

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
May 22, 1995
7:30 p.m.

APPROVED

I. ROLL CALL

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

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

Others Present: DonnaJean McManamon, Belva Clark, Betty Faist, Paul Schultz, Diana Boyer, Dean Boyer, Bruce Goldson, Fred Kahut, Rick Givens, Tom Kendall, Pam Thompson, Joan Jones, Doug Kolberg, Andy Kahut, Dan Stoller, Steve Donovan.

II. MINUTES

None

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. NEW BUSINESS

None

VI. FINDINGS

VII. PUBLIC HEARINGS

ANN 95-01, applications by Douglas F. Kolberg [applicant] and Joan Jones and Gertrude Thompson [owners] for approval to annex a 45.42 acre parcel into the City of Canby, and to develop a 209-lot planned unit development subdivision. The property is bounded by Township Road on the north, the Molalla forest Road on the east, and Trost Elementary School on the west [Tax Lots 900, 1100 and 1200 of Tax Map 4-1E-3].

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. He asked the Commissioners to specifically disclose whether or not they had seen the City Council meeting on the Transfer Station appeal, and if they had read the editorial and letters to the editor in the Canby Herald. Those who had either seen the Council meeting or read the editorial and letters, all stated that nothing had influenced their ability to make an unbiased decision. Chairman Schrader disclosed that he had a discussion with the Water Resources Department regarding water rights, and to see if water was available; and to the extension agent regarding crop yields, particularly grass seed. Rick Givens asked what he was told regarding water rights. Chairman Schrader stated that he had asked whether or not a person could apply for water rights on this property, and he was told they could, and that it would take approximately 8 months. Additionally he was given information regarding crop yields that was a bit higher than he had read about.

Chairman Schrader then reviewed the hearing process and procedures and referred to the applicable criteria.

Mr. Wheeler presented the staff report for *ANN 95-01*, which is a request for approval to annex 45.42 acres [3 combined parcels] into the City limits. He reviewed the Faist annexation application which is in the same vicinity and which was previously denied. Mr. Wheeler reviewed the similarities and differences between this application and the Faist application. The similarities include:

1. Both sites are Priority "C" for annexation in the Comprehensive Plan.
2. Both sites are adjacent to land that is already in the City limits
3. Infrastructure is available to both sites.
4. Both sites are in the southeast quadrant of the City.
5. Both sites are currently being farmed.

The differences are:

1. The Faist's proposal was to annex a portion of the property, whereas this site is proposed to be annexed entirely.
2. The Faist property is more intensely farmed and already has a well on-site.
3. Public service facilities exist immediately adjacent to the Faist property, and would need to be extended to this site.
4. The applicant for the subject parcel is proposing to dedicate 5+ acre forested parcel for parkland on the subject site.

The Planning Commission previously recommended denial of the Faist annexation for the following reasons:

1. Farming of the land was determined to still be economically viable.
2. No special benefits would be procured with the annexation of the property.
3. Substantial Priority "A" and "B" lands are available for annexation.
4. Annexation of the property would further an imbalance between the annexation and development of residential lands and that of commercial and industrial lands.
5. Annexation of the property would further achieve an imbalance of residential development within the City centering it in the southeast quadrant.

Mr. Wheeler referred to a memorandum, Exhibit 3, regarding Priority "A" and "B" and "C" properties. He explained that eighty-three percent of the low density Priority "A" land has yet to be annexed, and seventy-nine percent of the low density Priority "B" land has yet to be annexed. Using that as a comparison, Mr. Wheeler explained that the subject property is low density residential land. Of the total acreage still available for annexation in Priority "A" and "B" lands, there are only 7 lots that are larger than 10 acres in size.

