

CANBY PLANNING COMMISSION
Regular Meeting

August 10, 1992

7:30 p.m.

I. ROLL CALL

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

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

Others Present: Annette Griffy, John and Wanda Moody, Arlie Lenhardt, Councilor
Smith, Tom Kendall, Rosemary and Tom Shiolas, Gary A. Swatzel.

II. MINUTES

The minutes of **July 13, 1992** were unanimously approved, as amended.
The minutes of **July 27, 1992** were unanimously approved.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. FINDINGS

The following Final Orders were **approved unanimously**:

DR 91-08 - Village on the Lochs

MLP 92-05 - Alan Manual/Tom O'Halloran, as amended, adding the following to condition #9: Permanent "No Parking" signs shall be placed on the access road.

SUB 92-02 - Dave Herman [Hood View Estates]

VI. PUBLIC HEARINGS

DR 92-07, an application by The Alton Group for approval of a Site and Design Review Application for a new Payless Drug Store of approximately 28,000 square feet, which will conform to the architectural design of the existing shopping center. Sidewalks and a "patio area" will be provided. An access road will extend completely around the store. The site is located in the Canby Square Shopping Center (Tax Lot 100 of Tax Map 4-1E-4B).

Vice Chair Mihata explained the hearing process and procedures and asked if any Commissioners had ex-parte contact or conflict of interest. Two Commissioners stated they had visited the site, but had drawn no conclusions.

Jim Wheeler presented the staff report and referred to the July 20, 1992 revised site plans that were submitted. The revised site plan indicates parking revisions and landscaping revisions. Mr. Wheeler explained that staff recommends amending the new proposal to include "compact only" parking spaces. By so doing, an additional five spaces can be provided without increasing the area used for parking. Additional parking spaces are shown on the west side of the shopping center and in the rear, and provide adequate access to the stores. Staff recommends revising proposed Condition #5 to read as follows: "The additional parking spaces shown on the site plan submitted to the City on July 20, 1992, shall be for compact cars only." An easement will be required, indicating that 112 spaces are designated for Payless parking, as well as access from the public street to parking for Payless and to the store. This should be included in the lease agreement and should also include the service drive proposed in the Minor Land Partition application. Landscaping for parking is shown at 10% and trees are provided in the landscape scheme. Existing trees along Berg Parkway are planned to remain. No bark dust is proposed in the landscape plan. Staff also recommends eliminating proposed Condition #6. Mr. Wheeler reviewed the color scheme submitted. The architecture of the site will be a continuance of the existing shopping center design. The sign covers approximately 532 square feet, with red lettering.

The landscaping provided exceeds the minimum requirements. Thirty percent of the landscaping is depicted in walkways, as permitted. In calculating the landscaped areas, the area between the service drive and the breezeway was not calculated as staff believed it was landscaped in error. In subsequent discussions, the applicant stated that it was the desire of both the applicant and Payless to avoid pedestrian access through the service drive and breezeway. The applicant showed the area in landscaping because of their concern for safety issues. Both the applicant and Payless were concerned about the safety of pedestrians using the service drive and were concerned that high school students might use the service area, docking area, and vacant lot to the rear of the store, as a gathering place. With regard to the fence on the west side of the property, staff suggests that a condition be added whereas installation of a fence and maintenance for landscaping be coordinated with the high school. Extension of the utility easements, if it becomes necessary to relocate them at the time of construction, will be necessary.

Applicant

Gary Swatzel, 1370 S.W. Harbor Way, #405, Portland 97201 stated that, for the most part, he concurs with the staff report. Mr. Swatzel then pointed out the area that Payless is designated for a nursery, in the future. He further explained that if it is necessary to make adjustments to the landscaping, there is sufficient room available for such flexibility. With regard to people accessing from the school, there is concern that students might tend to congregate, using the area as a smoking area. Such use could cause the side and/or back of the building to be used for imprinting graffiti. Where students would access through an opening, Payless is planning a seating arrangement for people to relax and enjoy a snack, and such cross-flow of traffic would serve no advantage. There is further concern with regard to liability, with people accessing from the south. The lot behind the planned Payless is very steep and dangerous. Additionally, the rear portion of the shopping center should be reserved for service vehicle traffic. Along the northern section of S. Berg, the planter areas are 12-15 feet wide, so a 4-1/2 foot sidewalk would fit comfortably. The southern section of S. Berg is only 6 feet wide, with nicely developed trees in the middle. In exchange for a sidewalk in that area, the trees and shrubbery would be lost. Mr. Swatzel proposed eliminating the sidewalk in the narrower area, or installing a much narrower sidewalk. As Berg does not appear to be used heavily for pedestrian traffic, Mr. Swatzel suggested that people would probably walk through the shopping center than on a sidewalk around the shopping center. Mr. Swatzel then discussed the newly proposed parking spaces with regard to distance and convenience to shopping.

