

**MINUTES**  
**CANBY PLANNING COMMISSION**  
*Regular Meeting*  
*April 25, 1994*  
*7:30 p.m.*

**APPROVED**

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**I. ROLL CALL**

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Ewert, Wiegand and Maher.

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

Others Present: Fred Spieker, Patti Flagg, Larry Graff, Jane Blake, Dan Stoller, Belva Clark, Michael McNichols, Al and Linda Geddes, Don and Donna Woodruff, Anselmo and Judy Pizzuti, Tom Vanatta, Juan Arellano, Ruthann Caward, Sara Tyler, Gary Kuykendall, Steve Montecucco, Paul Montecucco, Andy DiTommaso, Doug Hopper, Art Marshall, Tony Pizzuti, John Gunter, Tom Tye, Ed Sullivan, Chuck Payne, Aline Payne, George Wilhelm, Nathan Clayton, Virgin Montecucco, Arthur Hall, Ron Tatone, Frank Charbonneau

**II. MINUTES**

*The minutes of March 28, 1994 were approved, as submitted.*

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

None

**IV. COMMUNICATIONS**

None

**V. FINDINGS**

None

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

Jim Wheeler explained that Bill Owen is now the City Arborist on retainer. The City hopes to start a street tree inventory and is seeking 10 summer volunteers. He explained that the volunteers will cover the City in quadrants, street-by-street, with maps in hand, identifying tree types at each location, and measuring the dbh (diameter at breast height). During the winter, Mr. Owen will go out and decide if the trees are hazardous, if they need maintenance and, possibly, further classifying them. A training session would be held before the inventory is started, with a follow-up if necessary. This will be the basis for the Tree Master Plan.

## **VII. NEW BUSINESS**

None

## **VIII. PUBLIC HEARINGS**

**SUB 94-01** - an application by Anselmo and Judy Pizzuti develop a 4.22 acre parcel into an 8-lot subdivision [Pizzuti Estates], retaining the existing single family home on Lot #8. The property is located on the west side of Maple Street, between N.E. 20th Avenue and N.E. 21st Place (Tax Lot 600 of Tax Map 3-1E-28DB). *Continued from April 11, 1994.*

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Commissioner Wiegand explained that someone called him, but he advised that person that since he could not discuss the issue. Other than visiting the site, but coming to no conclusions, none indicated any other conflict of interest or ex-parte contact. He then explained the hearing process and procedures and subdivision criteria.

Mr. Hoffman reviewed the documents that have been received since the last hearing:

- a. A FAX from the Home Builders Association of Metropolitan Portland, signed by John Chancellor, dated April 20, 1994.
- b. A draft of the school district's Position Statement regarding schools dated April 18, 1994. Mr. Hoffman explained that the school district is acting on this Position Statement at a School Board Meeting, as of this moment, and as soon as they have acted on it, a representative will arrive to testify.

- c. A memo from Mr. Hoffman dated April 15, 1994 summarizing communications previously received from the school district.
- d. A chart summarizing classroom sizes, submitted at the April 11, 1994 hearing, submitted by the school district.
- e. A letter from Canby Elementary School District, sent to the Planning Commission, dated October 5, 1993, giving information about capacity and enrollment in the elementary schools.
- f. A chart of the Citywide population data from the U.S. Census indicating numbers of people by areas in the City, and by age.
- g. A boundary map of the Canby Elementary School District attendance districts.

Mr. Hoffman suggested that if the Commission accepted the new information, the hearing should be reopened to do so. The Commission agreed to reopen the hearing at the public testimony portion. Neither the applicant, nor anyone else in attendance advanced to testify.

