MINUTES CANBY PLANNING COMMISSION



Regular Meeting July 10, 1995 7:30 p.m.

I. ROLL CALL

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

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

Others Present: Patti Forsythe, Cathy Clark, Genevieve Hoffman, Dan Stoller, Rick Givens, Douglas Kolberg, DonnaJean McManamon, Belva Clark, George Wilhelm, Gertrude Thompson, Pam Thompson, Joan Jones, Tamara Maher, Don Smeback, Fred Kahut, Roger Reif, Betty Faist, Andy Kahut, Tom Tye, Steve Donovan.

II. MINUTES

The minutes of June 5, 1995 were approved, as submitted

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. NEW BUSINESS

None

VI. FINDINGS

DR 95-09 [Crorey] - Commissioner Jackson discussed the possible historical significance of the house adjacent to this property and indicated the Commission discussion concluded the fact that development of the proposed use eradicates any potential use of the adjacent building as a historical property as it is listed on the County's list of historical structures. He asked that the discussion be reflected in the findings section of the Final Order, and include a reference to Environmental Policy #6-R. Tamara Maher, speaking as a concerned party, stated that she voted to deny this application while she was a Planning Commissioner because of the possible historical significance of the adjacent structure. Mr. Wheeler stated that he recalled discussion regarding the possible historic nature of the structure, but he did not remember it being part of the Commission's decision to deny. Chairman Schrader stated the findings should include everything that was discussed which was relevant to the decision. Commissioner Jackson also recommended changing findings #3 to reflect only that S. lvy is a very busy street. Commissioner Jackson moved to approve the final order reflecting the two amendments. Commissioner Gustafson seconded the motion and it carried 2-0, with Commissioners Schrader, Mihata and Larson abstaining.

SUB 95-03 [Canby Garden Estates] - Commissioner Gustafson moved to approve SUB 95-03, as submitted. Commissioner Jackson seconded the motion and it carried 3-0, with Commissioners Schrader and Larson abstaining.

SUB 95-04 [Township Village Phase VIII] - Mr. Hoffman expressed his concern with the Commission's previous action because it was not consistent with the Transportation Systems Plan which, when adopted, included the connection, ultimately, of SE 10th Avenue to S. Ivy Street. Staff had proposed a condition which would have reserved some land to ultimately accomplish that connection, and the Commission deleted that proposed condition. Mr. Hoffman pointed out that he included with the Commission's agenda packet, some maps from the recently adopted study indicating the inclusion of that future connection. He quoted an excerpt from the Plan that described the purpose for including that connection: "...To provide improved access for all modes of travel from the residential areas and the schools." The adopted Plan is the basis of the systems development charge and the Commission's action would be inconsistent with that Plan, he reiterated. Commissioner Jackson, having participated in the hearing moved to hold further discussion about the connection. Mr. Hoffman explained that the hearing would have to be reopened and people would have to be renotified in order to reconsider the previous approval. Commissioner Gustafson moved to reconsider this issue at the July 24, 1995 agenda. Commissioner Jackson seconded the motion.

George Wilhelm explained that it was his understanding the biggest benefit of this connection would be for residents of Township Village. He asked if the Commission would like to hear from those residents.

It was agreed no testimony could be taken without going through the renotification process and that the concerns regarding safety should also be heard when the hearing is reopened.

The motion carried 2-0, with Commissioners Schrader, Mihata, and Larson abstaining. John Kelley, City Attorney, stated that if it was not advertised, no additional testimony should be taken.

For the record, Chairman Schrader announced that Commissioner Ewert had arrived.

DR 95-11 [Canby Fire Department] - Commissioner Jackson moved to approve the Final Order for DR 95-11, amending Findings # 2 to read that "The Commission finds there is need for ADDITIONAL noise control. . .". Commissioner Gustafson seconded the motion and it carried 3-0, with Commissioners Schrader, Larson and Mihata abstaining.

VII. PUBLIC HEARINGS

ANN 95-01/SUB 95-01, an application 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 Rod 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]. Continued from May 22, 1995.