Staff explained that the Planning Commission must decide if the information submitted by the applicant arguing for the appropriateness of the annexation at this time, is adequate to meet the requirements of the implementation measure "D" of Policy 3 of the Urban Growth Element, regarding phasing. Should the Commission find that the information is considered to be adequate and accurate, the application is in conformance with the goals and policies of the Comprehensive Plan. The Commission should consider whether the findings of the Faist annexation apply to this site, whether a portion of them apply, or if none apply at all. Should the recommendation of the Commission be to approve the annexation, there are understandings which should accompany the recommendation. One is that the zoning classification for the property, upon annexation, should be R-1, Low Density Residential; the second is that all the

recording and development costs should be borne by the developer when the property is developed, and the last, that the City and service-provider regulations should be adhered to at the time of development. Since the final decision rests with the City Council and Metropolitan Boundary Commission, staff suggested that the understandings be passed on with even a recommendation to deny, should the Commission so decide. Since the applicant has argued that the dedication of the 5.09 acre forested parcel to the City is a significant special public benefit to the City, staff recommends that the Commission recommend denial if the dedication to the City of the 5.09 acre forested parcel is not made a condition of the annexation, as it should be dedicated whether or not the parcel is developed.

Questions of staff included the following:

1. The Commission questioned why the dedication should be made at time of annexation. Mr. Wheeler explained that if the entire 45 acres is annexed without the dedication of the forested parcel, the forested piece could, potentially, be logged, and the "special benefit" is lost. Further, he explained that the subdivision is a separate application and, once the parcel is annexed, the subdivision development could be withdrawn, while the annexation, once approved, is a fact. A memo from the Parks Department was referred to, which recommends that the 5 acre forested piece be retained 'as is'.
2. The Commission questioned whether Clackamas County submitted comments. Mr. Wheeler explained that their comments were directed to both applications and dealt more with concerns about the subdivision than with the annexation, so it will be addressed more thoroughly in the subdivision review. The last paragraph of the response was referred to by the Commission, where Clackamas County requests that any decision on the annexation and/or subdivision be postponed until they have an opportunity to meet and discuss future jurisdiction of Township Road, and until various transportation and traffic issues are satisfactorily addressed. Staff explained that the County staff has been discussing it among themselves, and have not contacted the City with regard to jurisdiction of Township Road. The City is concerned about the condition of the roadway, which the City will not accept until it is at least brought up to County standards, and the County does not want to spend the money bringing it up to those standards and then turn it over to Canby. Therefore, no progress has been made regarding Township.

3. The Commission questioned whether the Public Works Supervisor had expressed any concerns. Mr. Wheeler explained that they were directed to the subdivision, not the annexation application. The Commission suggested that once the subdivision application comes before them, questions will arise about a pump station, water capacity, etc., so it is a little difficult to separate the applications entirely.
4. The Commission questioned whether the mini-park dedication also meets the open space requirements. Staff thought it did meet both requirements with the same piece of land.

Applicant

Rick Givens, Planning Resources, Inc., 6564 S.E. Lake Road, Milwaukie 97222 stated that Dean Boyer, owner of BBC Steel Company, would like to address the Commission first, due to a prior commitment.

Dean Boyer, BBC Steel Corp. stated that in order to address his concerns over potential noise conflicts, an agreement has been drawn up between the applicant and BBC Steel Corp., which was submitted, by Mr. Boyer, as an exhibit. The agreement conditions that the applicant will spend up to \$110,000 to design and construct sound barriers, or other sound reduction measures to reduce sound levels emanating from BBC Steel Corp.'s plant, which could affect lots in the subdivision. Mr. Kolberg will also coordinate and work with Mr. Boyer to achieve maximum effective reduction of sound levels. Further, the monies may be spent either on the applicant's property or to modify BBC Steel Corp.'s plant. Prior to the sale of any lots, CC&Rs will be adopted which will run with the property, which will contain a provision noting that BBC is an existing heavy industry business, located adjacent to the subject property. It will be further noted that the plant operates 24-hours a day with noisy compressors, drill presses, air fans, and other equipment. Deliveries to and from the plant are periodic, with no specific hours noted. Each lot purchaser shall be deemed, by reason of accepting title to a lot in the subdivision, to have agreed that the rights of BBC and its successors to continue operations as a steel manufacturer are superior to those of owners of the lots in the subdivision. Prior to closing on any lot, the applicant will require the purchaser to execute a statement that he is aware BBC Steel Corp. is adjacent to the subdivision; aware that BBC's use is heavy industrial and operates 24 hours per day; aware that BBC operates noisy compressors, drill presses, air fans, and other equipment; and is aware that deliveries to and from the plant take place at all hours. The lot owner agrees not to endeavor to prejudice BBC Steel in any manner so as to damage or hinder its business purposes.

