

APPROVED

## **MINUTES**

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

*August 9, 1993*  
*7:30 p.m.*

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#### **I. ROLL CALL**

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

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

Others Present: Christine Yoder, Jack Pendleton, Earl Walker, Del Hemphill, Jorge Carrion, Jerry Summett, C. Mead, Ed Motecucco, Ron Tatone, Frank Charbaneau, Phil Scoles, Martha Stiven, Robert Watson, Herman Cassner, Lowell Bagshaw, John Schlitt, Marourn Stuart, Margaret Seale, Judy Mead, Kenneth A. Stuart, Lois and Archie McLeod, Pat Haphey, Mary Lee, Fred Kahut, Bob Backstrom, Leo Grommesh, Dick Shunn, Kermit Scarborough, Lloyd H. Mendenhall, Esther Tompkins, Jack Pendleton, Chris Pendleton, Cyndi Klaetsch, Mel and Edyth Moss, Kim Harris, Edna Vasiker, Terri Shuhart, Don Shuhart, Gordon Ross.

#### **II. MINUTES**

None

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

None

#### **IV. COMMUNICATIONS**

None

**V. FINDINGS**

None

**VI. NEW BUSINESS**

None

**VII. PUBLIC HEARINGS**

CPA 93-01/ZC 93-01, a request by **Northwood Investments** for a Comprehensive Plan Amendment of the Urban Growth Boundary and Land Use Element, and also the Zoning Ordinance map designation to R-1 (Low Density Residential) to "accommodate the development of a single family subdivision." specific subdivision plan approval is **not** part of this application. The subject site is 30.19 acres. It is a cultivated field for growing seedlings and part is vacant. The site is located on the south side of Territorial Road, west of N. Holly Street (Tax Lot 800 of Tax Map 3-1E-32AA; Tax Lots 100, 200 and 1700 of Tax Map 3-1E-33AD; Tax Lots 300 and 501 of Tax Map 3-1E-33BB; and Tax Lot 6600 of Tax Map 3-1E-33BC). *Continued from July 26, 1993.*

Chairman Schrader queried each Commissioner individually as to whether or not anyone had ex-parte contact or a conflict of interest since the previous meeting. Commissioner Gustafson stated that he spoke with his sons, who gave him their opinion, and that he viewed the property but came to no conclusions at this point. Commissioner Mihata stated she had some general conversations about this application, but came to no conclusions. Commissioner Maher discussed the substance of this application with others and with her husband and Commissioner Elliot about her own internal conflict with it, but has come to no conclusions or decisions. Commissioner Wiegand had several phone calls regarding procedural questions, which he referred to Mr. Hoffman. He did explain the procedure to someone though. He has not come to any conclusions. Commissioner Elliot related his conversation with Commissioner Maher. No conflict of interest was disclosed by any Commissioner.

Chairman Schrader explained the hearing process and procedures, and reviewed the criteria which was posted around the room. This hearing was held at the Canby Adult Center.

Mr. Hoffman said that he was able to research some questions more clearly. Regarding the number of units that were approved in the last year, he explained that there were 209 lots created for single family development, 250 spaces for multiple family or manufactured homes, for a total of 459 spaces. There have been 159 building permits, 72 were single family, 59 multiple family, and 28 manufactured homes in manufactured home parks. Also, with regard to the question of whether or not pigs would be allowed on the subject parcel, within the zoning ordinance livestock is not defined as agriculture and there is a City ordinance permitting only domestic animals unless City Council specifically holds a hearing and approves it. Finally, a reply to the Request for Comments from the Police Chief was included in the packet, which includes his concerns about the traffic pattern and what he would think is a reasonable solution to the streets. Mr. Hoffman read it into the record: "The Police Department prefers through streets. Would recommend 10th and 12th as well as N. Douglas and N. Elm be through streets. Also, N.W. 13th to intersect with street to Territorial."

### ***Neither For Nor Against***

***Kermit Scarborough, Chairman, C.U.B., 2600 N. Maple Court***, explained that C.U.B. has been looking for a secondary source of water for the City for a long time. They have applications submitted to get water rights from the Willamette River. Right now, the only source of water the City has is from the Molalla River. When the developers approached CUB regarding this well, CUB definitely saw benefits to the City because it would provide a secondary source in the event of a catastrophe. However, in some of the proceedings this appeared that it would be granted carte blanche to the City. But such things as setbacks, water rights, availability of getting into and out of the property, etc., would have to be negotiated as to how they would affect a public body.

### ***Proponents***

***Chris Yoder, 213 N. Douglas*** said she owns property on Territorial in the filbert orchard. Although she has owned the property for some time, they have been unsure what to do with it. If the subject property was developed, it would be easier to build on the property because a sewer line would be available and water would also be available. She urged the Commission to approve the application.

***Neil Thompson (did not sign in)*** stated that he has been a resident since 1919, and saw the City grow from a population of 250. Mr. Thompson served on the Council at one time and was responsible for the road department at one time. He explained that he used to farm adjacent to the IFA property for 18 years. He had the first well in the area, which he shared with his neighbors.

