

**APPROVED**

**CANBY PLANNING COMMISSION**  
**Regular Meeting**

**November 9, 1992**

**7:30 p.m.**

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**I. ROLL CALL**

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

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

Others Present: Matt Hamstreet, Ron Tatone, Don and Rhonda Nerenberg, Donna Jean McManamom, Belva Clark, T. Kay Yeoman, Eric Longstreet, Carole Jean Berggren, Mark Keysboe, Gary Ray, Chuck Walker, Marty Moretty, Don Smeback, Walt West, Nancy Salber, Scott Gustafson, Hans Jacobsen.

**II. MINUTES**

The Commission unanimously approved the minutes for October 12, 1992, as amended.

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

None

#### **IV. COMMUNICATIONS**

**Memorandum regarding LLA 92-06 - Ron Tatone.** Mr. Hoffman explained that under the Development Code, the City Planner and City Engineer both review lot line adjustments to determine whether or not approval criteria have been met. In this case, the Planning staff has determined that the criteria has been met and the Director of Public Works, acting as City Engineer, felt criteria "D" may not have been met. The issue is the development of adjacent land, which staff believes can be developed either independently of the subject parcel or with any of the adjacent land owners who may agree to sell a portion of their property. Mr. Hoffman referred to the map that was originally used when Phase I of Lillian's Meadows was adopted. He explained that the parcel is unusual in its design. Part of the subdivision criteria is that the applicant has to show how adjacent land can be developed if this adjustment is approved. The current owners of lots fronting on Ash Street wish to purchase the portions of this lot which are adjacent to their parcels. Mr. Hoffman then explained series of alternative ways the adjacent land [Dupont parcel] could be developed if the adjustment is approved. No new lots and no additional building sites are being created. Mr. Klem feels that if the adjustment was made, as proposed, it could affect the profitability or the development of the Dupont parcel. Hoffman further explained that the proposed adjustment could occur independent of a lot line adjustment approval if one of the three owners fronting on Ash purchased the parcel. Staff, in the original staff report, recommended approval with the condition that new deeds and legal descriptions be recorded - and still recommends approval. Mr. Hoffman explained that, if approved, adjacent neighbors would be noticed and given ten days to appeal the decision, and could request a hearing before the City Council.

**Ron Tatone** explained that the Duponts are not planning to subdivide. At the present time, the Duponts use the acreage as pasture for their horses. The three lot owners involved are present at this hearing. They want to subdivide the parcel to add footage to their parcels. He explained that the triangular portion retained by the Duponts would still be buildable.

**Rusty Klem** reviewed the history of the parcel in question and the history of Lillian's Meadows, which began developing with a series of Minor Land Partitions, before the subdivision plat. The Planning Commission, at that time, asked the developer about the peculiarity of the shape of the parcel, and how he planned to develop it so as not to hurt the adjacent property owner. The design, as it presently stands, was developed to ensure developability of the adjacent property, which is shaped exactly the same (a long triangle). The Planning Commission accepted the design. Because the possibility exists that it might affect the adjacent property, Mr. Klem explained that he felt it should go before the Commission.

The Commission asked whether the Duponts have been notified about this discussion before the Commission. Mr. Hoffman said they had not been notified by the City.

The Commission discussed the fact that the subdivision had originally contributed money toward park SDCs. Mr. Hoffman added that new building permits would also contribute toward park SDCs and that there is adjacent land that could also provide for park land at a future date.

