

MINUTES
CANBY PLANNING COMMISSION
Special Meeting
May 20, 1996
7:30 p.m.

I. ROLL CALL

Present: Commissioners Stewart, Keller, Hartwell, Ewert, Schrader. Commissioner Gerber arrived at 8:35 p.m.

Staff: James Wheeler, Planning Director; John Kelley, City Attorney; Larry Vasquez, Assistant Planner; and Joyce Faltus, Secretary

Others Present: Ed Sullivan, Jeffrey Kleinman, Doug Sprague, John Middleton, Frank Charbonneau, Steve Montecucco, Mark Crorey, Revaleen Smith, Russ Langridge, Elan Langridge, Patti Flagg, Wanda and Larry Graff, Donna Woodruff, Jerry Burns, Mike Duncan, Linda Geddes, Al Geddes, Jane Blake, JohnBurgi, Diane Burgi, Carl Gardner, Marilynn Gardner, Bob Kauffman, Betty Faist, Gary Kuykendall, Jerry Barkman, Doug Poppen, Nathan Clayton, Laura Sttler, Edna Mitchell, Bernie Van Houten, Eldon Meyer, Laura Crorey, John Gunter, Michael McNichols, Rodger Coupe, Dan Stollen, Dana Tyler, Ariana Van Houten, Dixon Andrews, Eva Smith, Duane Smith, Elroy Knutson, Randi Gunter.

II. MINUTES

Delayed to meeting of June 10, 1996

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. OLD BUSINESS

None

VI. NEW BUSINESS

None

VII. COMMISSION DISCUSSION OF PLANNING ISSUES

None

VIII. FINDINGS

None

IX. PUBLIC HEARINGS

SUB 96-02, an application by Ztec Engineers, Inc. [applicant] and Elroy Knutson, et al [owners] for approval to develop a 23-lot subdivision, known as Country Club Estates No. 4, on 7.25 acres, with approximately 1 acre of open space. The site is located at the end of N. Maple Street, north of N.E. 34th Place [Tax Lot 2602 of Tax Map 3-1E-21].
Continued from May 13, 1996.

Acting Chairman Ewert reviewed the hearing process and procedures and referred to the applicable criteria posted on the wall. He asked each Commissioner whether or not he had ex-parte contact or a conflict of interest since the last hearing. Commissioner Keller explained that he was recently appointed and has reviewed the record and the tapes from the previous hearing. He further explained that there is a potential conflict of interest in that he is a realtor, who could possibly become involved in the sale of land or a home in this subdivision. There were no questions from other Commissioners or anyone in the audience. Commissioner Ewert stated that he revisited the site but drew no conclusions. No other conflicts of interest or ex-parte contact were indicated and no one from the audience had any questions of any of the Commissioners.

Acting Chairman Ewert explained that the hearing would continue with opposition testimony.

Mr. Wheeler stated that a letter was submitted by Dixon Andrews in opposition to the subdivision, and a letter was submitted by Mr. Al Geddes, which would be presented by Mrs. Geddes. Additional information was also submitted by the applicant pertaining to the Transportation System Plan, and by Mr. Ed Sullivan, representing Montecucco Farms, regarding the condition addressing the limitation of fill on the subject site.

Mr. Kelley advised the audience that, if requested, the record could be left open for seven days in order that people might have a chance to review new information and submit additional information.

Commissioner Gerber arrived at this time. Chairman Ewert asked if he had any ex-parte communication or conflict of interest to declare. Commissioner Gerber had none to declare.

Opposition

Linda Geddes, 740 N.E. 34th Place read a letter on behalf of Al Geddes, who was unable to attend this hearing. In his letter, he stated that, with regard to Criteria #3, the project will hinder the use or development of adjacent properties. The ramifications of fill on this property, to neighboring properties, were not researched by the City of Canby, Mr. Geddes stated. The application proposed and installed a drainfield and, from the photographs submitted, it can be seen that the adjacent properties were under water for several days, which included 18 inches of water in the Geddes' basement. Because the fill is 3 feet higher than the Geddes' property, the drainage pattern has drastically been altered and the water table has been changed. Because of the ground water problem and lack of safety standards on Maple Street, Mr. Geddes stated he is opposed to the application.

Jane Blake, 880 NE 34th Place stated that a variance had been granted for the homes on NE 34th Place, as a dead-end street, with only one entrance and exit. She questioned how people north of this block would be able to get out in the event of an emergency if the sole ingress/egress was blocked or if something blocked N. Maple, like a downed tree. Ms. Blake stated she had concerns about the heavy traffic at 5:30-6:00 a.m., which time was not considered in the traffic report, and added that people often go around the area near Country Club Road, covered in the report. The wetlands, Ms. Blake added, breeds mosquitos, and people who consider purchasing homes near the wetland should be aware of the existence of the wetland. Regarding the landfill issues, Ms. Blake asked if anything has been done to clean it up, as flammable material exists on the site. She submitted a piece of material, certainly not a natural substance, that she believes is flammable.

