

*MINUTES*

**CANBY PLANNING COMMISSION**

*Regular Meeting  
November 14, 1994  
7:30 p.m.*

**APPROVED**

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**I. ROLL CALL**

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

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

Others Present: Patti Flagg, Wanda Graff, Larry Graff, Belva Clark, John Torgeson, Steve Donovan, Gertrude Thompson, Paul Bell, Leon and Adelaide Sampel, Steve Hanson, Steve Jessop, Alan Peterson, George Wilhelm, DonnaJean McManamon, Shirley Regan, Joan Jones, Eldon Otta, Debby Otta, Earl Kisler, Carlin Jackson, Viola Vincenzi

**II. MINUTES**

The minutes of October 10, 1994 were approved, as submitted.

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

None

**IV. COMMUNICATIONS**

None

**V. FINDINGS**

Commissioner Maher moved to approve the Final Order for MLP 94-07 [Faist]. Commissioner Ewert seconded the motion and it carried unanimously.

Commissioner Mihata moved to approve the Final Order for ANN 94-02 [Faist]. Commissioner Maher seconded the motion and it carried unanimously.

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

The Commission discussed the importance of delayed annexations. Mr. Hoffman explained that the City Council must direct either the City Attorney or an outside council to negotiate an agreement between Clackamas County and the City of Canby. Mr. Kelley suggested the Commission take it to City Council at a workshop, or as a non-agenda item. Chairman Schrader suggested forwarding a memo to Council indicating the Commission's interest in the issue.

Regarding METRO's 2040 Plan, Commissioner Ewert reminded the Commission that there is a meeting on November 17, at the Elm Street Inn. Mr. Hoffman added that representatives from City Council, the Commission, ODOT, N. Plains and Sandy would be attending the meeting. Further, Mr. Hoffman explained that he met with Councilman Prince, Councilman Daniels, and Commissioner Ewert just before this meeting to discuss how Canby will react to METRO's final 2040 Plan and to evaluate the impacts it will have on Canby. Additionally, Commissioner Ewert explained that the visioning participants have been looking at the impacts the 2040 Plan will have on Canby also.

Regarding the school district, Mr. Hoffman explained that the task force report will be delayed for a few weeks and, therefore, the next public meeting will be delayed also. Better figures for the boundary changes are being considered and, as there is room in Carus and 91 schools, that will be taken into consideration to help decide the boundary changes. As far as physical adequacy, Mr. Hoffman explained that the district is still using number of students per classroom as a basic measure. The City has given the district information regarding the number of houses on line in Canby, and the projected 4 year growth figures, adding that Carus and 91 expect little growth. Chairman Schrader stated that he believed the Commission does not feel boundary changes are the answer to the Commission's concerns. More importantly, the ratio of teacher to students, and number of portables are major concerns. Mr. Hoffman explained that the district does not believe the boundary changes will solve all the problems, and that a lot hinges on the consultant's findings.

Economic development in small towns, and how to enhance it, was discussed. The Commission speculated whether an easier planning process would help. The Commission agreed the Chamber Economic Development group would be discussing this concern.

## **VII. NEW BUSINESS**

*None*

## **VIII. PUBLIC HEARINGS**

**CUP 94-05/DR 94-14/LLA 94-08**, an application by Fred A. Kahut [owner/applicant] for approval to develop a portion of a 14.4 acre parcel of land, within the confines of the Logging Road Industrial Park, and operate a Solid Waste Transfer Station and Recycling Processing Center. The site is located in the southeast portion of the industrial park and is bounded on the south by Township Road; on the north by an easement for Fourth Avenue; on the east by the Logging Road; and on the west, by Redwood Street (Tax Lots 1805 and 1806 of Tax Map 3-1E-34C).