At one point, when the City ran out of water, he shared his 500 gallon-per-minute well with the City. Mr. Thompson stated further that the site was not included in the UGB due purely to politics, not because of reforestation. He added that these developers are part of the community and will remain here and are not fly-by-night developers. He urged the Commission to approve the application.

### ***Opposition***

***Jack Pendleton, 686 N.W. 13th Avenue*** stated that he does traffic studies for the telephone company. He stated that there is less of a demand for housing in Canby than most people know, and therefore less of a need than the applicant has stated. There are some houses on N.W. 13th that have been sale for more many months. With so many lots available for development, Mr. Pendleton questioned the unique need for this development to fill the demand for lots. He further stated his concern about the economic impact of removing the tree farm and the loss of jobs that go along with such removal. He also questioned the demand for through streets that this development would fulfill in N. Canby. When reviewing the various developments in Canby, he pointed out that many of them have cul-de-sacs. He questioned whether the well on the subject site was tested for drinkability, up to EPA standards - and if contaminated, what it would cost to fix it. Regarding traffic, Mr. Pendleton questioned where the traffic counts were at 7:30 a.m. at Birch and Knights Bridge. He also questioned other affects on traffic from a new development in the area, such as creating new thoroughfares on other streets. It is obvious that Territorial must be widened. Mr. Pendleton's concern is that doing so will create a bypass to the downtown area for people heading to 99-E and I-5 and something would have to be done to improve the speeding problem. Canby needs more industry and commercial development because residential development does not pay for all the infrastructure, he added.

***Earl Walker, 9933 S. Carriage Lane, Carus,*** stated that the short and long term costs of development must be considered with regard to schools and other utilities. If this development brought in 100 children at a cost of \$5,000 to educate each child, the taxes would never cover such costs.

***Del Hemphill, 703 N.W. 13th*** referred to his letter regarding soils capability classifications. Additionally, he concurred with the representative from IFA's testimony at the last hearing. He submitted a U.S.D.A. handbook on soils classification which deals with his testimony regarding the various classes of soils. Soil classification were never intended to be, and are not an indicator of soil productivity or profit potential. The only difference between a Class I and a Class II soil is the degree of management one must exert in utilizing the soil to its maximum capability, he explained. He asked the Commission, in

making it's decision, to weigh need vs. the loss of unique resource and consider that there are exceptions to every rule. Additionally, he explained that this site represents 30 acres out of 500 remaining of this type of soil that are not developed or within the Canby UGB. Loss of this 30 acre site would represent a 6% loss. Seventeen years ago, the land at North Willamette Center, 160 acres, was all classified as Class I soil. Today's maps show four different soil types on that same acreage. Therefore, all acreage that is classified the same, is not necessarily correct. Regarding the nitrate pollution of ground water, Mr. Hemphill stated that there is a problem in N. Canby, particularly within the shallow aquifer. The nitrogen rates that IFA is using makes their contribution to this problem very insignificant. Homeowners are the primary problem, contributing to this source, as is the golf club, and probably other agricultural uses. Mr. Hemphill further stated that the decision regarding this site should be the same as it was three years ago. If the application is approved though, he stated that his fear is that someone will come in north of the present UGB and purchase a site with a similar soil type and eventually develop it. Regarding traffic and other impacts in the area, he asked that opponents work with developers to find more imaginative plans for subdivisions to resolve these concerns.

**Jorge Carrion, 1200 N. Birch** stated that no one came to his home to view the "speeding" problems on Birch, as he requested. He called the police, who sent three cars. While they were there, traffic was no problem. The next day, there was the same speeding problem as always. Mr. Carrion stated that if the area in question is expanded, there will be a need for more police personnel, more ambulances, and more fire protection, so taxes will increase. There are other places for new people to go, other than Canby, he added.

**Leo Grommesh, 980 N. Birch** stated that he spent hundreds of dollars on a drainage problem. The land, at one time, was reversed, and it brought all the drainage to Birch Street. He spoke with Lyle Read about it, but nothing was accomplished and he had to bring in fill and he is constantly working at it.

**Robert Backstrom, 1395 N. Birch** stated that he concurs with the other people who testified in opposition to this application. He asked that the Commission does what is best for the citizens of Canby, who do not want the application approved. The people who will purchase homes built on this property will come from out of town, and they will strain the roads, the sewer system, and the schools. They will increase activity for the police and fire departments. After a conversation with Police Chief Giger, he stated the chief said, "It would be nice to have the roads go through, but not the houses." Long after the developers have sold the homes and gone, people who live on Birch, 10th, and Knights Bridge will remain there, with new problems brought on by the development of this site. The Comprehensive Plan does not reflect the desires

of the majority of average Canby citizens. When looking at 20,000 residents in the future, it does not take into account that residents do not want such growth in Canby. It needs to be reworked, with everyday citizens taking part in the rewriting. Canby should remain small, safe, and liveable, with good schools. Passing bond levies does not mean population should be increased or new schools should be immediately filled with new students because, if that is the case, Mr. Backstrom said he'd actively begin working against the passage of future bonds. Support does not mean filling everything up to capacity immediately.