**Commissioner Fenske moved to approve staff's administrative decision approving LLA 92-06. Commissioner Gustafson seconded the motion and it carried unanimously.**

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Letter from Mr. and Mrs. Tom Shiolas. Mr. Wheeler explained that the Shiolas' are requesting that an alternative guarantee provision be allowed so they could provide the improvements on Pine Street at a later date. They need the money from the sale of the parcel to make the improvements. The City has previously allowed such improvements at the time of occupancy of the second lot. Recently, while reviewing the Ordinance, staff came across wording saying that improvements must be guaranteed under Minor Land Partitions, just as they are under subdivisions. This presents a hardship for Mr. and Mrs. Shiolas and they are requesting leniency regarding the installation of such improvements. It has been City practice to allow delaying the improvements, until occupancy or issuance of the building permit for Minor Land Partitions. Staff is considering submitting an amendment of this part of the Ordinance which would include some type of guarantee commitment that the improvements would be made prior to actual building of the building, or sale of the land, or occupancy. In this case, Mr. and Mrs. Shiolas are willing to put the Pine Street improvements in at such time as Pine is improved along their parcel. They would like the ability to sell the rear lot to recapture the major cost. Mr. Wheeler explained that the condition of approval could be amended to reflect delayed installation of improvements. Staff is proposing that the applicant sign a letter which would link the improvements to either a certain date or certain action, such as prior to issuance of a building permit on Lot #2, or tying it to the sale of Lot #2. The Commission agreed it would be best to have the improvements completed prior to the issuance of building permit for Lot #2, and directed staff to make the necessary change to the Final Order.

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Mr. Hoffman advised the Commission that he was asked to request postponement of the Interpretation regarding permitted uses in M-1, Light Industrial Areas, until the next available meeting, as Mr. Reif is out of town. The Commission agreed to postpone this item to December 14, 1992.

## **V. COMMISSION DISCUSSION OF PLANNING ISSUES**

Chairman Schrader asked for input regarding time frames from each committee.

1. With regard to Advance Financing of Public Improvements, Commissioner Fenske explained that he was willing to give it another six months because his committee is making progress. He has been receiving comments back from other Commissioners and will be able to report more fully at the next Commission discussion of planning issues and ask for direction about where the committee is heading. Hopefully, by the next meeting he will also have sounded people out about serving on the committee.
2. With regard to the Parks Committee, Chairman Schrader explained that this issue will take quite some time, working toward a meaningful end. The City and the South Clackamas Recreation District have written letters to the County Commissioners to hear our request of staff time for Mr. Zinzer. It appears this will be a slow process, especially when it comes to seeking dollars.
3. With regard to the Comprehensive Plan update, Commissioner Maher explained that she and Commissioner Wiegand are committed to six months, but the process will take a lot longer than that. She suggested staff review the Plan and see how many of the projections and/or predictions actually happened and whether more space is needed. Dr. Schrader suggested getting public input once questions are actually formulated and getting LCDC's input regarding the Urban Growth Boundary.
4. Commissioner Mihata reported that the committee is studying the Tree Ordinance and portion of Design Review relating to trees. Private trees are difficult to deal with though. The committee will try to formulate a community tree plan and try to encourage people to retain trees, other than by Ordinance. The area of greatest concern is the treed areas that disappear prior to submission of an application for a development. It was suggested that a summary of other cities' tree ordinances could be submitted for comments. Input from Rusty Klem would be helpful too.

5. To date, the Design Review Committee has not made any progress.

The Commission agreed staff input is needed to identify priorities and outline a process for each committee. Chairman Schrader suggested each committee chair meet with staff before the next discussion of planning issues.

## **VI. FINDINGS**

Commissioner Schrader wanted the minutes to indicate that the intent under Condition #5, should the seven lots never be developed if the second access does not come through, is for that portion of the project to still be landscaped. He asked that the findings portion of the Order indicate such intent. Suggested language added to Condition #5 is: "It is understood that landscaping of Lots 3-10 shall be maintained according to the CC&Rs as submitted by the applicant in Exhibit 2, specifically 'all vacant land and unoccupied spaces will be cultivated, leveled and mowed so as not to create a weed or visual nuisance or fire hazard'. Mr. Wheeler said Condition #9 referenced the project narrative which discusses landscaping of the lots prior to occupancy. **Commissioner Gustafson moved for approval of DR 92-09 Findings, Conclusions and Order (Watson), as amended. Commissioner Zieg seconded the motion and it carried unanimously.**

**Commissioner Wiegand moved for approval of SUB 92-07 Findings, Conclusions and Order (North Woods Addition). Commissioner Mihata seconded the motion and it carried unanimously, with three abstentions.** Mr. Wheeler reported that Mr. Wilhelm explained that the protrusion on the property is drainage for septic. The lid was pulled and no odor appeared. It will be filled and graded over.