**Jerry Giger, Police Chief, City of Canby** explained that staff spends a lot of time, since building has increased so much, making sure that new street names are consistent with existing street names, making sure addresses are numbered consistently with the existing numbering system, dealing with traffic flow problems, and all the other things that come with building/population increases. He explained that the department is trying to figure out at what point, when all the subdivisions are fully developed and occupied, there will be a burden on "adequate services." During the next six months, the department plans to conduct an in-house survey to determine how the department is doing according to certain measures which indicates how busy a person is in regard to the kind of service that is provided to the community. This will take into account how much non-committed patrol time there is for police officers, who are often very busy for 10 hours a day, 4 days a week, with hardly any time to drive around, see what's new, talk to residents, work traffic, etc. Without time to do those things, their ability to prevent, or ability to encourage people to stay within the limits of the law, are greatly diminished, and crime can increase drastically. When "Requests for Comments" arrive, Mr. Giger explained that he, very often, wonders at what point 'adequate services' can be provided, before people become displeased about the services that are provided. With the arrival of one criminal, a horrendous amount of time is spent writing reports, in conjunction with all the other procedures required document the crime that was committed. Further, Mr. Giger explained that the Police Department is working closely with City Council and the Budget Committee to target the needs of the community, in conjunction with the in-house survey to measure police effectiveness and efficiency.

The Commission asked that it be kept informed of the on-going process between the Police Department and City Council. The Commission asked what goals the department had in mind, the things they come up against most often. Chief Giger explained that outfalls of residential growth include neighborhood watch, and other public education programs/watch groups are the most helpful. These are usually the most vocal groups who alert the police to suspicious activities in their area. They also relieve some of the pressure of patrolling, when neighbors watch each others homes. Additionally, through the Traffic Safety Committee, the department has the opportunity to work on safety issues in regards to traffic, house numbering, vision clearance, etc. Occasionally new home owners will come in to discuss landscaping techniques which will be advantageous in the prevention of burglaries. Mr. Giger stated that the criminal activity, since the surge in building, has actually been reduced. An additional patrolman has been added to the night shift and evening crime has been reduced due to this change in shift. Evidently, when more officers are actually seen walking or driving around, criminal acts appear to decrease. At the present time there are 10 uniformed officers and 2 uniformed supervisors who work the police cars. There are 6 communication staff, a lieutenant and himself, who do administrative work. Additionally, the department has a D.A.R.E. officer who works on crime prevention in the schools. Chief Giger added that the box "Adequate Public Services are Available" is usually checked, and services would always be provided but, in addition, he stated that calls must be responded to in a timely manner.

Someone from the audience asked about drug traffic in Canby. Chief Giger explained that the number of drug activity arrests rose drastically this year, mainly due to the efficiency of the drug enforcement unit and the information it receives. Up until about 3 years ago the City did not have a detective working on drug enforcement full time.

Regarding the level of service, the Commission asked if the Chief viewed it as okay. Mr. Giger stated that when officers are entitled to sick time, vacation time, or compensatory time, an extra person is needed to cover the off time - which plays into the growth of the community, whether or not crime is present. Putting in so much overtime deteriorates the level of service over a period of time.

The audience also questioned whether more money was available to the City as more homes are built. Chief Giger explained that the tax base is a firm, set amount, no matter how many homes are built. When new homes are built, the tax base is spread among more taxpayers, but the base remains the same, and more money is not provided to increase the level of service to the growing population.

Mr. Hoffman relayed a conversation Mike Jordan, City Administrator had with Steve Miller, Superintendent of Canby Schools. Mr. Jordan related that the school believes it is able to provide an adequate level of service and that although the intention was to check the box "Adequate Service can be provided," the school district is concerned about the future.

Mr. Hoffman then referred to his April 15, 1994 memo which summarizes previous communications with the school district, both oral and written, and how they relate to the three subdivisions under consideration. The three subdivisions are expected to generate 27.6 school age children. At the present time there are 21 classrooms available in the unified district, which are designed to comfortably house 25 children each. He then reviewed the design capacity of the 3 elementary schools in Canby. Based on the current enrollment, current average class size, and number of classes per building, the available remaining design capacity is for 69 students. The total available design capacity seats for the entire unified district [Carus, 91, Lee, and 86] is 594 students. Administratively, all available classroom seats cannot be utilized because there might be more available seats in one grade than in another. Mr. Hoffman then reviewed the attendance districts where children from the current subdivisions under consideration, would attend school and compared that information to the available seats in each school. The result was that it appears children from the proposed Pizutti Estates and Knutson subdivisions are in service areas where the schools are below design capacity, and elementary students from Township Village Phase VI would attend Trost, where grades 4-5 are above design capacity, and Philander Lee, which has 10 vacant classrooms. One of the purposes of the school board meeting that is taking place at this same time, is to figure out how to pay for the teachers and supplies to staff the vacant classrooms, and to figure out whether new boundary changes should be considered, which can affect empty classrooms.