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

Issues discussed:

1. Coordination of the landscaping, fencing and maintenance of the land between the east side service drive and the eastern property line of the subject parcel and the high school will result in a landscaped area better suited to provide proper visual buffering between the high school and the shopping center.
2. Pedestrian access through the breezeway shown on the site plan submitted to the City on July 20, 1992, will allow access to the shopping center for people utilizing pathways existing from S.W 13th Avenue.
3. In providing pedestrian access through the breezeway, an additional twenty square feet of landscaping is needed to meet the minimum requirements of the Site and Design Review Ordinance. The landscaping should be provided in the same general vicinity.
4. In order to preserve existing landscaping along S. Berg Parkway, a pedestrian-designated walkway within the parking area adjacent to S. Berg Parkway will suffice in place of a sidewalk along the curb. This will be a revision of Condition #5 of the Minor Land Partition (MLP 92-04).
5. The location of the additional parking spaces to serve the shopping center is the best available option, and will likely be primarily used by employees and occasionally, by shoppers during peak shopping season.
6. Revision of the new parking spaces, shown on the Site Plan submitted to the City on July 20, 1992, to accommodate compact cars, will suffice to provide the proper number of parking spaces to service the shopping center and meet the requirements of the City ordinances. This will increase the total number of new parking spaces by five, thus complying with the requirements of the City ordinance. The spaces will need to be designated for compact cars only, as they will be designed for that purpose.

7. Since the parcel that Payless Drug Store will occupy does not have sufficient room to accommodate the required number of parking spaces, an easement for access to, and use of, 112 parking spaces in the Canby Square Shopping Center parking lot will be necessary. Access will need to be from a public road and to the store.

Based on the findings and conclusions contained in the staff report dated July 16, 1992, and on testimony at the public hearing, and on Commission deliberations, **Commissioner Fenske moved for approval of DR 92-07 with the following conditions:**

1. **Relocation of any utility facilities, if necessary, shall be according to utility service provider specifications. An extension of existing access and maintenance easement agreements shall accompany the relocation of the utility facilities.**
2. **An additional 20 square feet of landscaping shall be provided in front of the store. Pedestrian access shall be provided through the breezeway, as shown on the Site Plan dated July 20, 1992.**
3. **Landscaping, fencing and maintenance of the land between the east side service drive and the eastern property line shall be coordinated with the high school.**
4. **An perpetual easement agreement for the use of 112 parking spaces, and access to the parking spaces from a public road and to the store shall be provided.**
5. **Forty (40) additional parking spaces shall be provided, either specifically for Payless Drug Store, or for the Canby Shopping Center in general. The additional parking spaces, shown on the Site Plan submitted to the City of Canby on July 20, 1992, and revised to accommodate compact cars, shall be designated for compact cars only.**
6. **An irrigation plan for the proposed landscaped areas shall be submitted and approved by the City Planner prior to the Final Order.**

7. **The water main shall be extended to the front the store and a hydrant installed.**

8. **In lieu of a sidewalk on S. Berg Parkway, a pedestrian designated walkway shall be provided in the parking area from the intersection of 99-E and S. Berg Parkway, to the south property line on S. Berg Parkway.**

Commissioner Wiegand seconded the motion and it carried unanimously.

MLP 92-07 (previously designated MaLP 92-01), an application by Annette Griffy for approval of a Minor Land Partition to divide a 38,936 square foot parcel into three single family residential lots. The property is located on the south side of N.E. Territorial Road, west of the Logging Road [1295 N.E. Territorial Road] (Tax Lot 220 of Tax Map 3-1E-27C).

Vice-Chair Mihata reviewed the hearing process and procedures. When asked if they had ex-parte contact or conflict of interest, the Commissioners stated they had visited the site, but had drawn no conclusions.