John Gunter, 930 NE 34th Place explained that he is in the construction business and builds highways, subdivisions, airports, etc., for the past 30 years, and is currently an estimator project manager for a construction firm. He stated that he is opposed to the subdivision as it is currently presented. The applicant proposes to add 5 feet to the western side of N. Maple for a pedestrian way. Mr. Gunter said that in order to construct the pedestrian way and, at the same time, not encroach on the Montecucco Farms property line, it could not possibly be 5 feet wide, especially when taking into consideration that there are different elevations between the road and the field at certain areas, which would not allow for the full 5 foot of width and, in essence, with the 8 inch stripe separating the roadway from the pedestrian way, it would probably be 2-2 ½ feet wide in some places. Another concern is that the current configuration of N. Maple, with parking on the east side of the street, forces people to drive on the western portion of the half street

improvement. The tendency, he explained, is to drive more towards the middle of the street, or the field side of the street. The fact that 60% of the road carries most of the traffic is the reason for the accelerated degradation in the pavements of that section of the road, and increasing the traffic would increase the wear on the pavement at least three times as much. With regard to the fill issue, Mr. Gunter stated that he researched the fill permit which stated that the material from Caffall Brothers was to be screened prior to placement on the subject site. That was not done. Furthermore, he stated that there is a lot of junk in the fill. He asked that the Commission consider that cul-de-sac in Country Club Estates #3 is supposed to be vacated at the time of future development, which is an open invitation to U-turns in mid block. Mr. Gunter further testified that traffic from the subdivision would create a traffic hazard due to the location of the driveway on Lot #23, on the southeast corner of NE 34th Place/N. Maple. The current design of the proposed subdivision does not deal with this site vision issue adequately.

Michael McNichols, 730 NE 30th Place stated that he lives one block south of where the proposed pedestrian walkway would end. Mr. McNichols stated that his primary concern is the safety issue, especially for children. In neither this application, nor in the previous one, was the auto safety issue addressed. Because of the deficiencies in the traffic report, the application should be denied, he added. The pedestrian walkway stops at 31st Place and from 31st to where it continues, is approximately 1/4 mile, where pedestrians are exposed to the increased traffic volume. Experts have stated that with increased volume of traffic, speeding will increase, while the report submitted with this application states the average speed is 32 miles per hour. Mr. McNichols stated that with reference to the access for emergency vehicles, Caffall Brothers' letter did not state that they would grant an easement for permanent access, just that they agreed, in principle, with the idea of using the Logging Road for emergency access. Further, Mr. McNichols stated that he sees no provisions in the application for maintenance of the wetland, and he questioned whether that presents any liability for the City, or health hazards for adjacent property owners.

Ariana Van Houten, 950 NE 34th Place stated that she is concerned whether emergency vehicles on the Logging Road would be safe, especially as that road has not been maintained for a long time.

Dana Tyler, 680 NE 20th asked what would happen to the emergency access on the Logging Road if Caffall Brothers backed out. Further, she stated that there is often conflicts between school buses and cars and pedestrians on N. Maple. Mr. Tyler stated that the subject site is very spongy, similar to Village on the Lochs, and will remain that way. Regarding the school impact issue, Ms. Tyler stated that with the overcrowding and shifting of classrooms from one school to the other, Canby schools could not be considered "neighborhood" schools any longer, and future homeowners should be notified of this.

Nathan Clayton, 714 NE 34th submitted photographs which deal with the condition of

N. Maple Street. Pedestrian traffic is seriously threatened when a moving vehicle has to pass a parked vehicle, he stated. Mr. Clayton stated he concurs with Mr. McNichols testimony, adding that the safety issue is very serious for children on N. Maple. Further, Mr. Clayton stated he concurs with Dixon Andrews' letter, which he referred to. He added that Mr. Andrews, who is a sergeant with the Clackamas County Sheriff's Department, monitored speed on N. Maple recently, on a non-commuter day, and found that 100% of cars passing his house exceeded the posted speed limit. Mr. Andrews has two children with developmental disabilities and one of the reasons he moved to this quiet neighborhood was for the safety of his children, thinking the traffic flow past the house would be minimal and would provide a safe environment for his children. Instead, he found that street, being long and straight, with a downhill slope, provides a false sense of openness due to the farm fields and invites speeding. Mr. Andrews, in his letter, explains that he monitored traffic speeds past his home on several occasions, using a radar gun. Most times, traffic going past his home exceeded the posted speed limit by 100%, some going up to 50 miles per hour. At times, Mr. Andrews stated, vehicles pass his home traveling at 50-60 miles per hour. The highest rates of speeders are found in the summer, when people are seeking river access, so conducting a traffic study in November is not truly indicative of the most reliable traffic use of Maple Street. In his letter, Mr. Andrews also addresses the recreational use of Maple Street by walkers, joggers, and bicyclists. Like Mr. Andrews, Mr. Clayton asked that the Commission not sacrifice the liveability and safety of the neighborhood by approving the proposed development. The location of the proposed development will have a great impact on the one mile stretch of Maple Street, especially between Territorial Road and N.E. 34. Without any major improvements made to the infrastructure of the City, the idea of this development is no better now than it was before, Mr. Andrews letter stated. Mr. Clayton stated it is his understanding that the Caffall Brothers property is for sale and he questioned how that would affect the emergency vehicle access, adding that if N. Maple was blocked, people further north could not get out in the event of an emergency. Furthermore, even if the Logging Road was the emergency access, the residents would not have keys to the locked gates, he added.