Rick Givens explained that this property should be annexed out of the general phasing order identified in the Comprehensive Plan because of the specific benefit to the City, of the land dedicated for a mini-park which houses a unique stand of trees. Mr. Givens expressed surprise that staff attached the dedication of land to the annexation application rather than to the subdivision application, but stated that it would be agreeable if the applicant could withdraw the annexation application if the subdivision application is denied. Mr. Kolberg, he explained, retained the services of an arborist to evaluate the condition of the trees and their value as a resource to the City, and the services of a wildlife biologist to evaluate the wildlife issues related to that tract of land.

David Halstead, Arborist, P.O. Box 1182, Tualatin 97062 explained that the 5.9 acre parcel is not a park; it is a much more valuable resource in that it is more of a botanical school, an outdoor school. He explained that it is a place where children [and adults] could go to be introduced to the living forest, with a vast variety of flowers, ferns, berries, shrubs and lichens.. Everything about the inside of this stand of trees, he explained, is absolutely enchanting. Additionally, there are very select trails throughout the site.

Dick Smith, Wildlife Dynamics, 3559 N.E. Stanton Street, Portland 97212 submitted his summary report for the 5-acre site. The site is an older, 2nd growth Douglas Fir-dominated forest, with a very diverse shrub layer with many diverse species. The shrub layer, he added, is somewhat scattered, probably due to overgrazing some time ago. Its relatively undisturbed state, and vegetative diversity makes it attractive for many wildlife species. But, at the same time, human-related disturbances, lack of water, and the isolation of the parcel, influence the suitability for certain wildlife species that are intolerant of those conditions. Additionally, the small size of this site, its lack of water, and its connectivity to surrounding habitats such as agricultural use, a school, and residential developments, reduce the amount and diversity of wildlife that may use it. Out of a possible score of 5 on the Wildlife Habitat Assessment, this property ranked "3" due to its lack of water and connectivity factors. Mr. Smith agreed that the education potential is excellent, and that it is a good wildlife habitat except for the lack of water. He cautioned that there will be human-related impacts and disturbances to the parcel which, with a good parks management plan, might be minimized - such as trails in the right places to direct people; maintaining the shrub layer; trying to keep it as natural as possible, etc. What would be ideal, would be to restrict it as a local park, and maintain it as a botanical garden or nature preserve - - more of an educational tool.

Rick Givens restated that this proposed dedication area is sufficient to warrant annexing the site out of its priority order. Further, he stated, it is more than a community park, it is an ecological resource for the community. Regarding density, he explained, the applicant is proposing larger lots and, therefore, about 10 percent less lots than could be

developed. In addition, the availability of services is another plus, as is the input from the school district, indicating that, based on redistricting, there is sufficient capacity. He further explained that the proposal is to construct single family homes in the \$125,000 to \$130,000 price range and the site presents no physical constraints. Further, he explained that pathways could be constructed for children to walk safely to school

Douglas Kolberg, P.O. Box 1426, Lake Oswego 97035 disagreed with staff's figures regarding available land for annexing in the Priority "A" and "B" zones. Mr. Kolberg explained that he has contacted 13 of the largest land owners in Priority "A" zones, none of whom wish to sell their property. He reached 2 landowners of Priority "B" land. Only one person owns more than a 10 acre parcel, and also does not wish to sell under any circumstances. Further, Mr. Kolberg offered to submit a list of people he contacted and explain what transpired. He contacted many people in the Priority "C" zone also, except for the Faists. This property, he explained, since it is surrounded by a school and other developments, is very urban in nature. Annexation of this property would take some of the stress out of the housing market in Canby, he added, as there is great pressure for growth from those who wish to relocate here.

