

**APPROVED**

**MINUTES**

**CANBY PLANNING COMMISSION**

*Regular Meeting  
May 23, 1994  
7:30 p.m.*

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**I. ROLL CALL**

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

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

Others Present: Pattie Flagg, Larry Graff, Judy Pizzuti, Anselmo Pizzuti, Leonard Thompson, Donna Jean McManamon, Paul Montecucco, Ed Sullivan, Don Woodruff, Pat Sherman, John Gunter, Al and Linda Geddes, Ron Tatone, Joseph Regan, Joan Jones, Pam Barrow, Tony Pizzuti, Virgil Montecucco, Andy DiTommaso, Art Hall, Dana Tyler, Pamela Scherling.

**II. MINUTES**

The **April 11, 1994** minutes were approved, as amended.  
The **April 25, 1994** minutes were approved, as amended.

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

None

**IV. COMMUNICATIONS**

Mr. Hoffman advised the Commission that Tom Kendall, Oregon Development, Inc., requested that MLP 94-02 and ANN 94-01 be continued to June 13, 1994 and June 27, 1994, respectively. The Commission questioned the partition preceding the annexation. Mr. Hoffman explained that there has

been a recent change at the Boundary Commission regarding tax lots that are not being entirely annexed. Previously, they accepted portions of tax lots as an annexation and the County would establish a separate tax lot at time of annexation. The Boundary Commission policy has now determined that there must be a partition before annexation to accept part of a tax lot, as long as it is County-approved. After discussion with the County, it was concluded that it was more efficient to process the applications in Canby and apply City criteria, as the parent parcel is within the Urban Growth Boundary and, once annexed, the proposed lots would be within the City limits. The County submitted written communication regarding the criteria to consider as part of the partition. Further, Mr. Hoffman explained that the partition is only needed in order to accomplish the annexation and that the partition is only needed in order to accomplish the annexation and that the timing would be simultaneous. The applications are mutually dependent on each other, he added. City Attorney Kelley explained that the County could not partition a parcel in the EFU-20 zone with the result that a portion would become nonconforming, but if a portion is annexed into a different jurisdiction, the County has a procedure permitting the creation of a nonconforming lot.

Delayed annexation was discussed. Mr. Hoffman stated that the State is encouraging cities and counties to draw up agreements which would spell out exactly what a city's responsibilities would be with regard to all property within the growth boundary, and then implement the County laws with respect to annexations.

Mr. Hoffman called to the Commission's attention, the "draft" communication from the school district. He explained that it was in reply to a letter from the Commission asking what criteria the district would apply to determine an adequate service level. He pointed out that the communication includes a statement, "Canby School District meets all the standards for public elementary and secondary schools." and ". . . between 82% and 93% of Canby students in grades 3, 5, 8 and 11 score at the proficient or advanced levels for that student achievement measure." Previously, the district had referred to ORS 329.025, which defines 16 characteristics of school systems, which they are in the process of reviewing.

## V. *FINDINGS*

***Commissioner Mihata moved for approval of DR 94-04 [Pumpco Distributors], as distributed. Commissioner Maher seconded the motion and it carried 4-1, with Chairman Schrader abstaining.***

## VI. **NEW BUSINESS**

None

## VII. **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, April 25, 1994, and May 9, 1994.*)

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest since the last hearing. Except for Commissioner Ewert, who was not participating, none was indicated. Commissioners Maher and Mihata stated they had visited the site. Commissioner Maher also explained that she drove the Logging Road to observe the proposed access. It was established that all Commissioners who had not been present for all the hearing were up-to-date in that they had reviewed the tapes of the previous meetings.

As the hearing was continued due to lack of a quorum, the hearing reopened with the deliberation portion of the proceedings. Chairman Schrader read a letter from Commissioner Elliot, who was unable to attend the meeting, into the record. In his correspondence, Commissioner Elliot stated his concerns and recommended denial of the application due to: 1) inadequate public services, and 2) hindering the use of adjacent properties due to drainage concerns.

John Kelley explained that there is a meeting scheduled in June with the school district, City Council and the Planning Commission. It will be in the form of a workshop to discuss school-related issues. Mr. Kelley suggested the applicant and Commission might want to continue the decision to get more information from the school district to deal with this application and the Township Village application. Ron Tatone stated that the applicant would prefer that the Commission deliberate and, if the application was approved conditionally, subject to the adequacy of schools issue, they would then prefer it was continued.

Issues discussed:

1. Concerns about access from the Logging Road with regard to the width of the road, and the dust and safety environments from the logging truck use. It was noted that the applicant addressed the concerns noted in the letter from Caffall Brothers.

