

APPROVED

MINUTES

CANBY PLANNING COMMISSION

Regular Meeting

June 14, 1993

7:30 p.m.

I. ROLL CALL

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Fenske, Elliot and Wiegand.

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

Others Present: George Wilhelm, Ron Tatone, Dave Eby, Michelle Lindig, Donald Nerenberg, Belva Clark, Matt Hamstreet and David Herman.

II. MINUTES

The minutes of **April 26, 1993** were approved unanimously, as amended.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

McDonald's Restaurant Face-to-Face Remote Ordering Booth. The Commission discussed the request submitted by James E. John Construction Co., Inc. and expressed concern with the lack of room for traffic entering the drive-in area to wait their turn and the backup of traffic, making turns from Birch onto 2nd Avenue difficult, causing a traffic hazard. The Commission agreed that the area where cars wait their turn should be rearranged before this could be approved.

Sign for Trost Elementary School. The Commission discussed the request

submitted by Carl P. Moseley regarding a sign permit. The sign is a 4' high brick wall with cast metal letters spelling out the name of the school. Because the name is so long, the applicant was requesting that a 16' width be approved. The Sign Code limits the size to 60 square feet. The proposed sign is 64 square feet. No other signs are proposed and the sign will not be lighted. The Commission agreed the grade should be raised by 3", reducing the sign by the necessary 4 feet.

1916 Stefani House. Mr. Hoffman explained that the purchasers, Mr. and Mrs. Bob Cryder, are requesting that the City initiate the request for Historic Designation, in order to save the \$1,000 fee that is required. The Commission agreed to wait and see if the Historic Ordinance is adopted, but that this issue could be brought to the City Council's attention.

V. FINDINGS

None

VI. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission discussed the **tree ordinance** and especially the meeting Mr. Hoffman held with Commissioner Mihata. It agreed to review the present Tree Ordinance (#852) and update it making other code corrections as needed.

The Commission discussed **Advanced Financing** and agreed it would be best to schedule a workshop with City Council. Commissioner Fenske explained that he has incorporated the input he received into ordinance form for review, which will be distributed to the Commission and the Council. After he receives further feedback, the workshop will be scheduled.

V. NEW BUSINESS

None

VI. PUBLIC HEARINGS

SUB 93-02, an application by Valley Farms Partnership for approval to develop a 20-lot subdivision, Valley Farms, Phase 3. The property is located on the north side of S.E. 13th Avenue, east of S. Ivy Street (Tax Lot 1900 of Tax Map 4-1E-3).

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

procedures.

Mr. Wheeler presented the staff report. He reviewed the previous approvals for Phase I and II which, combined, total 85 lots. He explained that this is the final phase of Valley Farms Subdivision and is located on the northernmost portion of the parcel. At the present time, the Hostettler property, he explained, just to the north, is being considered for annexation into the City. Mr. Wheeler pointed out that two lots in the southwestern portion of this phase (Lots 97 and 98), though narrow and irregularly shaped, especially as they are very deep, do meet the minimum lot width and frontage requirements for the zone. The dimensions resulted from the required alignment of S.E. 10th Avenue.

Mr. Hoffman explained that staff has recently become aware that the Department of Environmental Quality (DEQ) is required to approve of the sewer systems in all current subdivisions before they are built. The applicant is applying for such approval now. Future subdivisions will probably have a condition relating to this requirement.

The continuation of S.E. 10th Avenue, from Township Village, Phase 5, to Redwood Street, will be part of this phase. Also, Redwood Street would be continued from Phase 2, to the new Trost Elementary School property. Completion of Redwood will require some off-site improvements. Staff is recommending that a requirement of the subdivision be a full connection from S.E. 13th Avenue to Township, along Redwood. At this time though, the City does not have a right-of-way or easement across the Faist property. Therefore, staff is amending recommended Condition No. 8 to read:

8. S. Redwood Street shall be constructed to its full width from the terminus of Phase II to the Trost Elementary School property to the north. This includes off-site improvements, and Advanced Financing for these off-site improvements may be applied for. **If the City has not acquired right-of-way or easement for the off-site construction of S. Redwood Street prior to the submission of the final plat or site construction, a bond or monies in escrow for the amount of said construction shall be submitted to the City, prior to the issuance of building permits requested subsequent to the date of this approval.**

In dealing with the strip of land between the sidewalk and curb, Mr. Wheeler explained that the suggested condition recommended a restriction against covering the strip with non-vegetative matter be inserted on the final plat. It was pointed out that in Valley Farms, Phase 2, this restriction is part of the restrictive deed covenants placed on the lots and filed with the final plat at the

County level. Therefore, Mr. Wheeler modified the proposed condition to read:

4. A restriction against covering the 2.5 foot strip of land between the sidewalk and curb with non-vegetative matter shall be provided in the private Covenants, Conditions and Restrictions. A copy of the CC&Rs shall be submitted to the City with the final plat.