The Commission agreed to keep the record open for 7 days after the close of the hearing in order for Mr. Kolberg to submit the list of people he contacted with explanations of what transpired during those conversations. Mr. Kolberg stated he did not request that the record be kept open and would prefer a decision at this hearing. John Kelley, City Attorney, explained he could submit it as part of the record in the event it goes before City Council.

Proponents

None

Opponents

Andy Kahut, 1316 S.E. 12th Loop stated that he would support any sound planning for the City of Canby, but that he found, under this proposal, major criteria that needs to be addressed:

1. Due to the traffic on Township Road, it should be widened, and Canby should coordinate this problem with the County.
2. Lot sizes - which seems to be a trade off with the park. Mr. Kahut explained that there appears that too many people will be crammed into a small area.

3. The wall that is proposed to buffer BBC Steel Corp. is a good idea. However, Mr. Kahut explained that a wall should be proposed to buffer the Logging Road Industrial Park also.

Mr. Kahut requested a continuance so his concern regarding the buffering of the Logging Road could be considered. Mr. Kelley asked what Mr. Kahut expected to do during the continuance period, whether he would return and present evidence regarding this particular issue, which he was unable to prepare for this hearing, or whether he expected the Commission to consider that issue. Mr. Kahut stated he would like the Commission to address that particular issue.

Steve Donovan, 8625 S.W. Cascade Avenue, Suite 220, Beaverton 97005 explained he was representing Fred Kahut. Mr. Donovan explained that new documents were presented, which were not in the written record. Based on the letter between the applicant and BBC Steel regarding the sound barrier, he said he might want to negotiate with the applicant for the entire frontage of Mr. Kahut's property so as not to find inconsistencies with the Kahut property. Additionally, there was a letter from the arborist which does not discuss the quality of the canopy being second growth Douglas Firs which, when they are thinned, lose quality as a canopy. The letter from the wildlife biologist raises the question of the quality of this parcel for a viable urban park. Mr. Donovan requested a continuance.

The Commission agreed to continue the hearing.

Pam Thompson, 1379 S.E. 11th Loop stated that she was concerned with the traffic on Township Road, especially at the intersection with Redwood Street. Although the staff report states there is no problem at that intersection, Ms. Thompson stated that from personal experience, she has found it difficult, if not impossible, to cross from one side of Redwood to the other, over Township, or to turn toward town, finding it easier, at times, to go to 13th Avenue to do so. Additionally, Ms. Thompson stated that all this added traffic increases her concern about the safety of school children going to and from school. Ms. Thompson added that Canby's growth should be slowed down and going with a smaller Priority "A" or "B" lot might be better than annexing a large Priority "C" parcel. Between 11th and 12th Loop there are approximately 50 - 60 children attending Trost Elementary School. So many additional children from a 209-home development would add greatly to the overcrowding issue.

- With no additional testimony, the public testimony portion of the hearing was continued to July 10, 1995.

SUB 95-01/PUD, an application by Douglas Kolberg for approval to develop a 209-lot planned unit development subdivision. The subdivision includes eleven public roads, and the dedication of a 5.09 acre forested parcel for a park. The property is located south of S.E. Township Road, between the Molalla Forest Road and Trost Elementary School [Tax Lots 900, 1100 and 1200 of Tax Map 4-1E-3].

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site but drawing no conclusions, none was indicated. Dr. Schrader then reviewed the hearing process and procedures and indicated the applicable criteria was posted.

Mr. Wheeler presented the staff report. He explained that this is the same site as the previous annexation application and is submitted under an R-1 designation.

Applicant

Rick Givens submitted the letter from BBC Steel Corp. into the record, along with the letters from Wildlife Dynamics, Halstead's Arboriculture Consultants, and the maps that were submitted. Mr. Kolberg's information regarding his conversations with various property owners will also be submitted into the record.

Opposition

Steve Donovan requested a continuance, based on the submittal of new information.

Dan Stoller, 2220 S.E. 13th Avenue stated that his property borders the subject site on the south. He added that he, and at least two other property owners, have livestock. He questioned what protection he would have from residential development, and requested a protection barrier on the south perimeter of the site to separate farm use from urban use.