**Commissioner Mihata moved for approval of DR 92-10 Findings, Conclusions and Order (Copy-Rite) after a short discussion about landscaping requirements. Mr. Wheeler agreed to reword the condition referring to landscaping. Commissioner Zieg seconded the motion and it carried unanimously, with three abstentions.**

Commissioner Schrader was called away on an emergency at this time.

## **VII. NEW BUSINESS**

Interpretation of Section 16.32.010 - Permitted Uses in an M-1 Light Industrial Area. A request by Roger Reif was rescheduled earlier, to December 14, 1992.

## **VIII. PUBLIC HEARINGS**

**SUB 92-08**, a request by Walter West Construction (applicant) for approval to develop a 21 lot subdivision (Redwood Meadows) for the R-1 portion of a 10.39 acre parcel located on the southeast corner of N. Redwood Street and N. Territorial Road (Tax Lot 702 of Tax Map 3-1E-27C).

Vice-Chair Mihata asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site and coming to no conclusions, none was indicated. She then explained the hearing process and procedures.

Jim Wheeler presented the staff report. He reviewed the partitioning of this property, separating the R-1 portion from the R-2 portion. The subdivision will be constructed on the R-1 portion of the site. He explained that the applicant has already dedicated 10 feet of land for widening of N. Redwood Street and half-street improvements on Redwood are part of this proposal. The looped internal street shall be appropriately named N.E. 19th Loop.

The separate tract along the southern boundary of this subdivision (Tract "B") is a 16 foot easement, built-up and graveled, which exists for the properties to the south and east for access to Redwood Street. The applicant has considered constructing a fence along the southern portion of the lots abutting the easement. The County is concerned about the use of the access onto Redwood and staff assured them that the easement has been in place for some time and that no changes are proposed to the use of the easement and none of the homes abutting the easement will have access onto it. Taking into consideration the adjoining 4 parcels which are not in the City limits at the present time, there are four parcels who have access over the easement, which would otherwise be landlocked. If annexed into the City, they would be considered nonconforming lots because their access road is less than the minimum required 20 feet. There is a full 10 acre parcel which abuts the access road, lengthwise, from which footage could be obtained. In considering future access to those parcels, it would not be economically feasible for the developer to move the internal loop southerly because at least one row of lots would be lost. A 40 foot unpaved right-of-way could be provided between Lots 9 and 10, and provide a "T" in the road design, and the easement could be vacated. At least one lot would be lost using this alternative. As it is presently proposed, the easement, which is slightly raised, would not become a public road because the distance between it and the southern part of the loop is less than 150 feet.

Staff suggests that the existing trees along the southern boundary be protected, as they will not impose on the buildable portion of the proposed lots. Regarding stormwater drainage, there will be a pollution control manhole across the easement, running out to

a grass swale that will provide "bio-filter" treatment to the water entering the wetland from the eastern property line. An adjoining landowner stated that a culvert currently crosses the easement, but that ponding has occurred on the other side of the easement. Mr. Wheeler distributed the pictures that Mr. Gustafson, the adjoining landowner, provided, that shows the ponding. Staff is proposing that the applicant install a culvert at that location, built to handle stormwater flow from a 10-year storm and to handle potential runoff. A stormwater maintenance easement will be placed on the back portion of Lots 8 and 9 in order to maintain the stormwater drainage that occurs through that area, to the wetland. The applicant is proposing fill in the back portions of the eastern lots to provide proper natural drainage for sewer into Redwood, as no lift station is proposed for this subdivision.