**Jerry Simnett, 168 N.E. 22nd Avenue** stated that he believes the application should be denied because of the quality of the land at issue and because the application conflicts with several aspects of the Comprehensive Plan. Experts have testified as to the quality of the land and how productive it is. Mr. Hemphill explained that most people are misled with classification of soils and that this is extremely productive soil, which is not everywhere and is very unique. Under the Land Use element of the Plan, Mr. Simnet stated that no need has been proven to bring this land into the UGB. As the population is around 9,000 people, the proposal is very premature. At last look, there is more than 1,000 acres remaining in the UGB, of developable land. The Comprehensive Plan also states that it is an obligation to allow agricultural areas to remain productive for as long as possible before they are converted to urban use. The best way to implement each of those objectives is to increase the density and intensity of land uses already within the urban area. It would create urban sprawl to go outside the UGB. Under the Land Use element, it also states that we should discourage development that overburdens facilities and services. The schools are already at the limit, including the new Trost Elementary School. Development of this site will further burden the facilities and services the City offers. Under the Environmental element, the Plan states that it is best to direct development away from areas where there has been long term commitment to agricultural production, as in the case with tree farming. The application also violates 1-R-B which requires that the least productive land should be developed first, and 8-R which talks about open lands and specifically says that tree farming provides the most unique type of open space and refers to this specific 30 acres of tree farming within the City limits. The Comprehensive Plan states that this particular use creates extremely good open space. The proponents want to trade this extremely good and unique open space for 100 houses with a 2 acre park. Additionally, development of this parcel would not diversify the economy of Canby but, in essence, do exactly the opposite. He urged denial of this application.

**Carl Mead, 644 N.W. 13th Avenue** stated that he concurs with the others who testified in opposition to the application. The Comprehensive Plan should be reviewed and, while doing so, a moratorium should be declared on

development until we can decide where the City is going. Canby is overburdening its schools, its sewer capacity, and its roads, especially Knights Bridge. An alternate route will be created from Highway 99 to N.W. 13th via Birch to I-5. Looking at existing homes and lots, there are currently 4 houses in Willow Creek, that have been for sale longer than 4 months. This proves there is no large need or demand. Houses near N.W. 13th have been on the market longer than 5 months, and many in Township Village. He urged the Commission not to benefit the few owners of this site, at the expense of many.

**Ed Montecucco, 3468 N. Holly** stated that he concurs with the previous testimonies in opposition. He added that this application does not meet the criteria showing need to develop residentially and that there is plenty of vacant land within the UGB at the present time. He noted that the staff report stated that if Canby grew at 5% per year for 20 years, there would be adequate land within the UGB. In 1988, during the first Periodic Review of the Comprehensive Plan, it was found the City is only growing at 4% per year, which has held during recent years. Therefore, he concludes that additional land brought into the UGB is not necessary and, further, a good argument could be made to decrease the amount of land in the UGB because the population is growing at 20% less than projected. A 1% decrease in population from 1984 to 1993 is approximately 720 people. But the applicant is using a study they performed to show there is a shortage of high and medium density residential land. But they are proposing to add another 30 acres of low density residential to the already existing 1100 acres of low density residential to alleviate a high and medium density residential zoning problem. He asked whether it made good planning sense if Canby has too much low density residential and not enough high and medium density residential, to add more low density residential. It would only accomplish the creation of urban sprawl, like is found in Beaverton. A better way to consider this land for inclusion or exclusion to the UGB, is during this City's Periodic Comprehensive Plan Review, when all aspects of the planning process can be looked at citywide, instead of looking at one specific parcel of land to fill a fabricated need from a developer's study. He urged denial of this application until a Periodic Review of the Comprehensive Plan is undertaken with unbiased facts and figures to prove that a real need exists.

### **Rebuttal**

**Ron Tatone** stated that he was chagrined that the opponents accused the Northwood partners of being city-slickers, not trustworthy, and greedy. Each of the owners is a long time resident of Canby, who supports the community in various ways. Most of the people in opposition live on a lot he developed since 1956. Canby is unique because of its residence and none of the owners want it to become another Beaverton or Lake Oswego. Canby is somewhat

isolated due to limited access to I-5 and is destined to be a neighborhood community. When the zone is changed from agricultural use to residential, five years of back taxes, approximately \$52,000, will be required of the owners. When development occurs all street and utility improvements are paid by the developer, not the taxpayers. When building permits are issued, a \$295 fee, per bedroom, will be paid under the Parks Systems Development Charges, averaging about \$1,000 per home. The well and water rights will be dedicated to the City of Canby and, as one partner is a water rights examiner, the partnership can assist in the legalities of this transfer. There are several issues which could potentially impact the cost, including an easement required by the State Health Department restricting land use within 50 feet of the well, access to the site, utility vehicle parking, piping improvements to incorporate the well into the system, and on-going farming operations. Offsetting these potential costs are benefits that will generate, at 700 gallons per minute, the normal capacity of this well, which could support the emergency operations for the entire City of Canby. The potential revenues are substantial, exceeding \$1,200 per day, based on the revenue of the utility rates today at 97 cents per 100 cubic feet - over \$400,000 per year. The Northwood partnership has paid for the well development in the purchase price of the land, as well as all water quality testing to assure that this well is within State standards. All contaminate levels were below detection and below the maximum levels prescribed by the State. Nitrates, for example, are at a level of 0.72 parts per million, well below the 10 parts per million allowed. The partnership desires to assure the City of its intent to incorporate the well into the City system and to minimize the associated cost for CUB and the partnership. As the total impacts become known, CUB will become involved in the design and negotiations for as mutually equitable agreement, without any out-of-pocket expense by CUB. The economic impact of 80-100 seasonal workers employed during the non-growing season should be evaluated by the Commission, not the applicants. Most of the opponents assume that if the application was denied, that IFA would continue to grow seedlings. The initial lease with IFA was for 20 acres, based on a 10% return of the purchase price. After one year, IFA requested a reduction and a new lease for the 20 acres, based on, approximately, a 30% reduction. After denial of the first application, IFA was offered an additional 10 acres. The partnership was told that the cost to develop the additional acreage for planting was too expensive. In 1992, IFA inquired as to how the lease could be terminated since they were planning to consolidate their operations in Toledo, Washington. At the beginning of 1993, IFA inquired as to the extension of the lease. The new lease agreement was sent, with an increase equivalent to the Consumer Price Index. They have not yet signed the agreement. Without the well to irrigate the land, the best use would be dry farming, which would not be compatible with the neighbors.



