

APPROVED

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
May 9, 1994
7:30 p.m.

I. ROLL CALL

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

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

Others Present: Patti Flagg, Larry Graff, Don Woodruff, Judy Pizzuti, Gary Kuykendall, Andy D'Tommaso, Dana Tyler, John Gunter, Deanna Bany, Paul Montecucco, Linda Geddes, Jean Marshall, Art Marshall, Joseph Regan, George Wilhelm, Clyde Pattroff, Toookie Hall, Virgil Montecucco, Doug Sprague, Ron Tatone, Ed Sullivan

II. MINUTES

None

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. FINDINGS

SUB 94-01 - Pizzuti Estates

Tony Pizzuti referred to page 3 the Final Order where the Commission relied on Mr. Christiansen's testimony. He stated that Mr. Christiansen was very ambiguous. He noted that Mr. Christiansen read a letter into the record, from

the School Board, which said that they recommend neither approval nor denial of residential subdivisions, and assured that they would continue to provide students the best quality education that available funds will allow. Mr. Pizzuti stated that the statement was an affirmative statement that services were available and will continue. The discussion which followed was very ambiguous and it appeared the Commission was leading Mr. Christiansen to answer in a certain manner. At one point, Mr. Kelley asked Mr. Christiansen, directly, if the Board still stood behind the statement on the "Request for Comments" wherein the box "Adequate Public Services are Available" was checked. Mr. Christiansen reiterated that there were adequate services available. Therefore, Mr. Pizzuti stated that the evidence does not support the denial.

Commissioner Maher disclosed some ex-parte contact. She explained that she had contact with Mr. Pizzuti the day after the hearing, to discuss whether this denial constitutes a moratorium. Mr. Christiansen's testimony was also discussed. Ms. Maher reminded the Commission that although she did not vote on the application, she would vote on the findings. No one challenged Commissioner Maher's ex-parte contact.

Chairman Schrader spoke with Steve Miller after the Pizzuti hearing to explain the process that had taken place, and the general concerns the Commission had, explaining that schools and growth is a community concern.

Commissioner Maher moved to approve the Findings, Conclusions and Final Order for SUB 94-01, as submitted by staff. Commissioner Mihata seconded the motion and it carried 5-0, with Commissioners Elliot and Gustafson abstaining.

VI. COMMISSION DISCUSSION OF PLANNING ISSUES

Chairman Schrader referred to the list of Planning Issues submitted by staff, indicating the current status of each issue. Possible additions to the list would include METRO, Growth and the Canby Schools, a list of street trees and a tree ordinance, the issue of delayed annexation, annexation of lots to be partitioned and requiring street improvements, the issue of density and large lots, rezoning to be consistent with the Comprehensive Plan, and the issue of minor variances.

Dr. Schrader then referred to his key concerns about METRO's 2040 project. He recommended that the Commission and Council work together and ask for a County-City forum to discuss a unified response to METRO's agenda. The first step in that direction, he added, could be a joint Council-Planning

Commission meeting to see if there is a consensus on Canby's approach to METRO's growth and expansion. The Commission asked for a clear explanation from staff of how METRO's project would affect Canby.