Chairman Schrader stated that the applicant has requested a continuance. Mr. Hoffman explained that after the staff report and recommended conditions were mailed, the applicant realized that staff interpreted the proposal to mean that all processing and storage would be within the building, with the only exception being the public recycling area. Staff met with the applicant and found that the storage of recyclables in outside containers was a major change in the proposal. Furthermore, the initial notice only indicated the Conditional Use criteria, and did not include the Lot Line or Design Review criteria. New notices were mailed and posted, but not with a full 20-day noticing period.

**Steve Donovan, Donovan Enterprises, 8625 SW Cascade Avenue, Suite 220, Beaverton 97005** explained that meetings were held with various residents concerning this application and that he believed all adjacent property owners were notified. He proposed that the hearing be continued to November 28, 1994, after neighbors stated they did not get notices.

Chairman Schrader suggested that the notification issue be put on a future agenda, under Commission Discussion of Planning Issues, and eventually be brought to the Council. A possible solution could be changing the notification system to include more distant property owners.

Commissioner Ewert moved to continue CUP 94-05/DR 94-14/LLA 94-08 to November 28, 1994, to be held at the Canby Adult Center. Commissioner Elliot seconded the motion and it carried unanimously.

The applicant waived the 120 day period and Mr. Hoffman stated that staff will verify the noticing.

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***SUB 94-04***, an application by Regan Enterprises [applicant/owner] for approval to develop a 33-lot subdivision, Phase 7 of Township Village. The lots will vary in size from 7,000 square feet to 9,500 square feet. The site is located on the north side of S.E. 13th Avenue, between Ackerman Middle School and Valley Farms Subdivision (Tax Lot 1800 of Tax Map 4-1E-3).

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

Mr. Wheeler presented the staff report. He explained that this application is for Phase 7 of 10 phases, and includes 33 lots. The subject parcel is located north of S.E. 13th Avenue. Ackerman Middle School and the 6 acres of parkland that was dedicated to the City are to the west of the site, and Valley Farms is east of the site. At the present time, S. Pine Street ends at S.E. 10th Avenue, but will be extended to S.E. 13th Avenue. Although standard collector street rights-of-way are 60 feet wide, the existing S. Pine right-of-way is 50 feet wide and, since some dedications are already in place, to continue the same pattern, Pine will be a 50 foot right-of-way. The 33 lots in this phase will be located on both sides of the extended Pine Street and will range in size from 7,000 square feet to 9,500 square feet. There will be approximately 5.6 lots per developable acre which is higher than the Comprehensive Plan calculations of 4.7 lots per acre but, as some other developments were developed at less than their designated density, it will all balance. Five foot wide sidewalks are required for both sides of Pine Street and the northern side of SE 13th Avenue, and are to be placed alongside the curb, and looped around mailboxes. Street trees will be required and are to be of a non-Maple variety. As S.E. 13th Avenue is a County road, County permits will be required for construction and the County will require and review road construction information. The comments received from the County were not specific to this application. They were directed to anything that might affect a County road. Due to the fact that curbs at the Ackerman school and Valley Farms subdivision are not lined up and adjustments will have to be made, staff suggests the parkland to the west of this site be improved now. The trees on SE 13th, at Valley Farms, are of the Maple variety. Staff suggests they be continued, or a non-Maple variety planted. A discussion was held regarding existing walkways in Valley Farms and those proposed for this phase of Township Village. The applicant has proposed to align the existing walkways. A centerpost and fencing will be required in order to deter vehicles from entering the walkways and to ensure the walkways will be used for the intended purpose and provide adequate privacy to adjacent homes. Wheelchairs and bicycle access would be provided though. A majority of the lots in this phase do not meet the basic solar access requirements due to the orientation of S. Pine Street.