The approximately 76,630 square feet being dedicated to City as parkland, includes a one acre upland parcel, with the surrounding wetland area. In the center of the upland area, there is a structure that could become a hazard and liability to the City. Part of the structure is on Carol Berggren's property. Ms. Berggren has stated that she, too, would like to see it removed.

Notice has been sent to the Division of State Lands with regard to a bridge crossing over the wetlands. There appears to be no problem with this proposal, although a consultant's report delineating the wetlands and specifications for the bridge must be forwarded to them. If the City is to maintain the park area, part of the access will have to be paved and the bridge will have to be designed to handle maintenance equipment.

Access to the apartment complex will be along the pathway in the upland area between the wetlands and the subdivision. The easement between Lots 6 and 7 should be moved 10 feet south because Lot 6 needs a little more buildable area.

Staff consulted with the Public Works Director, who suggested that the 20 foot right-of-way between Lots 5 and 6 be moved between Lots 6 and 7, along side lot lines instead of a front lot line, and be an easement instead of a right-of-way. Lot 5 will be provided with direct access to N.E. 19th Loop.

Mr. Wheeler then discussed the proposed conditions of approval and referred to his November 2, 1992 memo, which serves as an updated staff report. Staff recommends approval of the application, with the updated proposed conditions, eliminating the original proposed Condition #11 and adding a condition regarding contribution toward the development's "fair share" contribution toward traffic improvements.

#### **Applicant**

**Mark Keysboe, 22489 S. Penman Road, Oregon City** stated that he concurs with the supplementary staff report dated November 2, 1992 and with the issues staff raised tonight. Mr. Keysboe expressed concern about the offset of the dedication of parkland with future SDC charges. He stated that this land was dedicated to solve the concerns about play area for the children living in the apartment complex. He asked that the SDC charges be offset against the apartment complex before applying any against the subdivision. Rather than provide access for possible future development to the south, the applicant would prefer to deed the easement to the adjacent owners and is even willing to pave all 438 feet. The applicant would also like to include in the conditions of approval, that a fence would be constructed along that southern portion to provide a buffer. Other solutions would result in the loss of lots and adversely affect development of the parcel. The applicant agrees to remove the barn and livestock fencing and is willing to install cyclone fencing.

### Proponents

**Hans Jacobson, 1850 N. Redwood** concurs with the applicant's offer to pave the easement and install a buffer fence. He expressed concern about the lack of improvements on Redwood, south of this parcel, to 99-E. Mr. Hoffman explained that it is the County's responsibility until adjacent homeowners annex into the City.

**Carol Berggren, 1868 N. Redwood** addressed various concerns. With regard to the structure, she agreed it should be removed. An 8' cyclone fence should be installed when the apartments are occupied. She addressed her concern about the traffic conditions at the Redwood/Territorial intersection and stated that the Comprehensive Plan directs that the City work with the County when City/County roads meet. Ms. Berggren said that if the storm drainage problem causes flooding on her property, she would expect the City to address it and she further stated that the trees along the southern part of the parcel should be retained.

**Scott Gustafson, 1860 N. Redwood** explained that the developer has been very sympathetic to his concerns and that working with the developer has been very pleasant. Mr. Gustafson stated that a storm sewer system would easily handle the runoff. There is a 12 foot culvert about a foot under the easement right now, which runs full all winter long. With the proper storm drainage system, the problem will be alleviated. Mr. Gustafson said he is in favor of the applicant deeding and paving the easement. Plant material, brick, or chain link fencing would be a better buffer along the southernmost lots because wooden fences fall apart in a short time, he added.