Applicant

George Wilhelm, 546 S.E. Township Road stated that he concurs with the staff report and is available to respond to questions.

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

1. The width of planting strips. Staff explained that nothing specific was provided at the time of tentative plat approval, although at the Redwood Meadows pre-construction conference, plans were shown for a 4 foot strip. A utility easement behind the sidewalk is being requested, allowing the planting of trees in the strip. Purchasers of the lots were not pleased because such easement would reduce the building area by approximately 1 to 1-1/2 feet. Mr. Hoffman explained that there is currently no provision in the Ordinance for requiring this easement, and to revise it would require a hearing. The Commission asked that this issue **be discussed at the next meeting that includes Commission discussion on planning issues.**
2. The City has not, at the time of the Planning Commission's review of this proposed action, secured a right-of-way or easement for the construction of S. Redwood Street connection between this phase and the Trost Elementary School property to the north and, therefore, the required off-site improvement may not be possible at the time of construction. In such a case, provision for bonding or an appropriate surety is needed.

Based on the findings and conclusions in the staff report dated June 4, 1993, on testimony at the hearing, and on Commission deliberations, **Commissioner Fenske moved for approval of SUB 93-02 with conditions as recommended and amended by staff as follows:**

For the Final Plat:

1. Utility easements shall be provided. 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. Exterior lines of the subdivision that are not adjacent to other developments with easements, are to be six (6) feet wide with an additional temporary six (6) feet, for a total of twelve (12) feet. The additional six feet shall be in effect until the adjoining land is developed with utility easements. The final plat shall provide for this reduction once the adjacent easement becomes available.
2. The final plat shall reference this land use application - City of Canby, File No. SUB 93-02, 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.
3. 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.
4. A restriction against covering the 2.5 foot strip of land between the sidewalk and curb with non-vegetative matter shall be provided in the private Covenants, Conditions and Restrictions. A copy of the CC&Rs shall be submitted to the City with the final plat.

As a part of construction:

5. Any necessary utilities shall be constructed to the specifications of the utility provider.
6. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Director of Public Works.
7. 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).

8. S. Redwood Street shall be constructed to its full width from the terminus of Phase II to the Trost Elementary School property to the north. This includes off-site improvements, and Advanced Financing for these off-site improvements may be applied for. If the City has not acquired right-of-way or easement for the off-site construction of S. Redwood Street prior to the submission of the final plat or site construction, a bond or monies in escrow for the amount of said construction shall be submitted to the City, prior to the issuance of building permits requested subsequent to the date of this approval.
9. Storm water drainage and design for the subdivision shall be approved by the Director of Public Works.
10. The design and construction of the sewer system for the subdivision shall be approved by the Director of Public Works.

Prior to the signing of the Final Plat:

11. 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 surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.

After construction:

12. "As-built" drawings shall be submitted to the City within sixty (60) days of completion.

Commission Wiegand seconded the motion and it carried unanimously.

LLA 93-03, an application by Ron Tatone for approval to adjust the lot line between Tax Lot 316 and Tax Lots 303, 304, 310 of Tax Map 3-1E-32A. The application proposes to split Tax Lot 316 into three sections and adjoin the three sections to Tax Lots 303, 304, and 310. No parcel will remain of Tax Lot 316. Tax Lot 304 will receive approximately 7,838 square feet, tax lot 303 will receive approximately 4,947 square feet, and tax lot 310 will receive approximately 1,877 square feet. There will be a four (4) foot connection between Tax Lot 310 and the triangular portion of Tax Lot 316 which is proposed to be added to Tax Lot 310.

Bob Hoffman presented the staff report. He reviewed the background of the Lillian's Meadow Subdivision, and the subsequent lot line adjustment (LLA 92-06) that was approved, where Mr. Tatone requested that portions of Tax Lot 316, abutting Tax Lots 303, 304 and 309 be added to those respective lots. Since that approval, no final steps have been taken for filing the approved lot line adjustments because all three owners did not reach agreements with Mr. Tatone regarding the purchase of their respective portions of Tax Lot 316. Since that approval, the Commission denied Mr. Tatone's request that to add the most northerly portion of Tax Lot 316, which is triangular in shape, to either Lot 310 or 303, instead of 309, which resulted in this application. At the original subdivision approval, Tax Lot 316 was considered an adequate building lot for development. Referring to Section 16.58.040, Mr. Hoffman explained that it is his determination that this lot line adjustment will significantly alter the design and appropriate development of the subdivision and of other nearby property because the shape would not be similar to other lots and the four foot connection between the two portions of Tax Lot 310, as proposed, will not be sufficient for residential use. Therefore, staff finds that the lot line adjustment request is not in conformance with the applicable approval criteria since the shape and character requirements are not met, and recommends denial of the request.