## Applicant

**George Wilhelm, 546 S.E. Township** stated that he concurs with the staff report and believes all the criteria has been met. The curbs are not aligned perfectly, he explained, due to the layout of the properties. The applicant intends to align the walkways with those in Valley Farms during construction. Regarding the solar access, Mr. Wilhelm explained that due to the orientation of S. Pine, there are no lots that comply with the requirements. The lots are required to obtain access from S. Pine which, because it is oriented in a north-south direction, makes complying with the solar access standards impossible. Regarding the widening of the parkland's frontage along S.E. 13th Avenue, Mr. Wilhelm explained that the applicant is willing to consider it a part of the project if the City reimburses the expenses incurred.

## Neither For Nor Against

**Earl Kisler, 761 S. Lupine** stated that previous phases of Township Village should be maintained before new ones are approved. He discussed the disgraceful condition of the entry signs for Township Village on Township Road and S. Lupine, which have been badly vandalized.

**Carlin Jackson, 510 S.E. 7th Place** questioned who would develop the parkland - the developer or the City. He stated that if the parkland development was delayed until the last house is built, it would probably not be developed at all. Chairman Schrader explained that the developer is not responsible for developing the parkland, just for the land dedication, and that the Parks System Development Charge was not in effect at the time of this dedication.

## Rebuttal

**George Wilhelm** stated that Regan Brothers have repaired the sign Mr. Kisler referred to at the entrance to Township Village, on Township and S. Lupine. A solution is needed, he explained, where the residents would help with the cost, and propose ideas about what they think would work to keep vandals from destroying it further.

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

1. The curb and sidewalk improvements on S.E. 13th Avenue in front of the parkland site. It was agreed that the improvements were necessary to ensure safe conditions for pedestrians.

2. Street lights near the entrances to the walkways were discussed. It was agreed that lights are needed due to the length of the walkways and the fencing, which could create a potentially unsafe situation for pedestrian traffic in the evening, especially at the entrances to the walkways.
3. The need for a traffic control device at the intersection of S.E. 13th and S. Ivy Street was discussed, which is an issue of critical concern to the City and the school district. The funding mechanism available to pay for the City's share, through the Transportation SDC, was discussed. Mr. Wilhelm further stated that the problem with installing a signal at the intersection of S.E. 13th and S. Ivy up until now, was that the traffic wasn't considered heavy enough and there weren't enough traffic warrants at the intersection. The traffic counts needed to be increased to justify installing a signal light. Mr. Hoffman explained that Clackamas County would prefer a pedestrian-oriented light that is operated manually. The Commission suggested forwarding a letter to City Council communicating the Commission's concern about the importance of a signal at this intersection.
4. The dedication of the parkland was discussed. Staff explained that the dedication has not been recorded with the County at the present time, although the deed was signed a long time ago and the City does own the park land and will develop it and that it will be maintained through the Park Department.
5. The Commission discussed the conceivable need for advising the school district of the estimated number of children that might be added to the schools by each subdivision developed.
6. The Commission discussed the need for "No Motorized Vehicles" and "Pedestrian Right-of-Way" signs posted at the walkways and added to the walkway entrances at Valley Farms.
7. A straw poll was taken and the Commission agreed 5-1 that the curb at the parkland site should be built by the developer.

Based on the findings and conclusions contained in the November 4, 1994 staff report, testimony at the hearing, and on Commission deliberations, **Commissioner Elliot moved to approve SUB 94-04 with the following conditions:**

For the Final Plat:

1. Twelve (12) foot utility easements shall be provided along all exterior lot lines. The interior lot lines shall have six (6) foot utility easements as proposed.

2. The final plat shall reference this land use application - City of Canby, File No. SUB 94-04, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.
3. The final plat mylars must contain, in the form specified, all information necessary to satisfy all matters of concern to the County Surveyor, or his authorized Deputy, including, but not necessarily limited to, various matters related to land surveying, land title, plat security, and plat recordation.
4. The walkways connecting the Valley Farms Subdivision with S. Pine Street shall align, and the walkways shall be centered on the property line.
5. The easement for the walkway between S. Pine Street and the dedicated park land shall be ten (10) feet wide.