Jim Wheeler presented the staff report. The subject parcel is currently a flag lot. The Comprehensive Plan land use designation for the property is High Density Residential. It is ill-suited for High Density Residential development. Staff believes that upzoning of this property would be inappropriate. This property is regarded, in the Comprehensive Plan, as an area of Special Concern because of the mixed use that currently exists throughout the area. Access to any partitioned lot will be via the use of a private road to Territorial. At the present time, one single family structure is located on the subject parcel and one on the parcel to the north. If a partitioned lot were rezoned and developed for multi-family residential use, access would then be shared with the single family structures over an access road of limited width. As the right-of-way along Territorial is currently 60 feet, and the desired right-of-way width is 80 feet, dedication of 10 additional feet of road, with widening, curb, and concrete approach, will be necessary. A conflict appeared to exist regarding the amount of road frontage along Territorial, but the applicant has submitted a survey and deed depicting 20 feet of frontage along Territorial. The addresses of the partitioned lots will need to be located at the entrance of the private road on Territorial. The proposal includes a private road or access drive. The two new lots will have ownership of the access drive, which will create two flag lots with a mutual ingress, egress, and

maintenance easement agreement. The existing house on proposed parcel #2 will become a "land-locked parcel. The "land-locked" parcel will have mutual ingress and egress over the access drive, and will participate in the maintenance of the access drive, but will not own any part of it. The emergency vehicle turnaround proposed is acceptable to the Fire Marshal. As pedestrian access is permitted from the Logging Road, no sidewalk is necessary on the access road. All public facilities are available for the proposal, with adequate capacity. Properties immediately to the west and south are outside the City limits. The proposed configuration meets the setback requirements as there is no street yard because the road is a private drive. Mr. Wheeler stated that staff recommends approval of this application and reviewed the proposed conditions of approval.

Applicant

Annette Griffy, 2200 S.E. 134th Avenue, Vancouver, WA, representing Cecilia Arnold, concurred with the staff report. She explained that the applicant is expecting to sell the home on proposed parcel #2, which is the reason for the partition application.

Proponents

John and Wanda Moody, 1295 N.E. Territorial stated they are the people living in the house on proposed parcel #2 and that they support the proposal.

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

1. Dedication of land for road widening purposes is consistent with the City's policy regarding developments along streets that need to be widened.
2. Paving the access road to the three parcels, with the provision of an access and maintenance agreement for the three parcels, provides adequate assurance for year-round maintenance sufficient to allow for unhindered use by emergency vehicles.
3. A sidewalk is not necessary for the access road because the access road adjoins, and is parallel to, the Logging Road, which has been designated as a pedestrian/bike path.

4. Provision of a concrete approach for the access road at Territorial Road, addressed displayed at the entrance on Territorial Road, and a "No Parking" sign on the access road is necessary for safety of pedestrians and for proper emergency vehicle response.
5. The development of the parcel, as proposed, will not hinder the development of adjoining parcels because access to this parcel is by means of a twenty foot strip of land to Territorial Road.

Based on the findings and conclusions in the staff report dated July 16, 1992, on testimony received at the hearing, and on Commission deliberations, **Commissioner Zieg** moved for approval of MLP 92-07 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 parcel 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. **Construction of homes and accessory buildings on the site shall meet setback requirements normally required in an R-1 zone.**
4. **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 92-07.**
5. **All monumentation and recording fees shall be borne by the applicant.**
6. **The applicant shall provide a waiver of remonstrance against future street or utility improvements to Territorial Road.**

7. All utilities must meet the standards and criteria of the providing utility authority.
8. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:
 - 6 feet in width along interior lot lines; and,
 - 12 feet in width along exterior lot lines.
9. Ten (10) feet of land for street widening purposes along Territorial Road shall be dedicated as part of the final partition. Territorial Road shall be widened and a concrete approach shall be utilized for the access drive connection with Territorial Road. Improvement designs and specifications shall be approved by the Director of Public Works.
10. The access drive shall be paved for a full twenty (20) foot width.
11. Addresses for the lots shall be displayed at the access driveway entrance from Territorial Road.
12. A reciprocal access and maintenance easement agreement shall be provided for all three partitioned lots. A copy of this agreement shall be submitted to the Planning Office.
13. "No Parking" signs shall be installed along the access drive.

Commissioner Fenske seconded the motion and it carried 3-1, with Commissioners Mihata, Zieg and Fenske voting yes.

MLP 92-06, an application by Arlie Lenhardt for approval of a Minor Land Partition to divide an approximate 1.19 acre parcel into two lots, approximately .48 acres and .71 acres, respectively. The parcel is located on the south side of N.W. Territorial Road, west of N. Holly Street [407 N.W. Territorial Road] (Tax Lot 200 of Tax Map 3-1E-33BB).

Vice-Chair Mihata explained the hearing process and procedures. She asked if any Commissioner had *ex-parte* contact or conflict of interest. The Commissioners stated they had visited the site, but had reached no conclusions.