The Commission questioned whether Mr. Tatone was actually representing each property owner and Mr. Hoffman explained that he received nothing from Mr. Longstreet in writing, although he did talk to him over the phone.

Applicant

Ron Tatone, 1127 N.W. 12th explained that he did not agree with the staff report or recommendation. He pointed out that he was creating nothing contradictory or conflicting with the original subdivision by this request. Rather, he explained, he was actually removing a lot from the subdivision. Although Mr. Dupont has no plans for the abutting property at the present time, Mr. Tatone explained that he would like to keep the top triangular portion of Tax Lot 316 as part of Tax Lot 310, the lot he presently owns, so as to eventually work with Mr. Dupont when he is ready to subdivide, and possibly trade lots to make both parcels more workable. Mr. Tatone pointed out that the City required him to construct the water and sewer services to the triangular lot so that when the Dupont's subdivided, the triangular portion could be developed along with the new subdivision. Although the parcel is irregular, he stated, it is compatible with what presently exists and what could be developed in the future. Added on to Tax Lot 310, it could be easily used as a garden area or a play area. Further, Mr. Tatone explained that both Mr. Nerenberg, Mr. Longstreet and Mr. Hamstreet approached him about

purchasing portions of Tax Lot 316, and he agreed. Although they were being charged equally, Mr. Longstreet evidently felt he was paying for a lot less land than the others. He requested approval of the application.

Proponents

Donald Nerenberg, 963 N. Ash stated that in anticipation of purchasing parts of Tax Lot 316, all three parties talked and were in agreement as to price. After approval was granted, Mr. Longstreet found he was unable to purchase his portion. Both he and Mr. Hamstreet have taken second mortgages and sodded the rear portions and extended their rear yards in anticipation of approval. Mr. Nerenberg added that, if denied, Mr. Longstreet would become the neighborhood "bad guy" and "scapegoat."

Matt Hamstreet, 1003 N. Ash stated that he concurs with Mr. Nerenberg. He added that they would both prefer to purchase the property so no one would build there and that they would have a more liveable backyard area.

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

1. The fact that when property is divided, adjacent property must be taken into consideration, and it should be kept in a developable fashion with future development taken into consideration. The new 4,000 square foot triangle being created would be totally undevelopable. Mr. Tatone explained that if Baker Street continued north he expected that he could work out a "trade" with Mr. Dupont and that the triangle being created (south of Tax Lot 309) would be added to Mr. Dupont's land to make a more developable triangular lot of the one southernmost of the present Tax Lot 316.
2. Three triangles were approved in Phase I under the assumption that when the adjoining property developed they would become part of rectangular properties. What would develop with this lot line adjustment would be making three irregular triangles which would be permanent, rather than as a part of future development to the south.
3. The Commission agreed that under Section 16.58.030 which states that approval of lot line adjustments are permitted on non-conforming lots **provided that the non-conforming lots and structures will be no less** in conformity as a result of the lot line adjustment, the lot would be less conforming.

Based on the findings and conclusions in the staff report dated June 4, 1993, on testimony at the public hearing, and on Commission deliberations, **Commissioner Mihata moved for denial of LLA 93-03 because it does not meet the criteria for a Lot Line Adjustment as stated in Section 16.58.030, 16.56, 16.64.040, especially, in particular the size and shape as refers to the usability and regularity of the lot. The motion to include the extension of the time frame for filing with the County for one additional year. Commissioner Fenske seconded the motion and it carried 4-1, with Commissioner Elliot voting no.**

MLP 93-01, an application by Donald K. Eby (owner) and Michelle Lindig (applicant) for approval to partition a 16,597 square foot parcel into two parcels and to create a 12 foot deeded access, in addition to and together with the proposed westerly parcel. The parcel is located on the west side of S. Locust Street, north of S.E. Township Road (Tax Lot 3600 of Tax Map 3-1E-33DC), also known as 357 S. Locust Street.