2. The drainage issue and the lack of a tree plan and fill locations.
3. The exceptions to the Solar Ordinance and the fact that only 6 out of 26 homes would meet the requirements of the Ordinance, in order to preserve the natural features of the wetlands. Commissioner Mihata suggested denying the application so the applicant could return with a redesign to try to better meet the Solar Ordinance.
4. The Commission agreed more information was needed regarding the adequacy of school services.
5. The lack of a buffer around the wetland and, if the area is considered a wetland, the lack of a plan to protect it.

Based on the staff report dated April 1, 1994, on the hearings of April 11, 1994, April 25, 1994, May 9, 1994 and May 23, 1994, and on Commission deliberations, **Commissioner Maher moved for denial of SUB 94-02.**

**Commissioner Wiegand seconded the motion and it carried unanimously.**

[Commissioner Ewert did not participate in the discussion or vote on this matter because of a potential conflict of interest.]

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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, April 25, 1994, and May 9, 1994)*

Chairman Schrader explained the hearing process and procedures. He asked each Commissioner individually if he or she had ex-parte contact or conflict of interest. None was indicated. He explained that the applicant's presentation was completed at the last hearing, and the public input portion would begin at this hearing.

### Proponents

***Pattie Flagg, 8860 S. Lone Elder*** stated she is representing Regan Enterprises. Ms. Flagg asked why, at this late date, the Commission is recommending a workshop with the school district, and why this issue was not worked out earlier in the process as the entire scenario for the funding of schools is a State issue. In its budget position, the Canby School District has not stated that

services are inadequate. In fact, it is in a better position than 90% of other districts in the State, due to community support and support from parents. Ms. Flagg submitted, in written form, her previous testimony to be included as part of the record.

Chairman Schrader explained that this complicated issue surfaced in October of 1993, as a very complicated situation. At that time, with the unification taking place, the district was trying to establish an inventory, and a task force as gathering information which would not be available until the Spring of 1994. The goal was not to discourage the development process, but to increase communication as Canby grows so rapidly.

**Don Smeback, 625 S.E. 7th Avenue** stated that when the Master Plan was submitted for Township Villages, the City agreed to accept land dedicated for a park. Mr. Smeback urged the Commission to approve this application even though he agrees with the philosophy regarding the adequacy of school services because the City approved the Master Plan and has been aware of the phased planning for Township Village for more than six years.

### Opposition

**Patricia Sherman, 495 NW 22nd** referred to per-student costs, calculated directly from the Canby School District budget projections, which she distributed, and explained they are directly related to the quality of education provided by the schools. She further explained that the decisions the Commission makes can affect the quality of education in the Canby School District. She discussed enrollment projections, which do not account for an explosive growth situation, and the proposed budget projections which take two different State funding formulas into consideration. Ms. Sherman further explained that per-student spending is probably the most widely used measure to gauge the level of service students are provided. The quality of education provided, she added, varies directly, if not proportionately, with the level of service provided. Because of the changes in accounting methods associated with the consolidation, per student spending is one of the few numbers that enables comparison of the services provided on a year-to-year basis. She noted that under both of the State-funding formulas, per-student spending decreases each year. Although the budget includes savings due to consolidation, she explained that Canby is not exempt from program cuts. Further, she explained, from now on every dollar decrease in per-student spending will create a corresponding decrease in student services - therefore, a decrease in educational quality. State funding increases to accommodate additional students, but the 34% of the budget which comes from local sources, mostly a function of the tax base, does not vary with increased demand for services and

is, to some degree, dependent on local decisions, which could create a situation where the increase in needed services would outpace the ability of the revenues to provide the service. Local experience with the new Trost Elementary School strongly suggests that the average number of students per household in the new areas exceeds the numbers predicted by the City planners, she added. The City, she continued, created a situation wherein the increase in demand for school services is exceeding the increase in resources available to provide the services at the current level. Due to this situation, the per-student spending will probably decline at a greater rate than indicated in the school's current projections, and the decrease in quality resulting from Measure #5 will accelerate if the City continues with the current policy of allowing development of family units. If the City chooses to slow the decrease in the quality of education, Ms. Sherman added, the City needs to reverse the current trend of approving family-oriented units and shift to a policy that promotes the industrial tax base until the appropriate balance is achieved.

**Pamela Scherling, 1025 S. Grant** explained that the 1994-1995 school year will be the last year that Measure #5 goes down and that as a result of that, there is slightly more revenue. Following that school year and Measure #5, funding will remain flat, no longer related to the number of properties.

To Ms. Scherling the term "adequate" education is very relative, depending on who is defining it. Those responsible for the development of Canby should consider the consequences of growing too rapidly in terms of educational opportunities for our children, coupled with ethics and values.