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest since the last hearing. Other than visiting the site, including the grove of trees, but drawing no conclusions from the site visit, none was indicated. Although Commissioner Larson visited the site and reviewed the record, he did not listen to the tape of the previous hearing and, therefore, did not sit in on the annexation hearing.

Mr. Wheeler presented the staff report, explaining that the 45 acre site on the south side of Township Road, east of the Trost Elementary School, lies in the Priority "C" portion of the Urban Growth Boundary. Priority "C" is the last phase of lands considered for annexation into the City. The site is presently being farmed, is adjacent

to the City limits, and infrastructure is readily available to the site. Mr. Wheeler referred to a memorandum [Exhibit 3 of the staff report] which explains how much land within each of the priority designations has been annexed into the City, explaining that 83% of Priority "A" lands and 79% of Priority "B" lands [a total of 468 acres], and approximately 90% of Priority "C" lands have yet to be annexed. The Planning Commission must decide whether the information submitted by the applicant proving the appropriateness of the annexation of this property at this time, is adequate to meet implementation measure D of Policy 3 and whether the application should be recommended for approval to the City Council. The applicant is proposing to dedicate a forested 5-acre parcel of land to the City as parkland, which the applicant considers to be a "unique area" which offers unique benefits to the City. In response to Canby's Request for Comments from the County, Clackamas County submitted a letter requesting the City hold off making a decision about Township Road until they have had a chance to meet and decide policy regarding the jurisdiction of the road. Mr. Jordan met with a planner from the County who advised him that the County would like the City to take over the responsibility for Township Road, although the County has no money to improve the roads to bring it up to City standards. The County and City have come to no agreement regarding this issue, so Township Road is still under the jurisdiction of Clackamas County.

Opponents [continued]

Don Smeback, 625 SE. 7th Place questioned how additional developments, in addition to those that are already in the planning stages, would be served by the utility-providers. He asked if present residents would be burdened by additional taxes when new developments are approved. Further, he stated he had no objections to growth but, as a retiree, he is very concerned about increasing taxes.

Steve Donovan, 8625 S.W. Cascade Drive #220, Beaverton 97005 explained that he was representing the Kahut family, who owns property to the north of the proposed annexation site, and Canby Disposal Company. He thanked the Commission for granting the continuance he requested due to the submission of new evidence, and advised that he did receive the documents he requested, the arborist's report, wildlife expert's report, and the letter from BBC Steel Co. Mr. Donovan explained that he takes a neutral position with respect to the annexation request, concurring with staff's conclusions in the May 12, 1995 staff report. Information gleaned from the staff memo dated February 8, 1995 regarding the amount of "Priority A, B and C" lands shows that approximately 83% of "Priority A" [Low Density Residential] lands, and 79% of "Priority B" [Low Density Residential] lands have yet to be annexed, which amounts to approximately 468 acres of Priority A + B lands, a substantial amount of land still be to annexed under those priorities. For that reason, Mr. Donovan stated that there should be a compelling policy reason for the proposed site to "go to the head of the class,"

being in the phasing Priority "C," and should be annexed last. The applicant's main basis for requesting that this parcel be annexed out of its phasing priority, is the 5.09 acre forested piece of land designated for a park. He referred to the consulting arborist's report where it was stated this park site should be protected, and pointed out that the City would have to make an investment to do so. Should the Commission recommend approval to City Council of the annexation request, Mr. Donovan requested that three additional conditions of approval be attached:

- 1. The applicant has argued that the dedication of the 5.09 acre forested parcel to the City purports a special benefit to the City that justifies out-of-phase annexation of the subject 45.42 acre property. Therefore, the outright dedication of this 5.09 acre forested parcel should be a condition of approval of the annexation request.
- 2. As a condition of annexation, the applicant should be required to contribute funds for the development of traffic signalization at the intersection of Township Road and Ivy Street. The traffic signalization infrastructure should be designed and built to the City public works standards. The amount of the final contribution by the applicant should be determined by the City Engineer. Final approval of a planned unit subdivision for the 45.42 acre property should not be granted until the proposed traffic signalization at the Township Road and Ivy Street intersection is operational.
- 3. Final approval of a planned unit subdivision for the 45.42 acre property should not be granted and should not occur until the proposed traffic signalization at the Highway 99-E/Pine Street intersection is operational.