Pam Thompson, 1379 SE 11th Loop requested another [additional] access to the subdivision, if it is approved, other than just Township Road. If that is not possible, she requested that a 4-way stop sign be installed at the intersection of Redwood and Township.

This hearing was continued to July 10, 1995.

VII. DIRECTOR'S REPORT

Mr. Hoffman advised the Commission that a METRO 2040 Neighboring Cities meeting was taking place May 23rd. He and Commissioner Ewert would be attending. An Access Management Committee meeting was also being held on May 23rd, and Commissioner Jackson would be attending that meeting. Mr. Hoffman further explained what took place at the recent special meeting regarding Highway 99-E, when Highway 99-E was classified as being Class IV, meaning that spacings of lights and driveways must be very long, consistent with rural situations. The State has considered changing the classification to Class V with a modification to include barriers, where necessary and desirable. Staff is recommending this reclassification, which reduces the spacing of lights to one-quarter mile, and spacings of driveways to about 300 feet. There appears to be general support regarding such change, which appears a step in the right direction to avoid some of the conflicts the City has been having due to the requirements to such wide spacing of lights and driveways.

Commissioner Schrader requested that Mr. Hoffman arrange to have someone address the Commission regarding traffic warrants.

SHARPCOR - Staff explained that Sharpcor purchased two properties to the north on S. Pine and are in the process of purchasing another piece in between those. They would like to widen an area [Mr. Wheeler indicated the area on the map] to allow for a possible future drive connection to apartments that will be developed in the future on those properties. Any connection, he explained, would be part of a future Site and Design Review. He explained that the 5,000 square foot open recreation area would be reduced by about 340 square feet, and that the minimum required is 2,800 square feet. The purpose is to allow for the possibility of a better interior driveway system and to tie the apartment complexes together more efficiently. Access issues on Pine and Township will be discussed at a future hearing when the application for development is before the Commission. The Commission expressed its desire to have the applicant recoup the 340 square feet of recreation space in the future application.

SPRAGUE CONTROLS - Staff explained that Sprague plans to install an automatic irrigation system on the grass area at the Industrial Park and also wants to plant wildflowers in a small area in the back, as an experiment. They promise a great improvement over the Shell Service Station wildflower experience. The Commission agreed.

OTTA - Staff explained that Mr. Otta, who partitioned a property on the corner of S.W. 6th and Fir, is in the process of selling the corner piece. The proposed owners would like to place a manufactured home on the property. They would like to have the garage nearer to Fir. To reverse the plans and put the garage on the reverse side would incur a large expense. They would like to remove and replace two street trees with approved street trees. The Commission approved the request 5-1.

GRAHAM OIL (Pacific Pride) - Staff was directed to advise Graham Oil that the street trees proposed in the plan must be installed on S.W. 2nd, and instructed staff to issue a deadline of June 26th. In addition, the temporary sign, which Pacific Pride has acknowledged as inappropriate, must be removed.

MINI-STORAGE - In response to inquiry by the Commission about the change of sign color, Mr. Hoffman explained that the applicant has appealed the Commission's decision to City Council. John Kelley, City Attorney, has advised that the Council hold the hearing. Since only a general discussion regarding the color was held and, more technically, it is an interpretation of conditions of approval, the Commission requested that the Council be given a copy of the Commission discussion. Mr. Hoffman explained that he intends to give the Council a written interpretation of the decision, which is clearly based on the record, which would have been appealed to the Commission. The City Attorney advised that the applicant go directly to the City Council.

ODOT - Mr. Hoffman explained that one division of ODOT approved a traffic signal at Redwood and Highway 99-E, while another division of ODOT decided that it was too close to other lights. He further explained that the signal would be going in and that he would stay on top of it. Hopefully, since the conduits are already in, it should be installed before the Clackamas County Fair opens.

The Commission expressed its displeasure with members of the City Council not showing up for a joint meeting and asked that a letter be forwarded to Council expressing this feeling.

VIII. ADJOURNMENT

The meeting was adjourned at 10:52 p.m.

Respectfully submitted,


Joyce A. Faltus