As a part of construction:

6. A pre-construction conference shall be held prior to construction. The pre-construction plans shall be reviewed and approved by the Canby Utility Board, the Canby Telephone Association, Clackamas County (13th Avenue) and the City prior to the pre-construction conference. The City's review and approval shall be coordinated through the Planning Office. The construction plans shall include the street design, storm water, sewer, water, electric, telephone, gas, street lights, and street trees.
7. A Street Construction and/or Encroachment Permit shall be obtained from the Clackamas County Department of Transportation and Development prior to road construction and/or work along S.E. 13th Avenue.
8. Any necessary utilities shall be constructed to the specifications of the utility provider. The street lights shall align with the entrance to the walkways.
9. Two fire hydrants shall be provided in this subdivision. One shall be located on the common property line of lots 63 and 64, and the other shall be located on the common property line of lots 71 and 72.
10. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Director of Public Works. "Stop" signs shall be placed for S. Pine Street at the intersection of S.E. 10th Avenue.

11. Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," as used by Clackamas County, dated August 1991, and as revised.
12. The construction of the sewer system and street storm water system for the subdivision shall be approved by the Director of Public Works.
13. S. Pine Street shall be constructed to the City specifications and standards. The widening of S.E. 13th Avenue shall be constructed to the City and the County specifications and standards. S.E. 13th Avenue shall be widened across the frontage of this property and the dedicated park land, from the Ackerman Jr. High property to the Valley Farms Subdivision property. The curb line shall match with the existing curb lines to the west and east of the required improvement. The improvements shall include the street, curbs, sidewalks, and street trees.
14. The sidewalks shall be located against the curb, and shall be five-foot wide, including the curb. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width.
15. The walkways shall be paved ten (10) feet wide. A solid or "good-neighbor" wood fence shall be constructed on both sides of each walkway. The fence shall be six (6) feet high, except within twenty (20) feet of the front property lines. Within twenty (20) feet of the front property lines, the fence shall be three and one-half (3-1/2) feet high. A concrete or metal post shall be placed in the center of the entrance to each walkway. The concrete sidewalks shall continue across the front of the entrances, with a handicap accessible ramp to the street. The walkways shall be posted with sign stating "No motor vehicles allowed", and "Pedestrians have the right-of-way".
16. The walkway continuing from S.E. 11th Loop in Valley Farms 1 to S. Pine Street shall be tapered from the existing six (6) foot width at the subdivision line to the required ten (10) foot width. The paving and the fencing shall be tapered within twenty (20) feet of the subdivision line.
17. The type of street tree to be planted along S.E. 13th Avenue shall be the same as those planted along Valley Farms' frontage of S.E. 13th Avenue. The type of street tree to be planted along S. Pine Street shall be selected from the Recommended Street Tree list, but shall not include trees of the Maple variety. The number of street trees to be planted shall be in accordance with the recommended spacing for the selected tree. The trees shall be planted eleven (11) feet from the street curb.



Prior to the signing of the Final Plat:

18. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.
19. The subdivision development fee, as provided in the Land Development and Planning Ordinance Section 16.68.040(G), shall be paid.

After construction:

20. "As-built" drawings shall be submitted to the City within sixty (60) days of completion.
21. Garages shall be set back a minimum of nineteen (19) feet from the back of the sidewalk. The distance shall be measured from the closest edge of the sidewalk at the driveway.
22. No access shall be permitted from S.E. 13th Avenue for any home.

**Commissioner Gustafson seconded the motion and it carried 5-1, with Commissioner Ewert voting nay due to the congestion at the intersection of 13th Avenue and S. Ivy Street.**

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**MLP 94-08**, an application by Eldon L. Otta [owner/applicant] to partition a 114.5 x 130 lot into two lots, approximately 7100 square feet and 7,790 square feet, respectively. The applicant proposes to remove all buildings on the site if the application is approved. The site is located at 578 S. Fir Street, west of S.W. 6th Avenue (Tax Lot 8700 of Tax Map 4-1E-4AB).