**Frank Charbonneau** (*did not sign in*), Traffic Engineer, stated that he did the traffic impact study for the project. After looking at the projected site traffic that would be added to the City street system when the project is developed, and weighing the impacts, combined with studying the existing traffic patterns, it was found that there are some critical intersections. Traffic was measured and observations made along Territorial, Knights Bridge, Holly, and Birch. He then defined the various Levels of Service. 'A' is defined as finding freedom of operation at intersections. 'B' is defined as finding some delay or inconvenience at an intersection, occasionally more than one vehicle in line at the intersection. 'C' is considered average, with the possibility of several vehicles lined up at an intersection and some inconvenience to drivers. 'D' represents long delays, and 'E' represents very long delays and much inconvenience. Most agencies accept levels down to 'D' in the peak hour. The worst that was found at the intersection of Birch/Knights Bridge was the level 'B', under buildout conditions with added traffic for the site and the growth rate factored in. Very clearly, they rate at high levels of service. The other intersections would be impacted by less than 5% traffic and would also be within these levels 'A' or 'B'. The existing volume in the p.m. peak hour entering the intersection of Knights Bridge/Birch was measured at 700 vehicles per hour. At Territorial/Holly, the total p.m. traffic peak was 325 vehicles per hour. The site-generated traffic will add, in the pm peak hour, 65 vehicles at Knights Bridge/Birch, and 55 at Territorial/Holly, a relatively low amount of traffic generated by the site.

**Phil Scoles, P.O. Box 3558, Portland 97209**, Consulting Soils Scientist, explained that the site does have Canderly soils. He stated that soils are unique but that there is no definition of unique soils because from one end of the Northwood site, the soils are different from the other. There are soils that have unique characteristics and some of those characteristics are valuable to agriculture, some are valuable to urban development, and some are valuable to wetlands development, etc. He has reviewed other studies and agrees that this soil is well suited for nursery crops and seedlings. It is a Class II soil which takes irrigation to make it a viable soil. There are Class I soils within the UGB that don't necessarily require as much irrigation because they have a greater water holding capacity. Canby sits on top of Class I and II soils almost exclusively, which makes it unique among most Willamette Valley cities, and development in Canby will have to always impact this kind of soil. Pointing to various areas on the map, he showed where there are more than 300 acres of similar soil within the UGB which is not receiving any level of protection from development the way this site is. This area is harder to farm because it requires shorter rows for plowing and chemicals have to be applied. Mr. Scoles stated that there is about 60 acres of underutilized land within a mile of this site where a forestry operation could be relocated to because they are putting on crops of a lower value which could easily be cultivated on lower

grade land; things like Christmas trees, hay, pasture, hazelnuts, etc., which are not as dependent on this kind of soil. In his opinion, the seedling operation is not utilizing this area to the near degree as one might expect.

**Martha Stiven, 14620 Uplands Drive, Lake Oswego** stated that she spoke with the U.S. Forest Service and reviewed the Pacific Northwest Nursery Directory report, which she submitted. This summary of nursery operations in Washington and Oregon calculates production as it relates to the capacity of nurseries. The report states that the existing nurseries in operation today can accommodate more than what is being produced. In 1993, the actual production numbers dropped from 108 million seedlings to 101 seedlings although the capacity is still the same, so this product can be produced elsewhere. Ms. Stiven added that the opponents are not really the average citizens in Canby, as they are all adjacent neighbors to the site, and asked the Commission to take all of Canby into account when making a decision. The benefits that will serve the community as a whole will be the ability to accommodate long-term growth and short-term demand for homes in Canby. It will serve as an additional source of water for all of Canby and provide the connection of a collector street in accordance with the Comprehensive Plan's traffic plan. It will also provide a mini park. She urged that the Commission long at the long term, big picture, when making its decision. She reminded the Commission that the applicant has provided, through testimony and the application, with ample evidence to support an approval of the application, and ample evidence to write findings for an approval.