Mr. Hoffman reminded the Commission that the City had requested funding from the State, in the form of grants, for transportation and land use studies. Two of the four applications that were submitted, were funded. One, for \$50,000 was to try to figure out the impacts of METRO's 2040 Plan, as it applies to Canby. The METRO project won METRO's approval, provided it is melded as a unified project, with N. Plains and Sandy. The study, in no way, locks Canby into an expanded METRO boundary. The Neighboring-city alternative, he explained, and the likely hybrid, will only work if there are a significant proportion of jobs in the outlying areas, such that people would not have a high degree of commute between the outlying and inlying areas. The advantages of those alternatives will only work if the jobs are a result of them. Mr. Hoffman stated that he agreed with Dr. Schrader's suggestion for a joint meeting with the Council to work together to evaluate the METRO proposals. The Mayor has directed Administrator Jordan to schedule such a meeting in late June or early July. Mr. Hoffman added that Canby is not locked in as much as Sandy and that Canby does not intend to take a positive action without community approval. Commissioner Schrader stated that even if we agreed with METRO's plan, Canby would have to figure out the best way to apply it to our particular circumstances. Mr. Hoffman stated that he could have more explicit language inserted [in the draft Scope of Services for the project] saying it does not require a commitment of Canby, but is an impact study, for test purposes only. Dr. Schrader reminded the Commission that the number of METRO Commissioners are being reduced dramatically, and that Clackamas County would not be well represented at METRO, having only one representative. The Commission further expressed concern about job availability and business attraction opportunities in Canby and suggested METRO might need to offer an incentive to relocate businesses here, as well as people. Mr. Hoffman explained that METRO does not research or promote job/business opportunities; that the Department of Economic Development researches those issues. The Commission suggested Chamber involvement in economic issues, along with the Commission and Council. Commissioner Schrader suggested that a Council member and Commissioner each accept a role on the Task Force to study the METRO alternatives in order to provide community perspective. Commissioners Elliot, Ewert and Maher offered to attend METRO meetings and participate in the process. Commissioner Schrader requested that staff redraft his suggested Key Concerns according to this discussion, and then forward copies to the Commission and Council. The other application, a proposal to study access from 99-E, was also approved.

The Commission discussed the Delayed Annexation procedure. Mr. Hoffman explained that a new State law permits cities to arrive at a cooperative agreement with the County with regard to this issue, and delay the effective date of annexation so that the land is first developed, and when annexed, the entire value gets added to the tax base. Presently, we annex vacant land which gets added to the assessment, but the taxes paid by the people on the developed land effectively reduces the taxes for other residents as the tax base remains the same and, therefore, no new dollars are available to pay for needed services are added. Delayed annexation is, therefore, a mechanism to permit the City to get the money to pay for the services for the new residents.

The Commission reiterated the importance of holding a meeting with the City Council and school board to discuss the impact of new development and how it relates to the district's ability to provide adequate services.

VII. NEW BUSINESS

None

VIII. PUBLIC HEARINGS

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. Commissioner Ewert stated that he may have a future conflict of interest due to possible business dealings with Mr. Knutson, so he stepped down. No other ex-parte contact or conflict of interest was declared. With Commissioner Ewert stepping down, and the two Commissioners who had not attended the last meeting not having reviewed the tapes, a quorum was not available to deliberate to come to a decision. The Commission decided to continue taking testimony and continue the hearing until a quorum was present at the next meeting date, and the Commissioners had time to review the tapes.

Chairman Schrader stated that Mr. Tatone submitted additional information since the last meeting in response to Commission concerns, and asked Mr. Sullivan if he planned to request a continuance, to which Mr. Sullivan replied he did not.

The meeting continued from the opposition portion of the hearing.

Gary Kuykendall, 945 NE 34th stated that he had concerns about the environmental impacts of the wetlands because animals who would want to utilize the wetland would have to cross fenced yards to reach it. Furthermore, he added that it appears more of a "token" grazing land-type wetland. In regards to the traffic impact he stated that the traffic analysis appears to be understated. Mr. Kuykendall added that even if the schools are adequate now, they would not be able to provide adequate services for very long because the quality of education would be reduced as the class sizes were increased. Referencing the drainage problems, Mr. Kuykendall stated that there are serious drainage problems on his property, adding that he always has his sump pump working.