### Rebuttal

**Mark Keysboe** agreed that a chain link fence would be acceptable as a buffer, if the Commission agrees.

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

- 1. City policy regarding street improvements and requirement regarding street widening, curbs, and sidewalks for N. Redwood Street. Street improvements are required so that a property's street frontage improvements are made at the time of development of the property.*
- 2. City policy requires that developers extend utility services to the end of the property so that an adjacent property can extend and utilize the utility service. The Commission agreed that the primary means of providing utility services to areas currently without them, is through extension of services in properties being developed.*
- 3. That the appropriate street name according to the Street Naming section of the City Ordinances (12.04), is N.E. 19th Loop.*



4. *That it is appropriate to move the lot line and the easement between Lot 6 and Lot 7, ten feet further south to provide adequate room for the future siting of a home on Lot 6. That the easement will be paved and used for public access to the open space.*
5. *Provision needs to be made for adequate width for the backing movement of public maintenance vehicles. The paved width of the easement will need to be twelve (12) feet.*
6. *The Commission would like the developer to protect the small stand of trees on the parcel.*
7. *Accessing the usable portion of the open space that is proposed to be dedicated to the City will entail crossing a small section of the wetlands via a small bridge., This would require review by the Oregon Division of State Lands and the specific design of the bridge should be approved by the Director of Public Works.*
8. *The storm water drainage system for the property, especially the storm water that drains from the properties to the south through this property, was discussed. A culvert that will handle storm water runoff from what is considered a '10-year storm' is needed, which will provide adequate drainage for the properties to the south of the easement (Tract B). The engineer for the subdivision will need to minimize the displacement of the runoff due to the partial filling of Lots 8 and 9. The partial filling of those lots might otherwise adversely affect the neighboring property to the east by displacing the storm water runoff completely onto that property.*
9. *The Commission discussed the need for a storm water maintenance easement for the back portions of Lots 8 and 9 in order to maintain an unobstructed storm water runoff flow.*
10. *The Commission discussed the small area of wetland located behind Lot 8. It agreed that since that area is not usable as open space for the City due to the dimensions, that portion should not be a part of the land to be dedicated to the City and agreed that the northern property line for Lot 8 should continue all the way east to the adjoining property.*
11. *Tract B is an easement used for access to N. Redwood Street for the adjoining properties to the south and east of the subject parcel. The Commission agreed that the easement should be deeded to the adjoining*

*property owners. Both the applicant and the adjoining property owners agreed that the full width of the easement, and the full length of the easement on the subject parcel, should be paved.*

- 12. That this subdivision does not need access to the easement because Lots 9-13 have adequate access to N. Redwood Street from the subdivision road, N.E. 19th Loop. Further, the Commission agreed that in order to physically restrict access to the easement, a six (6) foot chain-link fence should be placed along the southern boundary of Lots 9 - 13.*
- 13. That the structure on the property boundary line in the open space area should be removed because it could become a liability to the City and a safety hazard for children. The Commission noted that the adjoining property owner has previously stated a desire to have the structure removed.*
- 14. During testimony, concern was shown regarding outdoor recreation space and/or facilities for children. The Planning Commission agreed that an appropriate site for a park facility would be on this property. The Commission agreed it is appropriate that any credit for the dedication of the open space to the City be applied first toward the Parks System Development Charge of the apartments. Should any credit remain, it should be applied toward the Parks System Development Charge for the subdivision. The Commission expressed its intention that the development of the open space in this subdivision should be in conjunction with the multi-family development. The dedication of this open space is not considered to be the mini-park called for this area in the Parks Master Plan.*
- 15. Adequate privacy for the adjacent property owner was discussed, and the need to maintain a view of the surrounding open space. The Commission agreed that a six foot chain-link fence should be placed on the southern property line of the open space that is being dedicated to the City.*
- 16. That this development would need to contribute its "fair share" toward the cost of providing traffic control improvements to the intersection of Territorial Road and 99-E, as the proposed development will contribute to the intersection's traffic problems.*

*Based on the findings and conclusions in the staff report dated October 30, 1992, on testimony presented at the public hearing, and on Commission deliberations, Commissioner Maher moved to approve SUB 92-08, subject to the following conditions:*