Jim Wheeler presented the staff report. He explained that on October 8, 1980, a three lot partition (MLP 80-05) was approved for this parcel. The third lot of that three lot partition was never platted. As part of the approval of the original partition, 20 feet of land along Territorial was dedicated to the City. Another condition of approval was an irrevocable offer of dedication for a 60 foot wide strip of land through the center of the original lot for the future extension of N. Grant Street to Territorial Road. Street widening will not be necessary at the present time. The Public Works Director stated that Territorial, in this area, is currently in poor condition and that widening would not improve the situation. If done now, when sewer is extended the widened portion would have to be replaced. The lot layout of the current partition is the same as the originally approved partition plat. The street address of the parcel is 407 N.W. Territorial Road and the property consists of approximately 1.19 acres, with 121.5 feet of frontage along Territorial Road. The proposed partition would be consistent with the development that has occurred in this area. The existing home is on a septic system and an on-site septic system will be necessary for the partitioned lot. After having the soil tested, the applicant stated that the soil is suitable for a standard on-site septic system which would be built to County standards. On-site disposal of storm water will also be required. A 20 foot paved driveway will be necessary for access to the buildable portion of the partitioned lot. Except for sewer, all public facilities are available for the proposal, with adequate capacity. At such times as the sewer line is extended to within 100 feet of the property, both the existing house and the partitioned parcel will be required to connect. Staff recommends approval, subject to the proposed conditions.

Applicant

Arlie Lenhardt, 15950 N.E. Becke Road, Aurora 97002 stated that he concurs with the staff report. He explained that his mother-in-law owns the property and finds she needs less land. In 1980, they had turned it over to a title company to sell one parcel. They expected that the title company would follow get the survey and easements, etc., for all parcels. The title company only took care of the one parcel that was sold off. Although there are more conditions attached to this proposal, Mr. Lenhardt requested Commission approval.

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

Based on the findings and conclusions in the staff report dated July 16, 1992, and on testimony received, and Commission deliberations, Commissioner Zieg moved for approval of MLP 92-06, 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 parcel 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. **Construction of homes and accessory buildings on the site shall meet setback requirements normally required in the zone and shall also be set back from anticipated road alignments.**
4. **Permanent utility construction and maintenance easements shall be provided as follows: 6 feet along the common property lines of the existing parcel and the partitioned parcel, and 12 feet along all other property lines and the anticipated road alignment.**
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 92-06.**
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. Access strip to the rear parcel shall be paved for a full twenty (20) foot width.
9. An on-site disposal system shall be approved by Clackamas County prior to occupancy of the rear parcel.
10. The following note shall be placed on the partition plat:

"Construction of any home or accessory structure on the partitioned lot shall be set back from the anticipated road alignment, as marked by the irrevocable offer of dedication. An on-site septic system may be used in accordance with City Code 13.12.020. At such time that public sewer is provided within one hundred (100) feet of the partitioned lot, the owner shall comply with Sections 13.12.010, 13.12.030, and 13.12.040 of the City Code."

11. A sidewalk shall be provided at the time of street widening and paid by the owners of both lots for their respective frontages.

Commissioner Fenske seconded the motion and it carried unanimously.

VII. NEW BUSINESS

ANN 92-06, an application by Thomas Kendall to annex a 2.03 acre parcel located between N. Pine Street and the Logging Road, just north of N.E. 13th Place. The applicant ultimately intends to develop a single-family subdivision (Tax Lot 1600 of Tax Map 3-1E-34B).

Vice-Chair Mihata explained that this was not a public hearing, but that the Commission would review this application and pass a recommendation on to City Council.

Bob Hoffman presented the staff report. He explained that this application will come before City Council on September 2, 1992. The property is located between N.E. 14th and N.E. 15th Avenues, between Pine Street and the Logging Road, and is islanded by the City, since the Logging Road annexation became effective. The subject parcel is in a transitional position between urban subdivisions and homes on small acreage to