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

Jim Wheeler presented the staff report. The subject site has 130 feet of frontage along S. Fir Street and 114.5 feet of frontage along S.W. 6th Avenue. Sidewalks will be required for the property's frontage along S.W. 6th Avenue, which would be required to be 5' wide, and located against the curb. He explained that the configuration and size of the property does not allow the applicant to propose any

other form of partitioning the site. The proposal includes plans to remove the existing home from the site. The existing fir and oak trees cast their shadow patterns cover a majority of the parcel and if they remain, the lots will qualify for exemption from the solar standards. The applicant would like to remove the eastern pin oak in order to situate a new home in that corner of the parcel and has stated that unless it is removed, a driveway and yard would be difficult to situate. Additionally, the applicant has offered to plant another "small" tree in its place, so as not to interfere with the power lines. Although removing the eastern pin oak would remove 30% of the shadow patterns, the parcel would still qualify for exemption due to on-site shade from the remaining existing trees. One home would face S.W. 6th Avenue and the other would face S. Fir Street.

### **Applicant**

**Eldon Otta, 578 S. Fir Street** stated that he concurs with the staff report. He explained that he would like to remove the eastern pin oak due to placement of the driveway and need for safe access. Mr. Otta added that he would replace the tree with another, smaller tree, due to the need not to interfere with the existing power lines.

### **Proponent**

**Viola Vincenzi, 672 S. W. Fir** stated that she concurs with Mr. Otta's concerns for safe access from his proposed driveway. She added that it would become a potentially dangerous situation if the driveway was situated closer to the intersection of S.W. 6th and S. Fir Street.

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

1. The Commission discussed the removal of the eastern pin oak tree. It was agreed that, in order to ensure that the driveway for the future home facing S.W. 6th Avenue is as far from the intersection of 6th and Fir as possible, the tree should be removed.

Based on the findings and conclusions in the staff report dated November 4, 1994, on testimony at the hearing, and on Commission deliberations, **Commissioner Maher moved to approve MLP 94-08 with the following conditions:**

1. The existing home, garage, and greenhouse shall be removed prior to the signing of the final plat.

2. A final partition plat modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application – City of Canby, Planning Department, File No. MLP 94-08.
3. The final partition plat shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department.
4. A new deed and legal description for the new parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
5. All monumentation and recording fees shall be borne by the applicant.
6. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:

6 feet in width along all lot lines, except;  
12 feet in width along street frontages.
7. All utilities must meet the standards and criteria of the providing utility authority.
8. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for improvements, for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.
9. All utility services shall be constructed to each property prior to the signing of the partition plat, or they shall be bonded as provided in condition #8.
10. A pre-construction conference shall be held prior to the construction/extension of services to the properties.
11. A sidewalk shall be constructed along S.W. 6th Avenue prior to the final inspection for a home to be constructed on the corner lot. The sidewalk shall be constructed against the curb and shall be five (5) feet wide, including

the curb. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width. The sidewalk shall be set at least one (1) foot away from the existing power pole and telephone pedestal.

12. The fir trees located in the S. Fir Street right-of-way shall be retained. The western pin oak tree and the birch tree along S.W. 6th Avenue shall be retained. No pruning work and/or any construction work within the drip line of the trees shall occur without approval by the City Forester. A street tree shall be planted east of the pin oak tree to be retained. The tree shall be selected from the Portland General Electric Guide To Selecting Street Trees.
13. Credit for the sewer connection to the existing home shall be assigned to the home to be constructed on the interior lot. The home to be constructed on the corner lot shall pay the full sewer connection fee.

Commissioner Ewert seconded the motion and it carried unanimously.

**IX. DIRECTOR'S REPORT**

None

**IX. ADJOURNMENT**

The meeting was adjourned at 10:45 p.m.

Respectfully submitted,



Joyce A. Faltus