School property.

17. **The applicant shall provide a waiver of remonstrance for any traffic improvements needed for S.E. 13th Avenue. Building permits shall be issued only after the developer has provided written agreement to participate in funding its proportional share of the needed improvements or has provided an actual cash contribution accepted by City Council as a "fair share" contribution toward improvements at S.E. 13th Avenue and S. Ivy Street.**
  
18. **The proposed Master Plan should be reconsidered by the developer for revision prior to submittal of Phase II, indicating:**
  1. **a walkway between S.E. 11th Loop and the Township Village Project;**
  2. **a street extension to the east from the intersection of S. Redwood Street and the southern section of S.E. 11th Loop; and**
  3. **a realignment of the connection of S.E. 10th Avenue to the Township Village project.**

**Commissioner Zieg seconded the motion and it carried 7-0.**

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As the three Conditional Use applications for portables on school properties could be heard and considered very quickly, the Commission requested that Mr. Swatzel permit those applications to be heard before MLP 92-04. Mr. Swatzel agreed.

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**CUP 92-07**, an application by Canby Elementary School District to install a two-classroom modular building at the Howard Eccles Elementary School property, to be removed in June 1993. The school is located on N.W. 5th Avenue, east of N. Cedar (Tax Lot 1100 of Tax Map 3-1E-33).

**CUP 92-08**, an application by Canby Elementary School District to install a one-classroom modular building at the Philander Lee Elementary School property, to be removed in June 1993. The school is located on S. Ivy Street, north of S. 13th Avenue (Tax Lot 701 of Tax Map 4-1E-4A).

**CUP 92-09**, an application by Canby Elementary School District to install a one-classroom modular building at the Knight Elementary School property, to be removed in June 1993. The school is located on N. Grant, between N.W. 4th and N.W. 6th (Tax Lot 1400 of Tax Map 3-1E-33).

Chairman Schrader explained the hearing process and procedures and asked if any Commissioners had ex-parte contact or conflict of interest. None was indicated.

Mr. Wheeler presented the staff reports. He addressed the applicable criteria and explained that these permits would be conditioned by approval for a period of time not to exceed twelve months.

With regard to the Eccles two room portable, the applicant is proposing to use only one room at this time. Required parking will be met with the addition of one staff position. Mr. Wheeler explained that the conditions of approval of CUP 91-02 and the installation of a sidewalk along N. Cedar Street, must be completed by August 20, 1993, and prior to any further land use applications for the subject site.

### **Applicant**

**Carl Mosley** stated that he concurs with the staff reports. With regard to Eccles, he stated that the paving will be completed by August 20, 1993. He added that Milt Dennison had concerns with the sidewalk on N. Cedar and requested that the school district not be required to install sidewalks there, although the improvements on the west side of the building will be accomplished. Mr. Dennison asked that Mr. Mosley relate that the sidewalk improvements were for the community, not for the students.

With no further testimony, the public portion of the hearing was closed for Commission deliberation. Issues that the Commission discussed were:

1. That additional temporary classrooms are necessary until the new elementary school is completed.
2. Conditional approval with time limits for the proposed uses.
3. The timing of the completion of the previously agreed to improvements at the Eccles School. The Commission discussed the possibility of postponing the improvements until the temporary classrooms are removed because the location of the existing and proposed temporary classrooms would hinder the installation and proper use of the improvements.

4. The installation of a sidewalk along N. Cedar, for the use and safety of the general public, with special consideration regarding the amount of development that has occurred at the site in the past year. The Commission referred to Conditional Use applications 91-02, 92-02, and 92-03.

Based on the findings and conclusions in the staff reports dated July 2, 1992, on testimony, and on Commission deliberations, **Commissioner Fenske moved for approval of CUP 92-07, CUP 92-08 and CUP 92-09, with conditions, as proposed by staff, as outlined below:**

**CUP 92-07 Conditions:**

1. **This conditional use permit is approved for a period of time not to exceed twelve (12) months.**
2. **Conditions of CUP 91-02 and the installation of a sidewalk along N. Cedar Street shall be completed by August 20, 1993, and prior to any further land use applications for the subject site.**

**CUP 92-08 and CUP 92-09 Conditions:**

1. **This Conditional Use Permit is approved for a period of time not to exceed twelve (12) months.**

**Commissioner Wiegand seconded the motion and it carried 7-0.**

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**MLP 92-04**, an application by The Alton Group, to divide a 493,028 square foot parcel into 2 parcels, approximately 52,009 square feet and 441,019 square feet respectively. The applicant intends to construct a new 28,000 square foot Payless Drug Store. The site is located in the southeastern portion of the Canby Square Shopping Center (Tax Lot 100 of Tax Map 4-1E-5A).

Chairman Schrader explained the hearing process and procedures. He asked if any Commissioner had ex-parte contact or conflict of interest. None was expressed although the Commissioners had visited the site, but drew no conclusions.

Mr. Wheeler presented the staff report. He explained that the parcel is located in the Canby Square Shopping Center, and that the applicant is proposing to partition a 52,009 square foot parcel from an 8.82 acre parcel to allow separate ownership and control of a portion of the shopping center. The southeastern corner of the existing

shopping center will be demolished and a new structure will be built to house the Payless Drug Store. The Design Review hearing for this applicant is scheduled for July 27, 1992. Mr. Wheeler then reviewed the applicable criteria.