Tamara Maher, 603 SW 13th Avenue recited from the Comprehensive Plan discussion of the Urban Growth Element and whether or not lands should be annexed, and under what circumstances on page 20, which was not cited in the staff report because it is not a policy. She then referred to page 25 of the Comprehensive Plan, Implementation Measure D, which discusses out-of-phase annexation and special benefits to the City. Ms. Maher questioned the value of the benefit that the City would receive from the 5.09 parcel intended to be dedicated as a park, especially due to the lack of water at that site and the isolation of the parcel with regard to wildlife residing there. Furthermore, upon development of 209 homes, the wildlife habit would be further obstructed. Although the Parks Department would like the parcel, she questioned what the cost of maintenance would run, what measure the City would need to take to protect the isolated parcel, what measures would need to be undertaken to educate the public, and whether the parcel was ripe for crimes to occur. Additionally, Ms. Maher referred to the Comprehensive Plan, Urban Growth Element, implementation measures, with regard to appropriateness of the annexation, especially in the southeast quadrant of the

City, which is growing too rapidly. She pointed out the constant conflict with concerns about school capacity and traffic flow that the Commission has had to consider. Ms. Maher added that the applicant is using the 5.09 acre dedication to meet two criteria, which is not appropriate. If the annexation occurs because of that special benefit, it cannot be used again to meet the open space requirement for the subdivision -to do so would be a double benefit to the applicant.

Cathy Clark, 403 S. Locust explained that she is concerned with traffic flow, as S. Locust is an extremely busy street at this time, especially with development equipment going to and from Township Village. Further, school capacity and the safety of school children are of great concern. Ms. Clark concurred with Ms. Maher's testimony that there is too much development in the southeast quadrant of the City.

Genevieve Hoffman 391 S. Locust stated that she spent a great deal of energy and time involved with the visioning process. Ms. Hoffman further stated that approving this application would violate the Comprehensive Plan annexation phasing process, and that the southeast quadrant is not ready for development of so large a parcel.

Rebuttal

Rick Givens rebutted the following issues:

Township Road - Regarding the potential conflicts on Township Road, Mr. Givens stated that the Transfer Station was approved with conditions that required extensive buffering along Township and staff is requiring a concrete block wall along Township Road, which the applicant does not object to. Those buffering conditions resolve the land use conflicts between residential and industrial uses.

Traffic - Mr. Givens referred to page 30 of the traffic analysis conducted by Lancaster Engineering, where major intersections in Canby, which would be impacted by development are discussed. The report has looked at everything that is existing in the area and has taken the subject site into consideration when looking at the Township/Ivy intersection, and the Township/Redwood intersection and has rated them at a Level of Service "D" - that the level of traffic would not be beyond the capacity of each intersection and, therefore, that a signal is not warranted at the present time.

Buffering along the southern property, at the eastern edge - Mr. Givens explained that chain link fencing would be installed to offer protection for Mr. Stoeffer's cattle.

Regarding Mr. Smeback's concerns about services, Mr. Givens stated that all the services needed for this development have been acknowledged by the service-providers to be available. The school board has determined there is sufficient capacity too.

Phased annexations - Mr. Givens stated that this property should be annexed out of order, especially as the phasing was formulated before the Trost school was in and before the services were available to the area. Additionally, the parkland will serve as a benefit to the City, especially as the stand of trees is the only one of its kind in the City that provides old growth and wildlife habitat. The 5.09 acre site could also be used by the school district for nature studies. The subject parcel provides needed development land for reasonably priced homes in Canby and, when reviewing the lands available in Priority A and B areas, Mr. Givens explained that there are only 7 pieces of land that are larger than 10 acres each. Many of the people who own property over 5-1/2 acres in Priority A and B areas were contacted to see if they would like to sell, and none was available.

With regard to the proposed condition of approval dedicating the 5.09 acres to the City, Mr. Given stated that it would only be dedicated if the subdivision application was approved.