Ed Sullivan, 111 S.W. 5th Avenue, Portland 97204, representing Montecucco Farms, responded to certain points in staff's memo dated May 9, 1994. He pointed out that although staff states correctly that the subject property is not within the 100-year floodplain, photographs were submitted showing flooding on the Montecucco Farms property in 1964 and 1974. Mr. Sullivan suggested that conditions should be imposed regarding this. After a discussion with Ron Tatone, it was agreed that the roads which both serve the subdivision and are within the subdivision will not be higher than they already are, so as to not create a "dike" effect. Referring to Goal 1 of the Urban Growth Element, Mr. Sullivan suggested a 25' buffer zone, or a chain link fence, to protect farms from residential uses, along the existing agricultural area. The applicant would prefer that this item be included in the CC&Rs. Mr. Sullivan does not believe it would be effective both from an enforcement standpoint, or to ensure that the same kind of fence would be erected along the entire area. He suggested that the Commission require either alternative as a condition of approval. The buffer zone also relates to the issue relating to hindering the use of adjacent property, Mr. Sullivan added. With reference to the Environmental Concerns Element, Mr. Sullivan stated that the words "shall seek," in Policy 3-H, are the basis for considering them binding, rather than "guidelines." Implementation measure B appears not to be binding, and measure C appears to be an authorizing language for imposition of special conditions. Mr. Sullivan stated that he was aware that there was no Citywide stormwater facility. However, the Federal Clean Water Act amendments require states to develop plans and it does not appear to be dealt with in the proposal before the Commission. A number of the proposed conditions of approval appear to be discretionary or arbitrary, Mr. Sullivan stated, and would require the opportunity for a public hearing. Staff did not respond to the Transportation Planning Rule issue, which was addressed in the May 6, 1994 memo.

Mr. Sullivan explained that his May 6, 1994 memorandum was a hard copy outlining his concerns and oral presentation to the Commission at the April 25, 1994 hearing. Further, Mr. Sullivan stated he did not anticipate asking for a continuance and would wait to make that determination until the testimony portion of the hearing was complete.

Dana Tyler, 680 N.E. 20 stated that the school issue is very important and must be handled very firmly before more developments come into Canby. Children need the same quality education as they have. Adequate staffing is not available, she added, which is why there are so many volunteers at the schools. Children, being our most important resource, must not be sold short, Mrs. Tyler added.

Art Marshall, 3270 N. Maple stated that the Traffic Engineer's information is misleading. The area in question will have a 100% increase in the number of homes without having adequate streets. This is the only part of the City that has the Willamette River as its natural boundary and the Commission needs to slow down and give more thought to the issues before permitting more development which will hinder the surroundings and the northgate entrance to the City.

Rebuttal

Ron Tatone, 1127 N.W. 12th Avenue responded to the concerns:

1. Regarding the road construction, he stated that, from his discussions with Mr. Sullivan, he understood that if no roads were constructed above the existing grade at the north end of Maple Street and the present elevation of the Logging Road, the issue would be solved.
2. Regarding the fence and setback requirements, Mr. Tatone explained that he spoke with Mr. Knutson and Mr. Sprague, who are both willing to provide in the CC&R's that a fence will be required. They do not believe they should be required to build a fence until the homes are built and sold. A chain-link fence, although more secure, would not be as aesthetically pleasing, he added.
3. Mr. Tatone further explained that Mr. Charbonneau was present and stands behind his report and is available to answer any questions the Commission might have.
4. Regarding the wetlands, Mr. Tatone stated that letters from the Army Corps of Engineers and the Division of State Lands were on record.

5. Before homes are constructed, Mr. Tatone added, the building official will require compaction tests, and all fill will be an engineered fill.

Chairman Schrader announced that the Design Review application would not be heard due to the timeframe limitations. As it is an industrial application which is very important to the economic stability of the City, the Commission agreed to hold a special meeting on May 16, 1994 to consider DR 94-04, a request for Site and Design Review approval of a warehouse and office structure for Pumpco Distributors, Inc.