The Commission questioned how portables can be considered as "available classrooms" since they have limited life span and at what point the Commission stops getting around the basic issue by permitting portables.

The Commission discussed its concern about the school issue:

1. The draft Position Statement issued by the school district which shows the budget reduced by \$1 million and an increase in students. Based on Mr. Hoffman's input on the April 15, 1994 memorandum, it appears to be more of a dollar problem than a space problem, the Commission concluded.
2. Whether or not, as was included in Mr. Hoffman's memo, "Architectural" capacity is how the school district views school capacity.

3. Whether boundary relocation would solve the issue of physical classroom space availability.
4. The Position Statement from the school district, recommending neither approval nor denial, a portion refers to the continuous declining budget, and then states ". . . will continue to provide to the students the best quality education that available funds allow." The Statement also includes a statement that indicates that based on the revenue situation the school district plans to reduce or eliminate certain expenditures such as staff and services. Commission questioned whether that could be "adequate" services if new students are continually added. Chairman Schrader pointed out that the Request for Comments said "Adequate, per qualifications" [attached criteria].
5. Whether level of service is a Planning Commission question and whether the Commission could deny an application based on its own interpretation of "adequate" level of service.

**John Kelley, City Attorney**, explained that the true dilemma remains that the "Adequate Services Can Be Provided" box was checked on the Request for Comments received from Mr. Miller. The Commission must deal with that issue and, in order to make a finding that it does not feel, in its interpretation of the Canby statute, that there are adequate service available in the community to allow this particular application to be approved, must have some evidence that rebuts that statement. The Commission needs to interpret Canby's Ordinance in such a way as to determine what is adequate -- whether it means "adequate" in the sense of capacity, design capacity, or whether the definition also includes some kind of qualitative measure, in addition to the quantitative measure of services available. If the Commission makes a determination, that included in the definition of "adequate" is that which is qualitative, as well as quantitative, then the record must be searched to see if substantial evidence is in the record that such determination would create a problem with Section 16.62.020(D). Section 16.62.020(D) states that "it must be demonstrated that all required public facilities and services are available, or will become available through the development to adequately meet the need of the proposed land division." Mr. Kelley stated, in addition, that supposition is not enough and that the Commission could not forecast without evidence in the record to support the finding.

Furthermore, Mr. Kelley stated that the school district is submitting conflicting evidence with its "Response" because the "Adequate Services are Available" box is checked and the supplementary material indicates adequate services are not available.

6. The letter from the Homebuilders Association which explains that if denial occurs based on school capacity, it would be considered an illegal moratorium. It further explains that moratorium is defined in ORS 197.505 as "a pattern or practice of delaying or stopping issuance of permits, authorizations or approvals necessary for the subdivision and partitioning of, or construction on, urban or urbanizable land." Furthermore, a moratorium is prohibited by both ORS 197.505(2) and ORS 195.110(8) and (9). Mr. Kelley explained that a pattern of practice of denial has not been established. Furthermore, he explained that if the Commission is acting in accordance with an approved Comprehensive Plan and Land Use Ordinance in reviewing applications on a case-by-case basis, and makes a determination that an application is insufficient to meet the criteria, the Commission is exempt from the statute.
7. **Bob Christiansen, representing the Canby School District** stated that the school board, a few moments ago, took action on the following items. He then read from a prepared statement. The statement was virtually the same as the draft Position Statement:

"The Canby Union High School Board, which will become the board of the unified Canby School District on July 1, 1994, recommends neither approval nor denial of proposal residential subdivisions. The school district is in the business of providing a quality education to students in grades kindergarten through twelfth grade. The board believes the City and its planning staff is in a better position to determine future growth of the Canby area. Perhaps the "City Vision" of February 19, 1994 would be helpful in the City's deliberations.

We do wish to advise you of the following:

As a result of the 1991 bond approval and subsequent construction, as well as the vote for unification of the district, there are approximately 21 empty classrooms available, located at Lee School, Carus School, and 91 School. At an average of 25 students per classroom, this provides capacity for an increase of 525 students.