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

1. The Commission asked how the twenty year period is determined; whether it is 20 years from the time the Comprehensive Plan was adopted, or from now. The Commission was concerned about the significance of the 20 year period.

Ms. Stiven explained that she always encourages a 20 year planning horizon, regardless of the benchmarks in the planning process, such as the adoption of the Comprehensive Plan, or the update to the Periodic Review. The City always needs to be looking at 20 years out into the future, she added. Also, in looking at Periodic Review and at the original adoption of the Comprehensive Plan, the City failed to accurately estimate the amount of land needed, because they did not take into consideration the change to the wetlands, the loss of land to the bike paths, and the discrepancy between what is actually being built and what the Plan accounted for. There is a shortage under any one of those areas, she explained, because the Comprehensive Plan needed a

certain amount of land to accommodate 20,000 people 20 years from the time the Plan was adopted, but they did not accurately anticipate the loss of land from the inventory, so the projections are incorrect or invalid. Therefore, additional land needs to be added to the inventory, she added.

With regard to when the 20 year period starts, and the relevancy of that period, Mr. Hoffman explained that according to L.C.D.C., it is whatever was agreed to at the City's last Periodic Review, which was in 1988. Part of that review included an evaluation to see whether there was still enough land in the City for a 20 year growth horizon, or the 20,000 population. In 1988, it was concluded that there was, at the densities proposed in the Comprehensive Plan, enough land in the growth boundary to contain the 20 year growth, at the lower rate of growth. Had Canby grown at the rate originally believed during the four year period from 1984 to 1988, there might not have been enough. The 20 year period is an approximation, a forecast period. There is no legal requirement that at every point in time the City be 20 years ahead. Under Goal No. 14, criteria for a boundary change, there must be a demonstrated need to accommodate long-range population growth requirements consistent with L.C.D.C. goals. In the past, it was interpreted to be a 20 year period that L.C.D.C. was looking for. But, at each Periodic Review point you must look 20 years ahead.

2. The Commission asked staff to comment on the amount of property within the current UGB that is yet undeveloped, asked for an approximation as to how many residences could be yielded from such amount; whether there were significant properties within the UGB that have not yet been developed or attempted to be developed.

Mr. Hoffman responded by using the Comprehensive Plan map, the Zoning map, and the UGB Boundary map. He indicated that there is still substantial undeveloped property.

3. The Commission commented that when Northwood submitted an application previously, they did not actually own the land and that there was some discussion about whether there were any potential buyers for the property. The Commission asked, without requesting a specific amount, if the owners could give a figure more towards an agricultural cost or residential cost, and whether those figures impact whether IFA can afford to farm this property.

Mr. Tatone explained that the 5 partners purchased the property after it was advertised for sale in farm magazines. The partners did not hear of

it then, and since there were no prospective purchasers, it was turned over to a real estate firm. The approximate cost was \$450,000. The partners purchased it and owned it at the time of the first application. After the purchase, the partners felt a 10% return on their investment would be reasonable, and that is now the initial lease was agreed upon. After one year, that was reduced to about a 7% return. After that, IFA told the partners they were going to terminate it and move their operation to Toledo, Washington. They have come back since that time, and asked for an extension. The partners agreed to the extension, based on the consumer price index increase from the 7%. A letter was sent to IFA in February, and they have not yet responded. Also, Mr. Tatone added, taxes are less than \$1,000, and would be much higher if it was developed and brought into the R-1 zone. The economics of it are such that if IFA went out and borrowed the money to purchase the land and had to pay interest on it, then it only seems reasonable, Mr. Tatone stated, that they pay at least the interest amount for the use of the land.

Mr. Lyle Read, one of the partners, stated that it is misinformation to say the partners did not own the property at the time of the last application. He explained that it was under contract and they were living up to the contract. Shortly after that application was denied, the final payment was made, and the deed turned over to the partners, who have owned it since.

4. Chairman Schrader thought it best to keep in mind the decisions and land uses that occurred over the last 3 or 4 years. Based on a document received from staff about projects worked on from January, 1991 to March, 1992, almost all of which were approved, there are 1,000 potential dwelling units. Of the 459 approved in the last year, there is a sense that close to 1200 units are not developed yet, leaving a considerable backlog. Dr. Schrader explained that a lot of units have been built, but not at that exponential rate.

Dr. Schrader further stated that he has some concerns over the technical aspects of the Comprehensive Plan regarding land exchange and zoning and how it came about. It was stated that the Logging Road is no longer available for residential development. Dr. Schrader stated that he found it hard to believe that the people who drafted the Plan figured that the Logging Road itself, would have houses on it. He stated that he assumed that they thought it might have been a right-of-way or part of the park situation. Rights-of-way are taken into account by the Comprehensive Plan. Dr. Schrader explained that he was sure the writers of the Comprehensive Plan would have considered the Logging Road as a road. It was previously stated, too, that the wetlands were