### **Rebuttal**

**Pattie Flagg** explained that the flat rate of school funding is the full compression at \$5.00 per \$1,000 of real estate tax in the school district. The City's budget she explained is stagnant, remaining at a 6% yearly increase, whereas the school district's budget is based on the number of students and at the full compression flat rate. Ms. Flagg added that there are 21 empty classrooms that the school district pays to maintain which, in terms of dollars, if filled at the minimum level of 20 students per classroom, would increase the funding to carry out school services. Further, Ms. Flagg pointed out that Regan Enterprises is an integral part of this community and has donated nearly 6 acres of park land near the Ackerman campus. Regan Enterprises could have opted to have the builders pay the Parks SDC, but the City preferred to expand the park facilities for the use of the community.

**Joe Regan, Regan Enterprises, 31233 French Prairie Road, Wilsonville 97070** stated that Township Village was conceived while Oregon was in a

development rut, at which time he envisioned an opportunity to help both the community and himself by initiating an affordable development which Canby could be proud of.

Mr. Regan did not understand staff's recommendation to connect to Ivy Street, as it was once considered a dangerous connection. As business people, the expense incurred with donating the park land had to be passed on to lot purchasers. If additional expense is incurred with a connection to Ivy Street, these additional expenses will have to be passed on to the remaining lots, he added. Mr. Regan stated that street trees should have been planted from the onset of Phase I, and that Regan Enterprises would be willing to supply street trees for every house already in existence. Further, Mr. Regan stated that this is the fifth hearing date for this application and that each delay is very costly in very many ways.

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

1. John Kelley suggested the applicant and Commission might want to continue the decision to get more information from the schools at the upcoming workshop. **Mr. Regan** said he would request a continuance as he felt he had no alternative but to do so.
2. The most recent memo from the school district was made a part of the record. The Commission discussed the conflict between Mr. Christiansen's testimony and the memos received from the school district. It was agreed it would be best to postpone making a decision until after the joint workshop with the school district.
3. Full equity State funding was discussed, which is 100% of the mandated level. It was pointed out by Ms. Flagg that the State is not funding at the full equity level, but at 93% of the mandated level.
4. The possible connection to S. Ivy Street from Township Village. Mr. Hoffman explained that a Citywide Transportation Study is underway and it will probably recommend a connection to S. Ivy. The recommended condition requests that prior to Phase X, a connection to Ivy be explored. It appears that the Traffic Engineer feels it would be a desirable connection because it would take some of the traffic load off 13th and Township and provide better access to the interior of the development. Various methods of funding are addressed in the draft document.

5. The sidewalk issue was discussed relative to street trees. Mr. Hoffman explained that Mr. Wilhelm related that the Regans would prefer that sidewalks be located approximately 2-1/2 feet back from the curb so that the mailboxes and newspaper boxes could be located in that space. Also that the Regans do not object to the trees being planted on the other side of the sidewalk, and that there would be an adequate distance between the sidewalk and the face of the garage, as has been provided elsewhere. Mr. Hoffman also explained that the City prefers 5' sidewalks rather than 4' sidewalks. Further, the tree planting easement can be part of the utility easement, with 19 feet still remaining between the sidewalk and face of the garage.

Mr. Regan stated that trees planted in a 2-1/2' strip would cause the roots to head toward the lawn, destroying the sidewalks. Mr. Hoffman explained that the trees could be planted on the other side of the sidewalk. Mr. Regan added that if the trees were planted on the other side, the strip would not be maintained.

Larry Graff explained that the post office determines where the mailboxes will be located, that they are clustered centrally for each group of homes, as opposed to each home having its own mailbox in front of the house. The Commission agreed that the 5' sidewalks should be constructed against the curb and meander around the mailboxes.

Commissioner Mihata moved to continue SUB 94-03 to June 13, 1994, until after the workshop with the school board. Commissioner Gustafson seconded the motion and it carried unanimously.

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**CUP 94-04**, an application by Roderick Ashley, Architect, for Canby Medical Clinic, for approval to construct a 5,522 square foot one-story building to consolidate two front entrances and three separate waiting rooms, to improve efficiency at the clinic. The property is located at 1185 S. Elm Street (Tax Lot 7300 of Tax Map 4-1E-4BD).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Except for visiting the site, but coming to no conclusions, none was indicated. He then explained the hearing process and procedures and referred to the applicable criteria.