The board believes the majority of the patrons of the district support full utilization of the existing facilities prior to expansion of the existing facilities or construction of a new school. Consequently, the relocation

of school boundaries is being studied, but there have been no conclusions. It is reasonable to expect some shifts, and it is possible the physical boundaries of Carus and 91 schools will expand.

The implications of Measure 5 are affecting the financing of education. The consolidated budget for the year 93-94 was \$22,600,000. The expected budget for 94-95 is estimated to be \$22,212,000. The best guess estimate for 95-96 is \$21.6 million, and the best guess estimate for 96-97 is also \$21. . . . about \$21.6 million.

The district anticipates a reduction in revenue and will be responding to projected growth and inflation by continuing to reduce or eliminate certain expenses, as well as reduce staff, services, and cash reserves. Further reductions are expected and we anticipate the funds available per student to continue to decline.

In summary, we recommend neither approval nor denial of residential subdivisions. Please be assured the board, administrators, and staff of Canby School District will continue to provide the students the best quality education that available funds will allow."

Further, he explained that the Board made a decision earlier tonight that related to a potential boundary change that was going to affect Carus and Trost, and to move fifth graders from Trost to the Lee campus for next year. They also passed a motion to involve community and parents in taking a long term view of boundaries.

When asked to define capacity and the criteria for adequate service, Mr. Christiansen replied that the facilities are available, but that the general operating fund is being reduced. He added that there are different class sizes that the district recommends at different grade levels. In the lower grades it is between 19 and 22, in the middle grades, 22 to 25, and a in the upper grades it is between 25-27. When class sizes get close to 30 in the upper grades, or close to 25 or more in the lower grades, you start getting what the district considers to be diminishing returns.

When asked about any official document or master plan where the school district defines capacity, Mr. Christiansen said the district wasn't prepared to give that any more than what he described previously. He added that the district is going to put together a Task Force to look at population, boundaries and school facilities and that the Board would get a recommendation in about a month so some sort of action could be adopted at the May board meeting, with a full report to the Board in December.



When asked if the district's comments attached to the "Request for Comments" received by the City was discussed at the earlier School Board meeting, Mr. Christiansen stated that the District reiterated that position, and that because actual room space exists, the "Adequate" box was checked.

Mr. Christiansen illustrated the million dollar reduction in the operation budget by saying that it equates out to 20 teachers, as it takes about \$50,000 for the district to fund a teaching position. He added that \$1 million equates to about 20 teaching positions and if the teaching staff is reduced and the student population goes up, obviously there will be a reduction in services. Mr. Christiansen stated, in response to questioning, that areas of special education and Talented and Gifted programs would probably be the first to be cut. With a reduction in services, there are diminishing returns, he said.

Commissioner Schrader requested that someone from the Planning Commission be included in the Task Force that is going to be formed to study attendance boundaries, to keep the group advised as to what's going on in the planning for the community, and land use requests.

In response to a statement from someone in the audience that it appears that the district has the classrooms for the kids to come and sit in, but not the money to teach them and that, to her, means that the district does not have adequate facilities, Mr. Christiansen said that the district was providing that information, what the general operating funds are, which means that those classrooms could continue to stay open.

John Kelley explained to the Commission that it needs to look at making an interpretation of the City ordinance as to what adequate public facilities and service are. He explained that within that definition, qualitative as well as quantitative facts could be included.

The Commission agreed it was clear that the facilities are present. To continue from where things stand now, and subtract dollars while we add students, then it is not clear that continued **adequate** services are going to be available to new students. The Commission considered making a finding that there is not evidence to support continued required public services are available to adequately meet continued needs. Ms. Mihata said she would be in favor of denying adding any houses to the City until there is some assurance that they can be adequately served, or until the school district community gets together and comes up with a plan that demonstrates that those services are adequately met.

Commissioner Maher stated that she now believes we have testimony from the schools saying that while the facilities are there, we don't have adequate services. In fact, we could make a finding based on inadequate services.

Mr. Wiegand stated that the issue of school adequacy, facilities adequacy, infrastructure adequacy has come up many times before, and with the information received from Mr. Christiansen, he could not reach any other conclusion, but to deny the application.