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 for any improvement not completed prior to the signing of the final plat.*
2. *Any necessary utilities shall be constructed to the specifications of the utility provider.*
3. *Utility easements shall be provided and are to be twelve (12) feet along all exterior lot lines. Exterior lines of the subdivision adjacent to other developments with easements, and easements along all interior lot lines, are to be six (6) feet wide off of each lot, for a total of twelve (12) feet.*
4. *"As-built" drawings shall be submitted to the City within sixty (60) days of completion.*
5. *Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" signs, where required by the Director of Public Works.*
6. *The final plat shall reference this land use application - City of Canby, File No. SUB 92-08, 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.*
7. *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.*
8. *Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," by Lori Faku and Rick Raety, dated November 1989, as revised (currently January, 1991).*

9. *Half-street improvements along N. Redwood Street shall be provided by the developer and shall include pavement, five (5) foot sidewalks and curbs, and shall meet Canby Construction Standards and shall be approved by the County. Street pavement width from centerline to curb shall be twenty (20) feet on N. Redwood Street.*
10. *The name of the street within the subdivision shall be N.E. 19th Loop.*
11. *The lot line between Lots 6 and 7 shall be moved ten (10) feet further south. The twenty (20) foot easement shall be centered on the lot line between Lots 6 and 7, and shall have a minimum paved width of twelve (12) feet.*
12. *The evergreen trees located near the southern property boundary shall be retained through deed restrictions against the removal of the trees except for reasons of safety or health of the trees, as approved by the City Forester.*
13. *The design of the small foot bridge to service the uplands area shall be approved by the Director of Public Works. The bridge crossing of the wetland shall be approved by the Oregon Division of State Lands. Should any mitigation be required, such proposal shall be reviewed and approved for consistency with all conditions of approval of this application by the Director of Planning.*
14. *Storm water drainage and design for the subdivision shall be approved by the Director of Public Works and shall comply with all State and Federal regulations prior to entering the wetlands.*
15. *The culvert crossing the access easement along the southern property line shall be designed and built to handle storm water flow from a 10-year storm.*
16. *The design and construction of the sewer system, including any required lift station, for the subdivision shall be approved by the Director of Public Works.*

17. *The rear lot line for Lot 8 shall extend to the subject parcel's property line for full width of the lot. A storm water maintenance easement shall be placed with the rear portions of Lots 8 and 9.*
18. *Lots 9 - 13 shall not access the easement (Tract "B") along the southern property line, and such easement is not approved for any building or structure. Furthermore, Tract "B" shall be deeded to the adjacent owners and the developer shall pave such easement for its full width.*
19. *The part of the structure that is located on the land to be dedicated to the City shall be removed prior to the signing of the final plat. The adjoining landowner shall be notified prior to the removal of the structure and, if possible or necessary, the entire structure shall be removed at the same time.*
20. *Credit for the dedication of open space land to the City shall be applied toward the Parks System Development Charge for the apartment complex first, and if there is credit remaining, the remaining credit shall be applied toward the subdivision's Parks System Development Charge.*
21. *The applicant's engineer shall minimize the displacement of the stormwater from the culvert crossing the easement (Tract B) due to the partial filling of Lots 8 and 9.*
22. *A six foot chain-link fence shall be installed along the southernmost portion of parcel; on the northern side of the easement known as Tract 'B' and on southernmost portion of dedicated open space. The requirement to install the fence on the northern side of Tract B will be a deed covenant placed on Lots 9 - 13.*
23. *The applicant shall provide a waiver of remonstrance for any traffic improvements needed for N. Redwood Street.*
24. *The building permit 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 N.E. Territorial Road and 99-E.*

25. *The proposed dedication of Tract "A" (as amended by the resolution in Condition #17) is hereby recommended to City Council for acceptance as public recreation space.*

*Commissioner Zieg seconded the motion and it carried 6-0. (Commissioner Schrader had been called away on an emergency.)*

**IX. DIRECTOR'S REPORT**

Mr. Hoffman explained that the draft Historic Ordinance would be presented to City Council on December 2nd, as part of his progress report. He also informed the Commission that the revised UGMA Agreement between Clackamas County and the City of Canby was forwarded to the County for review.

**X. ADJOURNMENT**

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

Respectfully submitted,

Joyce A. Faltus

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