Density - Mr. Givens explained that the subdivision plan does not maximize density. The average lot size is 7,600 square feet, including the park land. As to the developer participating in the funding for a traffic signal at lvy/Township, Mr. Givens stated that that intersection does not meet traffic warrants requiring such signal at this time and that such a decision must be based on a detailed analysis of whether it meets specific criteria. Additionally, the traffic report showed there is no need for a traffic signal at 99-E/Pine.

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

- 1. The Planning Commission discussed the economic viability of this agricultural land and agreed that similar properties that have a commercial well for irrigation have profitable agricultural operations. The Commission discussed various specific operations and agreed that while the subject property does not have a commercial well, permits to develop such a well are obtainable.
- 2. The Planning Commission discussed the Comprehensive Plan and agreed that this application does conflict with Policies 1-R-A and 1-R-B of the Environmental Concerns Element of the Comprehensive Plan. The Commission agreed that the subject property is viable agricultural land; it is economically feasible to farm with appropriate investment in available infrastructure; and less productive or smaller land can be annexed into the City prior to the subject property.

- 3. The Planning Commission discussed the size of the parcel and agreed that the site is of an appropriate size for an economically feasible agricultural operation because it is presently being farmed and is approximately 40 acres in size. Good land use planning determines that larger areas of farmland should be reserved as farmland and be the last to be annexed. The Commission agreed there are other economically viable agricultural operations currently in use that are similar in size or smaller.
- 4. The Planning Commission discussed the various phasing priorities and agreed that there is sufficient land in the "Priority A" and "Priority B" lands yet to be annexed into the City. More specifically, there is 82.9% of the "Priority A" and 79.2% of the "Priority B" low density residential lands which have yet to be annexed into the City. Additionally, the Commission agreed that the total acreage of "Priority A" and "Priority B" low density residential lands that have yet to be annexed into the City [468.03 acres] will provide a sufficient amount of land for the residential growth of the City for the near future.
- 5. The Planning Commission agreed that the phasing classifications of lands within the Urban Growth Boundary for annexation purposes, is an suitable method to insure timely and cost-efficient public facility planning.
- 6. The Planning Commission discussed the City's water supply and agreed it is insufficient, during peak summer time use hours, to accommodate the annexation, especially in light of the purpose of the annexation, which ultimately is to develop the land at urban level densities, which will overburden the City's water supply for urban level of service during peak summer time use hours. The Planning Commission discussed Canby Utility Board's plans for expansion of their water treatment plant and agreed CUB is not at a point yet where it is reasonable to presume that additional capacity will be available when the development of the subject property occurs.
- 7. The Planning Commission discussed the responses to Requests for Comments from the school district. The Commission agreed that while the Canby School District has stated that there is sufficient capacity, such approvals will create a need for the Canby School District to react to growth instead of proactively planning for future growth.
- 8. The Planning Commission discussed the condition of Township Road. As no agreement has been made with the County as to the responsibility for the road, the Commission agreed that the road is insufficient to handle additional traffic and will be overburdened with traffic that will result from annexation, and future development. At the present time, the County does not have the funds

available to improve Township Road to Canby's road standards, and the applicant has not offered to improve Township Road. Therefore, it was agreed that Township Road is not in a condition to handle the additional loads the annexation and subsequent development, would create.

- 9. The Planning Commission discussed the "Level of Service D" which exists at the intersection of Township/S. Ivy, which is very close to "Level of Service E" during the afternoon peak hour. Furthermore, that intersection is considered to be the busiest non-signalized intersection in the City.
- 10. The Planning Commission discussed Policy 1 of the Urban Growth Element. It agreed that such policy has not been complied with because coordination with Clackamas County has not been resolved regarding the jurisdiction and maintenance issues of Township Road.
- 11. The Planning Commission discussed the City's transportation network and agreed it is insufficient to handle the traffic impact of the annexation because the ultimate purposes of the annexation is to develop the land at urban level densities, which will overburden Township Road.
- 12. The Planning Commission discussed the proposed 5.09 acre park dedication and agreed the site is too isolated to provide appropriate wildlife habitat and is too delicate to provide a park for urban level use, based on the applicant's experts' testimony.
- 13. The Planning Commission discussed the City's higher than average growth rate over the past few years, which has grown at approximately 6%. Furthermore, the overall average growth rate for Canby over the past 20 years has been approximately 4.3%. The Commission agreed that both growth rates are far in excess of the Comprehensive Plan's population projections of 20,000. The recent City Visioning Process also endorsed a 'gradual growth concept' for land use planning in Canby.