not taken into account and must, therefore, be removed from the inventory. The Comprehensive Plan map on page 60, which is the same as the original map, factors the wetlands out as steep and flood-prone lands. Then, on the preceding page, those lands are not included in the residential lands calculation. The same 1140 acres for low density residential appears in buildable lands on page 36, which is what the writers used to figure R-1 calculations. They did not use land over the hill, down by the bluff where Village on the Lochs is going in; nor did they use the wetlands on the north side by Territorial Road. In the Plan, it does say that where the mobile home subdivision is, it could become cluster, but it is not included in the calculations for R-1 zoning. Therefore, Dr. Schrader stated, the wetlands were taken into account and there is no net loss there. Additionally, he made the point that the density of development down on the flood plain is quite a bit more than might have originally been imagined, so the City has gained another 147 units, above what has been approved so far. He stated his concern that the applicants' calculations might be a little premature. The City's population has increased 2000 in the last ten years, which is only one-sixth of the total projected increase in population. H.O.P.E., for example, was zoned R-1 and jumped to R-1.5, because there was a need. The citizens wanted it. There was no opposition testimony to that rezoning at all, and the City gained 220 units with one application. Because of the changes, he stated that he had trouble putting a whole lot of emphasis on the actual figures because there is an actual indication that there is more give and take in those figures than what is before the Commission.

5. Commissioner Fenske wanted to discuss the figures further. He stated that the applicant's case is based on the need for additional residential units, based on many having been lost over time. In 1990, when the original application was acted upon, it was denied because the need was not demonstrated. The applicant has submitted lists and found 283 needed residential units. Staff looked at the work the applicant did, concurred with the list, and identified another 60 lots. A lot of effort was done in identifying lots that were developed at densities less than the Comprehensive Plan had anticipated, or that are unavailable for development at all. The applicants' effort to show a loss of units has been more diligent than the effort spent made to show the gain in units. Mr. Fenske explained that he went to the effort of digging out some old records and compared them to the maps staff referred to earlier. His study showed that: part of Phase 2 in Willow Creek is a tax lot that originally was zoned Light Industrial because of lack of access. It was rezoned to R-1 and currently there are 21 single family lots platted on that piece of ground where there was originally anticipated to be no

houses; the Comprehensive Plan explicitly regarded the area where Village on the Lochs was built as being extremely difficult to develop, and assigned it a density of 1 housing unit per 3 to 4 acres, which would have resulted in 8 housing units on the 26 acres. Instead, 128 were ultimately approved, which is another 120 units of residential development not anticipated by the Comprehensive Plan; the Bergen property on N. Pine was originally zoned M-1 and after the applicant came in, it was rezoned to R-1.5. The staff report said there could be as many as 32 units, although the owner expressed an interest in reserving some of it for single family development (2 single family units, and developing the rest). Perhaps as many as 27 units might be developed on that property. H.O.P.E. started out at R-1 and was changed to R-1.5. The applicant credited the City with a gain of only 83 residential units. Subsequently, a conditional use permit was issued for that same property which also had a PUD overlay and a credit for the elderly. So when the conditional use was approved, it was for 378 units, a net result of 218 more than the applicant originally had. Pine Crossing on S. Pine Street was 3 tax lots under consideration, which the applicant identified one of the tax lots as a net gain, and later as a net loss. But the lot to the east is identified in the Comprehensive Plan as light industrial, and is now a part of Pine Crossing, which is 33 housing units. Totalling them all together, there is 336 units of residential housing that has been approved in the last three years, as opposed to the applicant's case that there is 283 units of housing that have been lost. If you add in the other 60 staff identified, it evens out. Commissioner Fenske added that, in the end, the City is pretty close to where the Comprehensive Plan anticipated we would be.

Commissioner Fenske pointed out that Canby was recently provided with census results. The results show that in 1990, at the time of the census, there were 8983 people, comprising 3,195 households, and 3,345 units of housing available within the City. The math on these numbers will show that a 1.54 percent vacancy rate corresponds with a 1.5 percent vacancy rate that is widely published, with a population per household of 2.81, considerably higher than many people are inclined to admit or use in their projections. The Comprehensive Plan had assumed a 5% vacancy rate and, on average, a 2.55 population per household. The consequence of the lower vacancy rate in 1990 means that because there was only 1.5% vacancy instead of 5% vacancy, there are 112 fewer housing units needed to hold the 8,983 people that lived in Canby in 1990 than the Comprehensive Plan anticipated would be needed. The consequence of the higher population per household is even more dramatic. It took 278 fewer houses to hold our population of 8,983 than the Comprehensive Plan anticipated at the density of 2.55. If

these rates are extended through the life of the Plan, or to the population of 20,000 which the Plan chose to use, by the time the population reaches 20,000 there will be approximately 800 fewer housing units required than the Plan anticipated because there is less vacant housing and more people per house. The upshot of the entire matter is that it is premature to be stating a case based on need when the trend seems to be that the need is exactly in the opposite direction.

In terms of Mr. Fenske's analysis, Mr. Hoffman explained that where the Commission has added to the community capacity -- Willow Creek, H.O.P.E., Village on the Lochs, the Bergen property. . . are shown in green on the map. If one looks at the charts it will be noted that the last group of charts did account for increases as a result of the changes in those land uses, but the charts do not make really apparent the total capacity of each of those sites.