Mr. Ewert stated that during the Canby Visioning, one of the very top things that was liked about our town was the quality of our schools that we have available. He added that he feels the City cannot continue to approve housing in this town, adding to the school burden, while reducing operating funds.

**Tom Tye, representing the applicant,** stated that at the time this plan was submitted there was no problem with schools and/or the police, such as was heard at this meeting. He added that from the Commission discussion, it appears Canby now has a moratorium. Further, the staff report indicates that the criteria have been met. He encouraged the Commission to approve the application.

John Kelley reiterated Mr. Hoffman's earlier statement that the applicant does have the opportunity to request a continuance for additional time to rebut new evidence that was presented by the school board tonight. Mr. Tye, representing the applicant stated that the applicant did not wish to request a continuance.

Based on the findings and conclusions contained in the staff report, from testimony at the public hearing, on Commission deliberations, specifically the lack of information and assurances from the school district that adequate services will be available for the additional students that this development will bring into Canby, **Commissioner Mihata moved to deny SUB 94-01. Commissioner Wiegand seconded the motion.**

Mr. Kelley explained that the motion should include the fact that both qualitative and quantitative services, in addition to merely facilities availability, was considered. **Ms. Mihata amended her motion to include the fact that the Commission is considering both qualitative and quantitative facilities and services, and defined "adequate" to mean "reasonably sufficient."** Commissioner Wiegand seconded the amendment.

A roll call was taken and the motion was approved 4-1, with Commissioner Maher abstaining.

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**SUB 94-02**, an application by Zarosinski-Tatone Engineers, Inc. for approval to develop a 7.25 acre parcel into a 26-lot single-family subdivision. The site is located north of N.E. 34th Place, on N. Maple Street (Tax Lot 2602 of Tax Map 3-1E-21). Continued from April 11, 1994.

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

Reviewing the last hearing on this subdivision application, Chairman Schrader reminded the Commission that the applicant was asked to return with additional information. Bob Hoffman asked if the Commission wanted to include the discussion of the school issue that took place in the previous application. John Kelley, City Attorney, said that testimony would have to be introduced into the record for this hearing, as well as the hearing that was previously held tonight. He explained that it would be considered new information and the applicants should be given the opportunity to rebut that information if they wish to do so. Mr. Wheeler responded to two issues the Commission requested that staff investigate. Regarding the lift station capacity and maintenance issue, Roy Hester, Public Works Supervisor, stated the capacity is there to handle the subdivision and minimal additional maintenance costs would be required. Regarding the electric lines and voltage load, Bob Rapp, Canby Utility Board, stated that the lines could handle the additional voltage, but that the difficult resulted when the original subdivision developers installed unprotected underground cable lines, which are failing nationwide. CUB has programmed replacement line in its budget.

### Applicant

**Ron Tatone, 1127 N.W.12th Avenue** stated that he was responding to the Commission's request for more information.

1. Regarding the lift station, he discussed the projected peak flows from the lift station which flows he stated would be 17 gallons per minute, assuming on 2.7 persons per lot at 100 gallons per person, per day. Mr. Tatone stated this approximate 7,000 gallons per day would be considered an average flow and would have an insignificant impact on the sewer system.

2. Regarding the traffic report, Mr. Tatone explained that the applicants have retained Frank Charbonneau, a professional traffic engineer, who is in the audience and can address this issue and respond to any questions from the Commission.
3. Regarding the tree inventory, Mr. Tatone stated that when streets and driveways, etc., are developed, trees would have to be removed. The owners can restrict certain trees must remain if they are not within a building envelope.
4. The wetland issue was addressed by the Army Corps of Engineers and the Oregon Division of State Lands by letters submitted with the application. There is an approximate 1 acre area which allows the wetland to remain open per the Army Corps of Engineers, described as "Tract A," although not recognized by the State Division of Lands.
5. The surface drainage would be picked up by an underground storm drainage system. Because of the very nature and location of the land, roof drainage would discharge into the street and then get into the collection system and discharge underneath the Logging Road and daylight on a drainage easement on the Caffall Brothers property. Counsel for Caffall Brothers said they would not object to the erection of a sight-obscuring fence in the area along the Logging Road for safety reasons. As a dust control measure, the applicant may consider adding to the foliage that already exists along the Logging Road.
6. With regard to the adjacent property and damage from flooding, Mr. Tatone said that the owners are concerned that roadways would be built above an 84.5' elevation, causing a dike-like condition. The pavement presently ends at an 88' elevation in the cu-de-sac. The applicant will provide a grade to slope to the 84.5 elevation. Present elevations at the property line are higher than the 84.5 level, so it is difficult to commit to building the roads no higher than 84.5. With the proper grading, no flooding should increase on the Montecucco property.