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Jim Wheeler presented the staff report. He explained that the parcel has approximately 90 feet of road frontage on S. Locust. There is an existing home on proposed Lot #1. The newly created Lot #2 would be approximately 8,500 square feet, with the 12 x 90 foot driveway access being used for both lots. The zoning, R-2 (Medium Density Residential), would permit a duplex on Lot #2. Although a triplex could be considered for Lot #2 if designed differently, the total configuration and the location of the existing house would make that possibility difficult to realize. Some small trees will have to be removed to create the accessway, but the large cherry tree should be retained. Mr. Wheeler suggested adding a condition to require the retention of the cherry tree, to read as follows:

8. The cherry tree located in the northwest corner of proposed Lot #1 shall be retained, except for reasons of safety or health of the tree, as approved by the City Forester.

Mr. Wheeler then read a letter received from a neighbor, Genevieve Hoffman, expressing concern about the development of the back portion of this parcel for residential purposes. Her letter explained that she was of the opinion that

a park is needed for this area, and should be considered, rather than residentially developing the back parcel. Mr. Wheeler explained that the City is pursuing the purchase of a parcel approximately four lots to the north, which is approximately one acre in size, to develop a mini-park for this area.

Staff recommends approval of this application.

Applicant

Michelle Lindig, 357 S. Locust explained that she concurs with staff, except that there are no sidewalks on that side of Locust between 99-E and Township, and questioned the need for it now. She further agreed that the cherry tree would remain.

Mr. Hoffman explained that the Planning Commission received a directive from City Council that sidewalks are to be a condition of all development. The issue has been debated and negotiated in the past, but it has been agreed that when property in the rear is developed and economic benefit is gained, sidewalks would be required. Commissioner Fenske further explained that, historically, sidewalks could be delayed if applicants entered into a Waiver of Remonstrance and the sidewalks would be funded through an L.I.D., but under Measure #5, L.I.D.'s disappeared and are no longer available as an avenue to build sidewalks. Should L.I.D.'s occur in the future and sidewalks are built abutting this one, Ms. Lindig would not have to participate in the L.I.D., he further explained, as only the benefitting properties would be assessed.

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

1. Making the retention of the cherry tree a condition.

Based on the staff report dated June 4, 1993, on testimony received at the public hearing, and on Commission deliberation, **Commissioner Elliot moved for approval of MLP 93-01 with the following conditions:**

1. A final partition plat modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application -- City of Canby, Planning Department, File No. MLP 93-01.

2. The final partition plat 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.
3. 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.
4. All monumentation and recording fees shall be borne by the applicant.
5. 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.
6. All utilities must meet the standards and criteria of the providing utility authority.
7. A sidewalk shall be constructed for the full frontage along S. Locust Street of both lots one and two. The sidewalk shall be constructed prior to the occupancy of any development on lot two.
8. The cherry tree located in the northwest corner of proposed lot #1 shall be retained except for reasons of safety or health of the tree, as approved by the City Forester.

Commissioner Mihata seconded the motion and it carried unanimously.

VII. DIRECTOR'S REPORT

Mr. Wheeler explained that there was a condition in the Redwood Meadows approval that the evergreen trees located in the southern portion of the property be retained through a deed restriction. The applicant is requesting approval to remove some of the trees as necessary, because they are restricting the development of some of the lots. They staked out the properties and measurements were taken. Mr. Wheeler suggested that it is workable with the trees remaining, but felt the final decision should be made by the Commission. He then reviewed his findings and explained that the vast majority of building plans are "purchased" standard plans, which are difficult to maneuver or

readjust onto some lots. The Commission agreed that the trees should be retained and, at such time that a specific proposal comes in for a lot that requires that some trees be removed, the Commission would review it. The Commission further agreed it would be best to encourage significant tree retention or, if removing a large tree, replacing it with a significant amount of trees. Mr. Hoffman explained that Walt West intended to replace any trees that are removed. Further, he explained that in the future, the developers should benefit somehow from retaining trees, or they will remove them prior to submitting an application.

Mr. Hoffman gave another example of the cooperativeness of Mr. West. He explained that the engineering design for this parcel (Redwood) they found that the back side of this parcel was lower and that the Redwood sewer is fairly high. The developer then designed a lift station to service the parcel. After the pre-construction conference and the final plat was signed, Kurt McLeod reviewed it and found there was a lift station closer to Willow Creek entrance which could service all three developments. Mr. West explained that it was easier to build another than to pipe it over from Willow Creek. After further investigation Mr. West found it was just as expensive to move the one from Willow Creek, but that the City would save more than \$25,000 a year in maintenance if it was moved, and they are moving it from Willow Creek into this subdivision.

VIII. ADJOURNMENT

The meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Joyce A. Faltus