In terms of the numbers, the vacancy rate in 1990 was known to be around 1%. There does not appear to be any increase. One percent is an exceedingly low vacancy rate. Five percent is more normal. The vacancy rate drastically affects the price of property, the choice of people, and what prices homes/property sells for. Most cities are at 5%. If our vacancy rate was closer to 5%, it would be a different situation in terms of the market place. The effect of having that difference, a missing 112 units, is that we are paying more for property than is reasonable. So, in a way, there is a deficiency in the number of units out there, a shortage of units, rather than an over-supply. And, therefore, it should be deducted from the figures. In terms of the 2.81 . . . again, we're looking at a long range, and the Comprehensive Plan is based on looking 20 years ahead, every trend Mr. Hoffman has seen used in any estimates, continues to show a reduction in average family size, to around 2.5 or 2.6. There appears to be no turnaround in the way demographics are used anywhere in the country. The average family size has been going down historically for almost 80 years. The Comprehensive Plan used about 2.6 for the overall figures. For multiples, it used smaller numbers, for single family, it used higher numbers. And that is why, Mr. Hoffman explained, the tables and methods the applicant submitted used the Comprehensive Plan figures, rather than the current population figures. Further, Mr. Hoffman stated that anyone can make estimates, but demographic experts are using lower average family sizes, not current family sizes, for doing their estimates.

6. Commissioner Mihata stated that she is curious as to why the parcel was omitted from the UGB, but stated that she is unconvinced that the

need exists to include it at the present time. Based on Mr. Fenske's comments, Ms. Mihata agrees that the streets need to go through and the connections need to be made, but not necessarily at the present time. At the present time, keeping open space is even a greater priority and should be held on to for its intrinsic value.

7. Commissioner Schrader asked for input regarding the economic impact. He stated that to him, this [IFA] is the second largest employer, after Johnson Controls within the City limits, even though some of it is seasonal. He pointed out that all residential development costs the taxpayers money. The cost of hooking up services is not completely subsidized by the developers because there are off-site improvements that need to be taken into account. Nationwide, for every house built, it costs a city \$500, although Canby is somewhat more efficient and it costs approximately \$400. Dr. Schrader admitted some of it is good as growth is necessary, but stated he is not convinced this is the time for that, with all the other units on line and this property being out of the UGB. Additionally, Canby should be less of a bedroom community. He added that he would like to see some economic base to take the pressure off the taxpayer. A step in the right direction is to develop the industrial park on the south side of town. He pointed out that the Planning Commission and the Council were in favor of the land directly north of Johnson Controls being kept in commercial/light industrial zoning, as opposed to residential. Good commercial/light industrial is what the people of the City want. Most of the zone changes in the past, have had little opposition by developers or citizens. This is different. Those most directly impacted find the present use a very compatible economic situation. For a Comprehensive Plan amendment, his opinion is that it would have to have almost overwhelming support or some evidence of a blatant problem with the Comprehensive Plan. Dr. Schrader stated that since he saw neither, there is nothing in his mind to justify voting in favor of this application. The uniqueness of the soils is valid, and as he does some farming himself, he knows the soils map is not always reliable. In summary, at this point in time, the IFA operation provides a real need for employment in Canby.
8. With regard to public services, Commission Wiegand referred to concern over school capacity. He pointed out that there are still modular classrooms on various sites, which are unacceptable facilities. Additional development will impact the capacity of the sewer which, Mr. Wiegand said, Canby is still bouncing against the limit and is impacting us financially. Territorial is a County road and development of this property might have an adverse impact, especially at the intersections of Birch/Knights Bridge and Holly/Territorial. Territorial



itself, cannot sustain two-way traffic in some areas. The Comprehensive Plan has targeted Territorial as an area of high concern on the list of priorities. Such improvement will have major financial impact.

In addition, Mr. Wiegand referred to Policy 8-R, preserving open space, which specifically is written around this particular piece of property.

9. Commissioner Elliot stated that it was his opinion that the applicant has not proved the adequate need, especially as there is existing land within the UGB that could be developed and because there is no lack of space available. To develop this site would inflict some damage on the Comprehensive Plan's preservation of agricultural lands, open space preservation, and housing diversity. The application does not convince him that the need is now.
10. Commissioner Maher stated that the soils issue is an essential element, along with Goal No. 14 and element #3 of Goal 2, in determining what environmental consequences there are. How unique and special the soil is, is an especially important to making a decision. Ms. Maher stated that she leans toward the Experimental Station soils expert's testimony and preserving this soil for future growth of Douglas Firs.

With regard to testimony from an opponent about resolving the issue of having too little medium or high density property within the UGB within the City limits, and not adding more R-1, Ms. Maher asked for input from staff. Mr. Hoffman stated that the opponent understood the applicant to mean that there was inconsistency in the argument that on the one hand there's too little multiple density, and on the other hand saying low density needed to be added. His understanding of what the applicant argued was that the Plan was based on a density distribution on the map, and in order to determine whether or not there was adequate land within the growth boundary, you had to assume a certain distribution of land use by type for growth and development, that the Plan assumed was there. Then something would have to be done about that deficiency, the applicant stated, and their proposal was to add at least thirty acres of land and rather than propose multiple density, which the residents in the area would oppose, proposed low density. The applicant has shown that the Plan, as the City has zoned for it, does not have the capacity to house 20,000, and will fall short of land to do so.