Mr. Tatone reviewed the history of Pruneland and how it relates to Country Club Estates #1 and #2. He explained that there was a 20' dedication along the eastern line of Pruneland for a distance of about 386 feet north of what is the section line. There was the 20' original dedication and then Country Club Estates gave another 10 foot, for a 30' dedicated right-of-way, which continues all the way north. The curb is 5' from the property line and then there is 20 foot of asphalt pavement.

and then a 5' drainage ditch. Grading could be done to improve pedestrian travel. Further, he explained that the 5' strip of ground between the property and the curb has been landscaped and the homeowners would not appreciate having a sidewalk constructed.

**Frank Charbonneau, Traffic Engineer, 1 SW Columbia #670, Portland 97258** summarized the traffic report. He explained that he did existing counts on Maple Street and Territorial Road. Looking at am and pm peak hours, studying traffic traveling north and southbound, he found the pm peak hour is the heaviest, at which time there is approximately 200 trips on Maple, on the north side of Territorial. In the am peak hour, there is approximately 100 trips. There are 20 additional trips projected to be added by the 26 new homes for the am peak hour, 15 leaving the proposed development and 5 coming inbound, factoring to about 1 additional trip every 4 minutes. The total for the pm peak hour is 25 new trips, 10 outbound and 15 inbound. The additional trips amount to approximately a 10% increase in overall traffic during peak hours, factoring to 1 additional trip every 2-1/2 minutes. The Level of Service Analysis for the intersection of Territorial and Maple, measured by stop signs on Maple Street, shows 'No Delay, or Very Little Delay, with one or two cars queuing at the sign, which amounts to a Level of Service "A". Sight distance along the route and at the intersection was also measured and found to be excellent. On the northerly half of Maple, the 2-way width is approximately 20 feet, which is adequate for the 25 mph speed. His firm proposes not widening the street. No adverse impacts are projected due to the increase in traffic.

### **Proponents**

**Doug Sprague, 641 NE 22nd** stated that a decision should be made based on information available at the time this application was submitted, not on the new information submitted at this meeting regarding the schools. He stated that the current subdivision applications would not make a huge impact on the schools. He encouraged the Commission to approve the application.

**Doug Hopper, 6713 S. Gibson Road, Woodburn** stated that he is a farmer south of Canby and lives within the school district boundaries. He explained that he is a strong supporter of State land use planning and one of the goals of planning is to preserve farm land. The site in question is not farmland and is within the Urban Growth Boundary. If these kinds of application are not approved, he added, it would force people out into the farm areas and interfere with farming. Furthermore, he added, people living on the outskirts of the City will still be sending their children to the same school district. He urged approval of the application.

## Opponents

**Ed Sullivan, 111 S.W. 5th Avenue, Portland 97204** stated that he represents Paul Montecucco and Montecucco Farms, and that they are not in opposition to developing this property, but there are three principal areas of concern:

- 1) Flooding that might occur due to filling on the subject site which affects the existing buildings. Mr. Sullivan cited previous flooding damage during the 1964 and 1974 floods. The concern is with the level of fill, and Mr. Sullivan stated concern that if the application was approved, there would be no regulating the level of fill on the site, although the Commission does have the authority to condition the level of fill. In 1990, fill was placed without a permit and with additional fill, floodwater could be diverted off the site onto adjoining sites. One of the Comprehensive Plan Environmental Concerns goals is to protect lives and property from natural hazards. If the City approved this development and issues permits which will allow fill that could displace flood waters onto adjacent properties, it would run the risk of liability for damage caused to other properties. Under these circumstances, the City should not approve the application without assurances that are supported by substantial evidence that the proposed development would not cause the increased potential for flood damage. The Comprehensive Plan Policy 3, Land Use Element suggests development should be discouraged if it taxes or overbuilds public facilities or services and this is certainly an issue for the school matters and storm water facilities.
- 2) The road that exists. Mr. Sullivan said that the floodplain is at a 84.5' elevation. All of the road is above that elevation and might act as a dike, causing water to collect and flood the Montecucco property.
- 3) Setback from the existing agricultural activity at the Montecucco farm. Mr. Sullivan asked that the Commission impose either a 25' setback or require a chain link fence to separate the two uses. This concern falls under the criteria which protects designated agricultural land from residential uses. Additionally, Section 16.62.02, this development should not unduly hinder the use or development of adjacent property.