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

1. Regarding the Transportation Planning Rule, Mr. Hoffman stated that cities of similar size, not in the METRO area, must have a Transportation System Plan in place by 1996. Canby is in the process of preparing a plan now, which will be available, approximately, July 1st. If the ordinances and Comprehensive Plan are not amended to be totally consistent with the requirements of the Transportation Planning Rule, then the rule itself applies after May 6. The criteria has been reviewed and there appears to be no problem with compliance. It applies at time of application for permit.
2. The Commission agreed that school districts are considered to be one of the "required public facility and service" providers for any development within the City.
3. The Commission agreed that "adequate" level of service is interpreted to mean a "reasonably sufficient" level of service. With regard to school services, it is interpreted to mean qualitative services such as teaching positions and textbooks and supplies, as well as physical capacity such as classrooms and building space.
4. The Commission considered the school district's response to the "Request for Comments," where the district checked the box "adequate public services for [the School Districts] are available." The Commission also considered the memorandum from the school district which indicated that average classroom capacity is 25 students per classroom. With 21 empty classrooms, there is additional physical capacity for 525 students. At the public hearing on April 25, 1994, Mr. Christiansen, representing the school district, stated that the response given by the district applied only to facilities, not services.

5. The Commission incorporated the memorandum from the school district into the record. It stated the following, with regard to the ability to continue to serve the students in a "reasonably sufficient" capacity in a growing school population:

"The implications of Measure 5 are affecting the financing of education. The consolidated budget for the year 1993-94 was \$22,607,671. The expected budget for 1994-95 is estimated to be \$22,212,101. The best guess estimate for 1995-96 is \$21,664,194 and the best guess estimate for 1996-97 is \$21,688,190.

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

6. In his testimony, Mr. Christiansen, stated:

".... the comments we made last time related more to budget and funds than it did to facilities. We have the facilities. What's happening now, is that the general operating fund is being reduced."

Responding to Commissioner Mihata's concern about the million dollar shortfall in school funds for the coming year, and her direct question asking if the district has adequate resources to deal with more students consistently coming into Canby," Mr. Christiansen stated:

". . . If we have to reduce teachers and our student population goes up, obviously then you're going to have a reduction in services." And "I think I'd have to stand by the statement that I made last time, that with the numbers I gave you and the approximate class size, when you start getting beyond those, you have a reduction in services and diminishing returns."

7. The Commission discussed the Solar Access Ordinance with regard to the design standard for new developments which requires that at least 80% of the lots in a development to comply with one or more of the options in Section 16.95.030. Only 23% of the proposed lots meet the basic requirement. The applicant has not submitted any other evidence that 80% of the lots comply with one or more of the options in section 16.95.030.
8. The Commission agreed that the natural feature of the "wetland" is not identified as being significant in the Comprehensive Plan or the Planning and Land Development Ordinance, so it does not hinder given streets or lots from being oriented to meet the Ordinance.
9. The Commission agreed that the applicant did not furnish satisfactory proof to adequately address concerns that the development will not adversely affect subsurface water drainage on adjoining residential homes, where sump pumps are constantly used.
10. The Commission agreed that the traffic study did not provide sufficient evidence to adequately address concerns that the development will not adversely affect the use of the adjoining residences through increased traffic, specifically with regards to the northern portion of N. Maple Street which is a half-street, with a paved width of 20 feet and where parking is permitted on the eastern side.
11. The Commission discussed concerns about using the Molalla Logging Road as an emergency access because it could create a safety hazard in its conflict with the logging trucks and dust.
12. The Commission discussed its concern that no tree plan was submitted by the applicant.
13. The Commission discussed the issue of fill. It was agreed that the applicant did not submit sufficient information to address concerns about the possibility of creating a "dike-type" condition in a flood-prone area such as this is. The Commission agreed more engineering is needed to determine the grade of the roads.
14. The Commission discussed the importance of a buffer to separate the uses and protect the farming interests.
15. The Commission discussed the electricity deficiencies in the area, based on testimony by residents. Staff explained that the Canby Utility Board plans to remedy the situation and stated this development would not make the situation worse.