Based on the findings and conclusions contained in the staff report dated May 12, 1995, on testimony at the hearings of May 22, 1995 and July 10, 1995, and on Commission deliberation, Commissioner Mihata moved to recommend denial of application ANN 95-01 to City Council based on Commission deliberation, based on the conclusions regarding consistency with the policies of the Comprehensive Plan, as stated on page 6 of the staff report and which support Commission deliberation, based on the fact that the benefits of the annexation will not outweigh the adverse impacts, and based on the inadequate traffic conditions on Township Road, especially at the intersection of Township/lvy. Commissioner Gustafson seconded the motion.

The Commission discussed the motion: That this application does not address the Comprehensive Plan's Urban Growth Element, Goal 1, to reserve and maintain agricultural land; Policy 1, to coordinate plans with Clackamas County, which has been attempted, but which has had numerous problems, Policy 3, Implementation Measure D, incorporating all the points the Commission discussed, Land Use Policy 3, overburdening of the public facilities and services; Environmental 1-R-A and 1-R-B, referring to viable agricultural farmland and the fact that this is the best soil in the State; that water could be provided to the property for farming; Transportation Policy 3 dealing with problem intersections; Public Facilities Policy 3, water capacity, school capacity, future bonds, storm drainage problems in the area; Economic Policy 4, the agricultural contribution to the economy, the lack of need for construction in the southeast quadrant of Canby; Housing Policy 1, referring to the housing goal of 20,000 in the Comprehensive Plan; Policy 3, density issues, Policy 4, and whether homes costing in excess of \$100,000 is 'affordable' housing, the solar aspects of additional subdivisions. Mr. Hoffman pointed out some of the discussion was geared to the subdivision, not specifically to the annexation application, and should not be included in the annexation findings.

The motion and additional discussion carried 5-0, with Commissioner Larson abstaining.

SUB 95-01, a request by Douglas Kolberg [applicant] and Joan Jones and Gertrude Thompson [owners] for approval to develop a 209-lot planned unit development subdivision. The subdivision includes eleven public roads and the dedication of a 5.09 forested parcel for a park. The site 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 Commissioners had ex-parte contact or conflict of interest. Other than visiting the site, none was indicated. He reminded the audience of the hearing process and procedures and referred to the subdivision criteria posted on the wall.

Mr. Wheeler presented the staff report. He explained that the proposed 209-lot planned unit development subdivision proposed smaller lot sizes, smaller frontages and smaller setbacks. Approximately 40.4 acres will be developed, while 5.09 acres will be dedicated for parkland. If the site is annexed, it will come into the City as R-1, Low Density Residential. To the east is a metal fabrication business, on an existing industrial site just outside the City limits, but within the Urban Growth Boundary. He referred to Exhibit 6, a letter from BBC Steel's attorney regarding compatibility concerns,