Mr. Wheeler explained that the proposal is consistent with the Comprehensive Plan designation and zoning classification of the subject property, which is highway-commercial. The configuration of the partition will allow for proper setback distances from the neighboring residential zone to the east. The southern portion of the original parcel will have a 35 foot access point from a private service drive accessing Berg Parkway. On-site stormwater disposal will be required. Reciprocal access easements will be provided for the partitioned lot. Access will come from Highway 99-E, through the parking lot, for customers, and will include a portion of the parking lot. Access will also be provided for service vehicles from Berg Parkway to the east, and from S.W. 5th Avenue, to the north.

All public facilities are available, with adequate capacity. A lift station exists for the sewer, which is located in the southeastern corner of the existing structure on the east side. A "Data Disclosure" form for sewer discharge evaluation is required by the Public Works Department prior to issuance of a City business license. Utility maintenance easements necessary to access the lift station controls, electric, telecommunication and telephone controls on the property may exist, but determining their precise location has been difficult. Provision of easements for maintenance of the facilities will provide desired assurance of access to the parcel and for designation of a parking area for the future development of the property. The applicant has stated that providing such easements is acceptable. They will remain in effect for as long as the parcel remains in separate ownership from the remaining Canby Square property. A landscape easement is proposed along the rear portion which is not actually a part of the parcel partition. Mr. Wheeler pointed out that a note has been added to the partition plat dated June 30, 1992, regarding access to the partitioned lot, which states: "A lease agreement with Payless Drug Stores to include provision for permanent ingress and egress at Highway 99 and the service roads, exact wording to be verified with the Canby City Attorney." Such a statement is necessary to meet the Minor Land Partition criteria "D". That wording is modified to read: "A lease agreement between Payless Drug Stores and the Portland Shopping Center Association for perpetual ingress and egress and maintenance at S.W. 5th Avenue and S. Berg Parkway and the service roads, exact wording to be verified by the Canby City Attorney."

The partition of the site will facilitate further development of the shopping center and increase the amount of retail space available in the City. Additional commercial development will help support the services provided to residential development.

## Applicant

**Gary Swatzel**, The Alton Group, 1730 S.W. Harbor Way, #405, Portland 97201, stated that the applicant intends to tear down the existing buildings, approximately 10,000 square feet, to build a brand new 27,000 square foot Payless Drug Store. The source of financing for the construction of this building is the Minor Partition itself.

There will be approximately 25-30 Payless employees, and there are commitments for the rest of the shopping center once the deal is closed with Payless, adding a total of 40-45 employees to the shopping center. Regarding an entrance, Mr. Swatzel explained that there will be a small patio-type area on the east side of the building where people could access the store via a sidewalk surface from the school property.

With no further testimony, the public portion of the hearing was closed for Commission deliberation. Issues that the Commission discussed were:

1. The access and the functionality of the proposed parcel configuration that will result from the partition.
2. The need for an agreement for perpetual ingress and egress is appropriate.
3. The need for easements for access to, and maintenance of, existing utility facilities,
4. Dedication needed along S. Berg Parkway.
5. Installation of sidewalks along the property frontage of S. Berg Parkway and 99-E.

Based on the findings and conclusions in the staff report dated May 29, 1992, on testimony, and on Commission deliberations, **Commissioner Maher moved for approval of MLP 92-04, with the following conditions:**

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. The note on the partition plat dated June 30, 1992 shall be revised to state: A lease and maintenance agreement between Payless Drug Stores and the Portland Shopping Center Association for perpetual ingress and egress and maintenance at S.W. 5th Avenue and S.W. Berg Parkway and the service roads, shall be drawn up with the exact wording to be verified by the Canby City Attorney for consistency with the access drawing dated June 30, 1992 and reviewed by the Commission at the public hearing.
4. Permanent utility access and maintenance easements shall be provided for the facilities located on the property, and a copy of the easement shall be provided to the Canby Planning Department.
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 92-04.
6. All monumentation and recording fees shall be borne by the applicant.
7. All utilities must meet the standards and criteria of the providing utility authority.
8. Land sufficient for a thirty-five (35) foot right-of-way, measured from the centerline of Berg Parkway, shall be dedicated to the City.
9. Sidewalks shall be installed to City standards along the property's frontage of S. Berg Parkway and 99-E.

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

## VIII. DIRECTOR'S REPORT

Mr. Hoffman reminded the Commission that the Mimi Chitty applications (Comprehensive Plan Amendment and Zone Change) would be before City Council July 15, 1992 at the Canby Adult Center, to consider the Planning Commission recommendation. The Nelson appeal will be heard August 5, 1992.



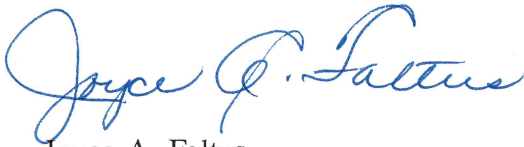
A process is being started to generate a new Capital Improvement Program, kind of a "Wish List" from each department. If the Commission would like to have input, Mr. Hoffman suggested they contact staff. He assured the Commission that the Parks Plan projects would be included.

Mr. Hoffman reviewed the Fairgrounds Park Subdivision issues with the Commission with regard to the fence and the private roadway. Roy Hester, Public Works supervisor, said one end was constructed too low and stormwater will not flow to catchbasins. The County has found plumbing violations on all 11 houses, which have not been completed. Though the County is responsible for enforcing all levels of plumbing, they tried to force the City to enforce their responsibilities.

#### **IX. ADJOURNMENT**

The meeting was adjourned at 11:20 p.m.

Respectfully submitted,



Joyce A. Faltus