Further, Mr. Sullivan added that he would like the previous discussion and testimony regarding schools incorporated into this hearing. Under ORS 197.763(4) he requests a continuance to respond to the new evidence.

Mr. Sullivan referred to the proposed conditions of approval. Relating to proposed condition #6, erosion-control, he pointed out that Section 16.64.060 allows for the use of bond for this kind of work. Condition #7 relates to storm water drainage and involves discretion, so it should be the subject for a decision now or at a public hearing at a later time. The excavation/grading permit under condition #10 also involves discretion and should be decided now, or at a public hearing at a later date. With regard to the traffic issue, Mr. Sullivan noted that the Transportation Planning Rule, OAR 660, Division XII, will become effective before a decision is made on this application and should be incorporated into the decision as another applicable criteria. Additionally, Mr. Sullivan stated that it does not appear the owners of the Logging Road and the applicants have reached an agreement on the use of the Logging Road.

**Paul Montecucco, 3610 N. Locust** submitted additional photographs taken in 1964.

Mr. Wheeler requested a written transcript of Mr. Sullivan's testimony to allow the applicant to address the concerns, specifically related to the staff report.

**Linda Geddes, 740 N.E. 34th Place** requested information regarding the elevation of her backyard and her neighbor's backyard in comparison to the elevation the proposed subdivision, due to the slope of the yard and their concern with flooding and the use of their sump pumps. Ms. Geddes also expressed concern with using the Logging Road for emergency vehicle access due to the logging truck traffic.

In response, **Mr. Tatone** explained that there is a considerable drop off from 34th Place that occurred in 1973. The approximate elevations in the lower area is 82 feet or 83 feet, the street elevation starts at 90', at Maple it is 86' in the cul-de-sac, so the backyards are approximately between 84-88 feet. Regarding the wetland, Mr. Tatone explained that the wetland water level will be required to be maintained at a certain level and have a pipe that will drain to a gravity storm drainage system, assuring the level is sustained.

**Jane M. Blake, 880 N.E. 34th Place** noted that she heard nothing in the traffic report that addressed pedestrian or bicycle safety. She explained that she is very concerned because the Logging Road is a popular place that joggers, pedestrians, and bikers tend to use. Further, Ms. Blake applauded the work that has gone into the staff report, but noted that the reason for the hearing is to address issues and that issues certainly have come to light since the application was submitted and the staff report was written. In particular, referring to criteria #4, Ms. Blake stated that the school issues are not new, but that additional information has been submitted, clarifying the issue.

**Art Marshall, 3270 N. Maple** referred to criteria #3 and stated that recently, in a 20 minute time period, at least 16 people and 5 automobiles passed his home. Mr. Marshall pointed out that the traffic count was taken at the intersection of Territorial and Maple and, taken there, at the widest point of Maple, he understands the 10% increase figure. From an emergency vehicle standpoint, taking into consideration that Maple tapers at the northern end, adding 26 homes to the existing 13 homes would appear to be a 200% increase in traffic. If the narrow portion of Maple was widened by 5 feet to permit foot traffic, parking would still have to be restricted to permit safe passage, especially for emergency vehicles. Furthermore, every time he has driven by the Logging Road, a narrow road with many pot holes and a huge drop off, in daylight hours, there are children present. Between the pedestrian traffic and the logging trucks, it is not safe for emergency vehicles. Mr. Marshall also pointed out the inadequacy of electrical wiring in the area. He questioned whether the wiring would be approved by CUB prior to development in the area. Furthermore, whether or not the pump station is adequate, the smell is overwhelming and with 26 more homes, it would probably be worse, he added.