Commissioner Wiegand moved to continue this hearing for further deliberation and decision to the May 23, 1994 agenda, when a quorum would be present. Commissioner Gustafson seconded the motion and it carried 6-0, as Commissioner Ewert had stepped down, due to a possible conflict.

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 and April 25, 1994.**

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was voiced. He then reviewed the hearing process, procedures, and reviewed the applicable criteria which was posted on the board.

Mr. Hoffman presented the staff report. He reviewed the original and revised 10-phase Master Plan and the applicable criteria posted on the board. He reviewed the layout of the proposed 12 lot subdivision on 2.4 acres, explaining that the lots vary in size, between 7,016 and 7,378 square feet, respectively. At a previous hearing for Phase IV, the Commission had requested a revised master plan be drawn to include: a fence along the northern and eastern school/park property; a walkway at the western end between Phases VI and VIII, 2 right angle turns from S. Pine near 13th Avenue be eliminated; and a walkway connection between S. Pine and the new park be provided. The new Master Plan indicates the changes, except that instead of a walkway between Phases VI and VIII, the applicant has provided a street with sidewalks. Street trees are now required for new subdivisions and a plan will need to be provided to include them. The developer has requested permission to build a 4' wide sidewalk, constructed 2-1/2' back from the curb, similar to Phases II, III, IV and V. Staff finds that for a planting strip, a 4' sidewalk is not adequate in terms of two people walking side-by-side. If the developer requests that the City plant the trees, a tree planting easement is necessary, which can overlap the utility easement. The utility easement will need to be 16' wide, rather than the previous 12', which language is incorporated in proposed Condition #9. The applicant can provide the sidewalk at curb, but a decision should be made by the applicant, one way or another.

The lots are of adequate size and shape to encourage adequate design of single family homes. The provision to connect to future phases to the west are provided for. Temporary turnaround on the western end should be provided for and is required by the Fire Chief.

With regard to the school issue, Mr. Hoffman explained that since the last meeting the school district has decided to move the 5th graders from Trost Elementary School into vacant classrooms in Lee Elementary School, which is immediately adjacent to the site in question, and which resolves the capacity question. The school district has been unclear as to the funding it expects to be available two years from now. They are estimating \$1 million loss and have given some indication of the variety of ways they might adjust for the loss.

Mr. Hoffman then reviewed the proposed conditions of approval. Number 14 assumes the Transportation System Plan will be in effect prior to submittal of Phase X, to provide for exploration of a connection of 10th Avenue to Ivy. The applicant should make a decision regarding Number 15 prior to final plat.

1. Chairman Schrader asked that the previous testimony regarding schools be submitted as part of the record of this hearing.
2. The Commission discussed the Transportation Element and the connection to Ivy Street from 10th. Although the Commission remembered receiving testimony contradictory to current testimony that it could be safely designed, Mr. Hoffman explained that the connection from 10th to Ivy, as studied by the land use expert and the traffic engineer, appears to be useful, and that there are ways to design the intersection such that it would be quite safe. The advantage would be that the residents of Township Village would have one more way to get in and out without having to use only Township Road or 13th. A connection from Township to 13th would be part of Phase X.
3. The connection between Township Village and Philander Lee. Mr. Hoffman explained that there are indications on the Master Plan that there are places this can be done and that the applicant could answer this more thoroughly.
4. The fence along the north side of Philander Lee. The Commission suggested the fence not be built entirely along the north boundary; that it should stop enough to allow for a tot lot to be built for children of residents of Township Village, so they do not interfere with students using the playground. Chairman Schrader explained that ex-superintendent Milt Dennison had requested this change.