the east of the Logging Road, along Redwood. Eventually, the applicant plans to develop the parcel as a single-family subdivision. The County has been notified of this application and has not offered any concerns or comments with regard to it. The subject parcel is in the Priority "A" area for annexation, which is, in general, the area first considered for annexation into the City. As the Stipulated Final Order has been signed, which adds significantly to the available capacity of the sewer treatment plant, the City's sewer capacity is considered to be adequate to service the development of the subject parcel. With Canby's population growing at an annual rate of approximately 4%, there will be a need for approximately 1100 residential units in the next seven years. The proposed annexation will provide land for a maximum of 10 more single-family residential structures as, once annexed, the parcel would come into the City as R-1, Low Density Residential. The applicant has indicated to staff that he walked the property with an urban forester, who advised him which trees could and could not be saved. All public utilities can be provided from Territorial Road, the Logging Road and Pine Street. A new sewer main is available in the Logging Road and in Pine Street. The development will need to participate in the cost of service facility extensions. Staff is not aware of any unique problems to serve this area. Special care will have to be taken regarding stormwater runoff, as the Public Works supervisor advised staff that "storm sewer for this subdivision, if designed the same as N. Pine Addition II Subdivision, will add extra load to the water runoff on the east side of the Logging Road." This is covered in proposed "understanding" #2. Mr. Hoffman then explained that the City received a letter from Mr. and Mrs. Tom Shiolas, addressing their concern about being surrounded on three sides by access roads. Mr. Hoffman further explained that staff would look at alternatives at time of development, and talk to the developers in the area about relocating access roads. Further, Mr. Hoffman advised the Commission that Mr. and Mrs. Shiolas submitted a minor partition application to divide their property into two parcels. Staff finds that the proposed annexation meets the requirements of the standards and criteria included in the Canby Land Development and Planning Ordinance, and is consistent with the policies of the Comprehensive Plan. Based upon staff's review, staff recommends that the Planning Commission recommend approval of ANN 92-06 to the City Council and that the Council, in turn, recommend approval to the Portland Metro Boundary Commission, with certain understandings.

Applicant

Thomas Kendall, 20070 Larkspur Lane, #67, West Linn 97068 explained that he plans to build 7 - 8 homes on the site, with the lots averaging 8200 square feet. He added that he walked the property with Bill Gilmore, of Metro Forestry, who advised him that 15-20% of the existing Fir trees were dying and that once one is removed, the others are not safe and could fall. Additionally, after testing the soil, Mr. Gilmore found that the soil had been compacted on 85% of the trees, causing the roots to die. He has already purchased about 50 large trees to replace those that were removed.

Opponents

None

Neither For Nor Against

Rosemary and Tom Shiolas, 1430 N. Pine Street explained their concern about being surrounded on three sides by access roads, which would wipe out the character of their place and probably make the property difficult to sell. Additionally, they were concerned that their 21,000 square foot parcel would be surrounded by 23,000 square feet of asphalt.

Rebuttal

Thomas Kendall stated that the location of the access road is not relevant to the Annexation proposal, but would be appropriate to review at the time a subdivision application was reviewed.

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

1. The stormwater drain that daylight east of the Logging Road. Mr. Hoffman advised the Commission that staff is not aware of any problems at the present time, but that if more water is ultimately added there could be runoff problems, onto adjacent property. Ultimately, a stormwater system will have to be developed for the area.
2. The manufactured home on the site, which the Commission was advised was vacant.
3. The access roads that would surround the Shiolas property. The Commission asked if Mr. Kendall spoke with Mr. Anderson. Mr. Kendall said he did, but that if roads were relocated he would have to purchase a lot from Mr. Anderson plus put a road in and it would appear to be one development and difficult to market. Mr. Kendall added that at time of subdivision, the engineer would offer alternatives to make it conform to City standards.

4. The Commission discussed the damage contractors could do to the trees during development.

Based on the July 31, 1992 staff report, on testimony received, and on Commission deliberations, **Commissioner Wiegand moved to recommend that City Council recommend approval of ANN 92-06 to the Portland Metropolitan Boundary Commission, with the following "understandings:"**

1. All development and recording costs are to be borne by the developer when the property is developed.
2. Development of the property will be constrained until an adequate stormwater management plan for the site is designed, which is acceptable to the Director of Public Works.
3. All City and service provider regulations are to be adhered to at the time of development.
4. Any development of the property, other than one single-family residential structure, must be preceded by a Subdivision or Partition Review.
5. Dedication of land and half-street improvements for the widening of N. Pine will be required at the time of development.
6. A waiver of the right to remonstrance against the establishment of an L.I.D. for roadway or other improvements in N. Pine Street will be required at time of development.

Commissioner Zieg seconded the motion and it carried unanimously.

VIII. DIRECTOR'S REPORT

At the last City Council meeting, there was a workshop on a proposal to negotiate an easement and land dedication through the triangle area consisting of 99-E and Pine, Township, the Logging Road, the Railroad area, and the recently annexed industrial area. Such negotiations were approved so that a road could eventually be constructed to service that area as well as the location for the sewer interceptor to service the new elementary school. The City is trying to get some State funds to assist in this development and use the advance funding ordinance as a means to repay such monies.

City Council approved Dave Nelson's appeal of the Planning Commission's denial of his 5-lot manufactured home subdivision. The appeal of the Zone Change/ Comprehensive Plan Amendment for the industrial land immediately north of Johnson Controls was denied and the Planning Commission decision was upheld.

IX. ADJOURNMENT

The meeting was adjourned at 10:40 p.m.

Respectfully submitted,


Joyce A. Faltus