requesting conditions the applicant has agreed to, specifically a wall that will provide some sound and visual buffering between the residential and industrial uses. There will also need to be additional buffer between the proposed development and the future industrial uses to the north of Township and from traffic along Township Road. The proposed density is approximately 6.7 lots per developable acre, not including park or street dedications, more than the Comprehensive Plan averages for low density residential development. He pointed out that various areas in the City had previously been developed at densities much lower than as outlined in the Comprehensive Plan, and to single family residential developments that were built in medium and high density zones, which have lowered the overall average residential density in Canby, below what the Comprehensive Plan calculated when estimating the amount of land needed for low density residential areas. Staff also referred to residential developments that have higher densities than the Plan calculated, helping to balance the overall average residential development in Canby. The average lot size in a PUD, which does include park land, is 7,570 square feet per lot, he pointed out. Township Road is a collector street, part of the County maintained road system, and will provide the only access to this proposed development, at this time. The applicant's traffic study states that the proposed use will not have a significant adverse impact on the traffic at the intersection of Township/Ivy, where the current Level of Service is Level "C" - but with already-approved projects, and proposed projects in the area - will rise to Level "D". Two walkways are needed along the Logging Road and only one is proposed. Staff is proposing two new ones, and eliminating the proposed walkway. Staff is also proposing two additinal walkways on the interior streets to meet Code requirements. To accommodate a concern of the school district, a proposed walkway to the Trost property will need to be relocated. Emergency access would be provided via the Trost emergency drive, which site adjoins this subdivision, although any alterations and improvements would be incumbent upon the developer to provide. Five foot interior yard easements will be required, as 5' side yard setbacks have been requested and the minimum utility easement is 10 feet. Utility providers have agreed to the 10 foot easement. The sewer pump station would need to be relocated to the southeastern corner of the development to appropriately accommodate future development to the south and to the east and to maximize its use. Based on the arborist and wildlife experts' reports, there is some question as to the viability of the park land's use for wildlife habitat. The applicant has provided reasoning as to why the application should be approved, while not meeting the basic solar requirements. An alternative design has been submitted which would increase compliance with the basic solar requirement, from 67% to 72%, but still would not fully meet the required 80%. The alternative design shifts S. Teakwood Street to the Trost property and jogs it back up Township, allowing for elimination of the east-west orientation. By so doing, the construction costs, extending 6th, 7th, 8th and 9th Avenues to the west, would be increased approximately 6%. A significant development amenity, which is the view of Mt. Hood, to the east, would also be lost. Additional solar compliance could be achieved by moving solar

building setback lines on approximately 10 of the larger lots. Street names must be renamed to comply with the City's street naming and addressing ordinance. One foot of reserve plugs is needed to control access from undeveloped properties, which is needed on the south side of 10th Avenue from the park to the west end of the property and also at the end of 10th Avenue for emergency control, and at the southern terminus of S. Pine Street. There are reduced frontages on 30 lots. Section 16.64.040(C) permits the Planning Commission to allow the reduced frontages if there is sufficient buildable area on the lots, and in staff's opinion there is sufficient buildable area on these lots with the reduced frontages. Section 16.76.040 permits the Planning Commission to allow reduced lot sizes and the requested reduced 5 foot side yard setbacks. Driveways on the corner lots should be located near the property lines furthest from the intersections, thus creating a less hazardous traffic situation at the intersections, even though the ordinance does not currently restrict to location of residential driveways with respect to street corners. Mr. Wheeler suggested the location of driveways on corner lots should be made a condition of approval. Staff summarized the issues surrounding this development: traffic concerns on Township Road, Solar Ordinance compliance, yard and frontage reductions, and sound barrier walls along Township and along the Logging Road and a fence along the southern boundary.

Chairman Schrader stated that he believed compliance with the Solar Ordinance should be mandatory, especially on a large piece of land, and that road design and additional costs of redesign have been used as a way to avoid complying with the Ordinance.

Staff suggested that when reviewing this application, the Commission should treat it as if it was going to be annexed because the ultimate decision regarding annexation of the parcel is up to the Boundary Commission, while the design of the subdivision would be in the hands of the Commission

Applicant

Rick Givens, 6564 SE Lake Road, Milwaukie asked for a continuance in order to allow the annexation portion of the application to go before City Council. If approved at Council level, the applicant would ask that the annexation portion be put "on hold" so that the Commission could then deal with the subdivision portion of the application, prior to the annexation going forth to the Boundary Commission. The applicant is also willing to waive the 120 day requirement.

Mr. Hoffman explained that Steve Donovan asked that his testimony be made a part of the record.

Commissioner Jackson moved to continue the subdivision portion of this application to October 9, 1995. Commissioner Gustafson seconded the motion and it carried unanimously.

VII. DIRECTOR'S REPORT

Mr. Hoffman explained that the school superintendent, Steve Miller, now has a process in motion to establish a long range planning committee.

VIII. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

Respectfully submitted,

Joyce A. Faltus