Applicant

Pattie Flagg, Associate Broker, Century 21, representing Regan Enterprises stated that there are misconceptions surrounding the education budget process. She offered facts gleaned from her attendance with the budget committee:

1. The district is adding, not reducing staff.
2. The budget under discussion is "proposed," based on last year's expenses.
3. Only the TAG and volunteer coordination programs were modified.
4. The school district has projected 19 additional students for the next school year.
5. The Township Village master plan was in effect prior, as was Valley Farm, when population predictions for the boundaries for Trost were set, but they were not taken into consideration. The two outlying school districts, 91 and Carus, will have little, if any, population growth and they have empty classrooms too, just as does Lee School. This is why boundary changes will have to take place.

Ms. Flagg explained that some monies come from the State General Fund, on a per-child-basis. Dollars follow students, she added, so they are always there. Canby is paid \$4,097 from the State General Fund per student. An additional \$7.1 million comes from local property taxes. The remaining dollars come from various federal and timber monies. As the population continues to grow, so will the funding to hire the teachers to fill the empty classrooms. Ms. Flagg further stated that Mr. Christiansen, in previous testimony, implied that it cost \$50,000 for a teacher to staff a classroom. Using a minimum of 20 students per classroom and dividing the General Fund dollars per student, plus the property taxes by student count, yields the district approximately \$112,880 per classroom per year.

George Wilhelm, P.O. Box 561, Woodburn stated that the Master Plan was approved, at least in concept, in 1989, 1990, 1991, 1992, and 1993, for between 280 and 300 residential family lots. Regan Enterprises has committed to providing a park and traffic pattern which has been discussed many times. The issue of accessing out to Ivy was discussed during Phase II. At that time, it was decided to come out to Township and to 13th Avenue, both of which would provide good transportation facilities for this project and, at the same, would provide security for residents. Regarding the school issue, Mr. Wilhelm stated that the memo Mr. Christiansen delivered from the school board was appropriately added to the record, but questioned whether his testimony was appropriate as it was not authorized by the school board, on behalf of the school district. Additional development will actually improve the financial

position of the schools, as it is based on State support and property values. As developed property values increase, school funds available for that acreage increase also. Furthermore, commercial and industrial development will shut down if residential development is stopped. This project meets all the criteria and should be approved. As reflected in the written response from the school district, there are sufficient facilities and services available. Additionally, boundary changes have been made to allow appropriate use of the facilities. He urged the Commission to work to make the existing system work and allow development within the City. With regard to proposed Condition #9, Mr. Wilhelm stated that the sidewalks should remain the same as in Phases II, III, IV and V. The applicant will work with staff to do whatever is necessary to implement the Tree Ordinance within the development. Furthermore, the applicant objects to this revision to the Master Plan, as proposed in Condition #14 because the issue of a connection to Ivy Street has been evaluated and rejected many times, and because the applicant has made a substantial commitment to providing the traffic pattern per the Master Plan. The traffic pattern that is provided is more than adequate from a traffic standpoint and provides appropriate security for a residential development.

Due to the lateness of the hour, **Commissioner Maher moved to continue SUB 94-03 to May 23, 1994 for additional testimony and Commission deliberation.** Commissioner Ewert seconded the motion and it carried 7-0.

IX. DIRECTOR'S REPORT

Mr. Hoffman explained the current building permit trends which are at three times the monthly average. At the present rate, if the current trend continues, Canby could issue more than 300 building permits in 1994.

After some budget meetings, the Budget Committee is recommending that Council explore a GIS System to provide service to the entire City. CUB has agreed to participate in the Citywide system.

Regarding the 99-E Access Management Study from O.D.O.T., Mr. Hoffman explained that ODOT asked that the proposal clearly indicate that there would be participation in that process by the policy people and by citizens, and that our intent was to provide not just for vehicle access, but also pedestrian and bicycle access [non-motorized]. After those minor modifications are made, we should have a contract on board by July 1, 1994.

X. ADJOURNMENT

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

Respectfully submitted,

A handwritten signature in cursive script that reads "Joyce A. Faltus". The signature is written in black ink and is positioned above the printed name.

Joyce A. Faltus