Jim Wheeler presented the staff report. He explained that the applicant received a Conditional Use permit approval in 1991 to expand the clinic, which



has since expired, and now requires another application to complete the project. Once again, the applicant is proposing to add a 2,400 square foot addition to the Canby Medical Clinic. In 1989 a Minor Land Partition application was approved, separating the nursing home from the clinic. As part of the partition, ten feet of right-of-way dedication on S. Elm Street was granted to the City, creating a nonconforming structure for the existing clinic. Sidewalks are required, and proposed by the applicant. Including the curb, there is currently a 5-1/2' sidewalk on the church property, to the south. The City will be constructing sidewalks to the subject property from the north, where none exist presently. To match the sidewalk to the south, the sidewalk on the subject property would have to be located against the curb. A transition from the 5-1/2' sidewalk to the south, to 5' sidewalks to the north will be necessary. A bicycle rack facility should be provided outside the building. Adequate facilities presently exist and will continue to be available to the site. The expansion area to the south and north are 20 feet from the front property line. The three foot section of the building in the middle is considered nonconforming and staff believes all criteria for expansion of a nonconforming structure has been met. The applicant, in his written proposal, makes mention of 9 additional parking spaces; in the site plan, no additional spaces are shown. If additional spaces are provided, the amount of increased impervious area will exceed 2500 square feet. No additional parking spaces are required as part of the expansion. An ordinance regulating construction hours was repealed. As the City has recently received complaints about construction activity occurring before 7:00 a.m., and due to the proximity of a nursing home to the north, staff recommends that construction work take place between the hours of 7:00 a.m. to 6:00 p.m. daily.

#### **Applicant**

***Judy Pizzuti, 23985 S. Rondevic Dr., Canby*** stated she is in favor of the application.

#### **Proponents**

None

#### **Opponents**

None

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

1. The Commission discussed the rear portion of the lot and whether there was any long range plans to develop it, as access would then be a concern. The applicant stated there were no plans being considered at this time.

Based on the findings and conclusions contained in the staff report dated May 13, 1994, on testimony at the hearing, and on Commission deliberations, **Commissioner Ewert moved to approve CUP 94-04 with the following conditions:**

1. Site and Design Review shall be required if any new parking spaces are provided as a part of the expansion, or within one year of the approval of the expansion.
2. Construction shall be limited to the daily hours of 7 a.m. to 6 p.m.
3. A sidewalk shall be constructed against the curb for the full length of the street frontage. The sidewalk shall match the existing sidewalks to the north and south of the subject property. The sidewalk shall adjust in width from 5-1/2 feet on the south side, to 5 feet on the north side.
4. A bicycle parking rack shall be placed and secured near the entrance to the Clinic, prior to the final inspection.

**Commissioner Wiegand seconded the motion and it carried unanimously.**

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**MLP 94-02**, an application by Oregon Development, Inc. [Tom Kendall] for approval to partition a 39.32 acre parcel into two parcels, approximately 30.07 and 9.85 acres, respectively. The property is located on the north side of S.E. 13th Avenue, east of S. Ivy Street and just east of Valley Farms Subdivision (Tax Lot 2000 of Tax Map 4-1E-3).

**ANN 94-01**, an application by Oregon Development, Inc. [Tom Kendall] for approval to annex a 30.07 acre parcel into the City of Canby. The property is located on the north side of S.E. 13th Avenue, east of S. Ivy Street and just east of Valley Farms Subdivision (Tax Lot 2000 of Tax Map 4-1E-3).

Based on a request by the applicant, Tom Kendall, **Commissioner Maher moved to continue MLP 94-02 to June 13, 1994. Commissioner Gustafson seconded the motion and it carried unanimously.**

Based on the same request, **Commissioner Mihata moved to continue ANN 94-01 to June 27, 1994. Commissioner Gustafson seconded the motion and it carried unanimously.**

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

Bob Hoffman explained that staff has distributed copies of a notice from METRO offering an outline of their proposal, which includes Chapter XII. Copies can be obtained by calling METRO individually.

Regarding the impact study being done to determine how the selected alternative might affect Canby, Mr. Hoffman explained that the consolidated draft is being typed. As it is currently conceived, ODOT would be the contractor for the entire study. Sandy and Canby would share pieces of it and each city would be responsible for administering the parts that apply to it individually. Some information would be supplied by METRO statisticians. A policy committee and technical committee is being established, which will be composed of 3 representatives from each of the cities.

A meeting is scheduled to flesh out the outline of the social improvement program the County has agreed to fund. The County is requesting a detailed outline of the Scope of Services before final implementation. Mr. Hoffman explained that he has meetings scheduled with consultants to gather more information. Further, he explained that the City might propose that some of the money be used to fund an attitudinal survey to determine what Canby residents consider to be high priorities - what kinds of services the citizens are willing to fund, or not fund.

The Commission asked that staff try to ensure the landscaping conditions in the Canby Christian Church design review approval are honored.

Staff reported that Ed Sullivan asked if he could assist in drafting the Country Club Estates #4 Final Order. Mr. Hoffman explained that if the attorney represented someone on the prevailing side, it is not unusual that he draft the final order, but Mr. Sullivan did not officially oppose the application, as much as he requested conditions be attached. The Commission expressed preference that staff draft the final order.

IX. ADJOURNMENT

The meeting was adjourned at 11:05 p.m.

Respectfully submitted,

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

Joyce A. Faltus