**Al Geddes, 740 NE 34th Place** stated that teachers should speak to the issue of school capacity, as well as administrators, because they have a different way of viewing the issue. Mr. Geddes stated he researched wetlands in Woodburn and when a subdivision was developed, the subdivision was nearly destroyed because it was not walled off. He would like to see this issue discussed further.

**Michael McNichols, 730 NE 30th Place** asked if anyone had requested that the record remain open for seven days. Chairman Schrader explained that Mr. Sullivan requested a continuance to respond to new testimony. John Kelley explained that Mr. McNichols was requesting, under ORS 197.763, that the record remain open. Mr. McNichols explained that his primary concern is that the transportation issue has not been adequately addressed. Under the Comprehensive Plan, N. Maple is considered a half-street, but will eventually become a full street when the area is more fully developed and traffic is increased. He further stated that Canby has a reputation for the quality of life enjoyed here and suggested that although Canby should and will grow, the Commission's job is to control and direct the amenities within a given neighborhood. He stated that it is important that development conform and be in character with local existing development.

Chairman Schrader suggested a motion be made to continue the hearing. John Kelley, City Attorney asked if the applicant concurred. Mr. Tatone agreed a continuance was in order. He added that the golf course was one of the best things that ever happened to Canby, as is the quality of the schools. Mr.



Tatone further stated he could not understand how people could feel that developing the balance of the property would hinder the quality of life in the neighborhood. The homes that face on 34th would not be affected by an increase in traffic because the people from the proposed subdivision would be using Maple. He added that he hoped the differences could be worked out with the neighbors. **Commissioner Wiegand moved to continue SUB 94-02 to May 9, 1994. Commissioner Ewert seconded the motion and it carried unanimously.**

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***SUB 94-03***, an application by Regan Enterprises for approval to develop Phase VI of Township Village. The applicant is proposing to develop 12-single family residential lots. The site is located south of Township Road, west of S. Pine, at S.E. 10th (Tax Lot 4500 [part] of Tax Map 4-1E-3BC and Tax Lot 4800 [part] of Tax Map 4-1E-4AA). ***Continued from April 11, 1994.***

*SUB 94-03 was continued to May 9, 1994.*

#### **VIII. DIRECTOR'S REPORT**

Jim Wheeler explained that **John Watson** got a bid estimate on the fencing he had proposed, which came in at approximately \$20,000 over his budget because of the increase in lumber prices. As an alternative, Mr. Watson is now proposing a chain link fence on the interior with arborvitae. The arborvitae would be 4' high, planted 2' on center at time of planting and would be maintained at a 7' height. Staff believes this proposal is adequate for the purpose and use intended. In addition, he would provide 15 brick masonry post pillars along the front entrance area. The Commission discussed the request:

1. An underground irrigation system to maintain the plantings was discussed, as well as a maintenance agreement.
2. The value of the overall manufactured home park was discussed.

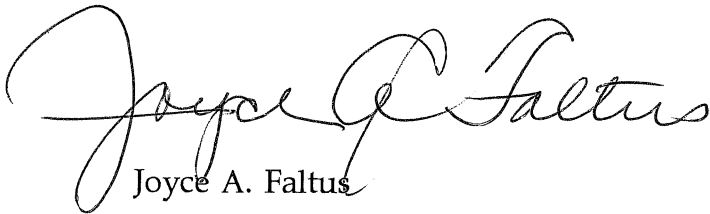
After an informal poll, the alternative was denied by a 3-2 voice vote.

Mr. Wheeler explained that the **Eccles School** site is in need of more parking. They submitted a new plan, updating the 1990 plan, with two rows of parking instead of one, which Mr. Wheeler presented to the Commission. Two trees are proposed for each of the planting islands at the ends of the parking rows, which meets the parking lot tree requirements. Since there is an increase in the impervious area by approximately one-third, he asked if the Commission wanted to require a Site and Design Review application and hearing, or to have the decision made at the staff level. After an informal poll, the Commission decided to leave the decision and review at the staff level.

**IX. ADJOURNMENT**

The meeting was adjourned at 11:10 p.m.

Respectfully submitted,

  
Joyce A. Faltus