11. Ms. Mihata stated that the figures discussed here tonight will have an affect on the Commission in the future when they look at densities. In most situations the Commission has elected not to rezone to higher densities. At the present time, the need is too long range.
12. With regard to the Parks Plan, Chairman Schrader stated that if this parcel should be developed in the future, this property would be expected to contribute to more than a mini-park of 2 acres, more like a neighborhood park and a mini-park -- totaling 4-1/2 to 6 acres.

Based on the findings and conclusions contained in the staff report dated July 16, on testimony at the hearing of July 26 and August 9th, and on Commission deliberations, **Commissioner Fenske moved to recommend denial** of CPA 93-01/ZC 93-01 to City Council, based on failure to meet statewide land use Planning Goal No. 14, element 1, the demonstrated need to accommodate the long range urban population growth requirements, and based on the legislative Comprehensive Plan amendment requirement, # 2, that there be a public need for the amendment. **Commissioner Elliot seconded the motion.**

The motion was amended by Chairman Schrader to include statewide Planning Goal #3, preservation and maintenance of agricultural lands, #5, conservation of open space, protecting scenic and natural resources, and elements #1, 2, 5, 6 and 7 of Goal 14; and the Comprehensive Plan Land Use Elements #5 and #6, Environmental Policy 1-R-A, 3-R, 7-R and 8-R, and Economic Policy #4.

**Commissioner Fenske agreed to modify the motion and Commissioner Elliot also concurred by seconding it.** It carried 6-1, with Commissioner Gustafson voting no.

Chairman Schrader suggested that he, Commissioner Fenske and Commissioner Mihata assist with writing the Findings, Conclusions and Order for this application. Staff agreed.

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**TA 93-03, an application by the City of Canby to initiate amendments to the Land Development and Planning Ordinance.** The purpose of the amendments are to facilitate better planning through: requiring more copies of plats or site plans as the City has extended the number of agencies and departments to which request for comments on any application are sent; revised wording regarding the variance standards for self-created hardship situations; requiring street trees for developments involving land divisions; and, requiring land division plat information to be submitted to the City in a computer compatible format for use in the City's new Geographic Information System.

Mr. Wheeler presented the staff report. He explained that the proposed amendments are were not prepared in time for the recently adopted amendments, but that they are important enough to implement now.

The request to increase the number (from 18 to 25) of site plans, plats, or tentative partition maps, submitted with an application, would make review and distribution more efficient. The number of agencies involved in the review of land use applications has increased over the last few years and, oftentimes, materials are not returned.

Another change is to require street trees as part of all land division developments. The precise type of tree and the number of trees would depend on the type of development and the street tree list. We would be amending the wording in the ordinance to require street trees, mostly as part of subdivisions, but it also could affect minor land partitions, at the option of the Planning Commission.

Regarding the variance standards, there have been some questions regarding whether or not the previous actions of owners of properties, such as siting a house on a lot, would fulfill a need for a variance. The change is to clarify that the previous owner's actions do not constitute an exceptional circumstance. Additionally, the change to #6 is for the purpose of stating that the exceptional or unique condition which necessitates the issuance of a variance is not caused by the applicant, regardless of intent. Proving intent is nearly impossible and if a variance would not have been issued if the applicant had not caused the exceptional or unique condition, then the variance should not be granted.

The final amendment would require only one reproducible copy of a signed plat to be submitted to the City Planner. We are also requesting that the information that is on a subdivision plat be submitted in computer readable format, a "dxf" format, as the City is in the process of implementing a GIS system which will store all information on computers. The cost to the developer will be approximately \$50-100, depending on the size of the development.

As there was no one in the audience wishing to testify, the Commission went directly into deliberation. Issues discussed:

1. The Commission agreed, that since it cannot necessarily assume there will always be a planting strip, to amend Section 16.64.070 - Improvements, to read:

K. Other Improvements.

2. Street tree planting is required of the subdivider and shall be according to City requirements.
  
2. The Commission brought out that the anticipated cost of adding two street trees was estimated to range between \$70 - \$180 per lot. From a government report, An Environmental Guide for Local Government Urban Forestry, houses on tree-lined streets command prices that are 21% higher than houses that are in a more barren area. This would amount to several thousand dollars worth of added benefit to most Canby properties.

Based on the findings and conclusions in the staff report dated July 30, 1993, and on Commission deliberations, ***Commissioner Mihata moved to recommend approval of TA 93-03 to City Council, as amended. Commissioner Wiegand seconded the motion and it carried 7-0.***

**VIII. DIRECTOR'S REPORT**

Mr. Hoffman explained that Don Goddard sold his triplex on S.E. 5th, southeast of Maple, and the new owner wants to landscape it differently from the approved landscape plan. The understanding is that the new owner would prefer to plant sod, rather than bark dust. He was advised the new owner would come before the Commission at this meeting, but it appears he was unable to attend, or the final action on the purchase may be delayed.

Mr. Hoffman also advised the Commission of an administrative change that has taken place at City Hall, where Scott Nelson, Director of the Canby Swim Center, is now also the director of Parks and Recreation.

**IX. ADJOURNMENT**

The meeting was adjourned at 10:50

Respectfully submitted,



Joyce A. Faltus