Elan Langridge, 1947 N. Maple stated that although she is a new resident of Canby, she lives on the corner of N. Maple and NE 20th, facing N. Maple, and considers herself the "gatekeeper" of the street. Mrs. Langridge stated she was concerned about the safety of the school children who attend the Baptist Church, especially during physical activity times. She has observed the children canvassing the neighborhood for a special event and due to a rise in the pavement, a car and a child were nearly involved in a wreck recently. In addition, there are a lot of delivery trucks going to the golf course, and landscape maintenance people with long trailers, who take up nearly the entire width of the roadway.

Neither For Nor Against

Ed Sullivan, representing Montecucco Farms, referred to condition #18. He stated that his client is looking at what affect the fill would have on the farm operation. A Water Resources Management expert was hired, as was a professional engineer, to look at the affect that the fill would have on the flooding. The report stated that the real issue is less flooding oriented than it is drainage. Although his client is nervous about dropping proposed condition #18, it would be considered if other concerns are met. After meeting with the applicant and discussing the other concerns, the applicant concurs with the proposed conditions addressing the drainage issue. The Montecucco family wants to make sure that water, once it is on their property, will go off at the same rate as it would for any other place along the river - - that it would not be dammed or bermed - - making sure there would be drainage facilities to allow the water to get out. Additionally, they want to make sure the water does not come from the subject site onto the farmland, which might require a flap valve to make sure there is no interconnection. Lastly, his clients wants to be able to look at the storm drainage plans the applicant submits, and comment on them before the City engineer approves them, to make sure the conditions are met and that the farming operation is not adversely affected. If this is agreeable, the Montecucco Family will not oppose the application. Mr. Sullivan asked if Section 16.40.017, dealing with subdivisions and partitions in flood hazard areas, applies to this application.

Jeffrey Kleinman, representing Friends of N.E. Maple Street, stated that the filling and grading done on the site was done irresponsibly, especially with regard to the lack of screening of the fill. Furthermore, he stated that hazardous conditions were created by the metal and flammable materials deposited with the soil, for present residents of the area, and future residents. Mr. Kleinman pointed out that the Logging Road has been closed for the last year and it is constantly deteriorating and it becomes less and less of a possibility for emergency vehicle use. The applicant's responses to the concerns for pedestrian safety are band-aid proposals, especially for pedestrians walking southbound on N. Maple. After reviewing the Kittleson letter, it appears that the Traffic Study did not consider this last stretch of Maple Street. The letter includes the following statement: "The key improvements will be made when the west side of Maple Street is developed." Mr. Kleinman pointed out that the west side of Maple is the Montecucco Farm and 150 feet is reserved by the City along the street for eventual expansion of the half street to full City standards. Further, the street will not be improved to full City standards until that land is annexed and improved. The Traffic Study Engineer, is now the applicant, he pointed out.

Rebuttal

John Middleton, Ztec Engineers stated that he concurs with Mr. Sullivan's testimony. Mr. Middleton corrected previous testimony regarding the date of the traffic study, explaining that it was done in September, not November. He reviewed the inventory of

Maple Street, explaining at 23rd Avenue it is 45 feet, goes to 30 feet to Country Club Place, where it is 28 feet wide, then to a 26 foot width, and 24 feet wide across the face of what is Country Club Annex #2, and then narrows down to a 20 foot width at Country Club Annex #3. The traffic study was conducted at the intersection of Country Club Place and traffic counts were done at the end of September. There were two full 24-hour counts done, equaling 950 trips, 475 trips in each direction. Both days were very consistent. The intersection count was done in November. Depending on the activities at the golf course, traffic conditions can be very variable, he explained. The further north one goes, the less traffic one encounters, he stated, as it is less populated. Mr. Middleton then discussed the traffic counts and waiting times between cars. The applicant is proposing to put in a 5 foot walk all the way along N. Maple, to improve safety conditions for pedestrians. If there was no parking permitted on the east side of N. Maple, Mr. Middleton stated there would be no debate about capacity of this road. The study points out that it is not a severe bottleneck situation, and that the applicant would not be adding a lot of traffic with the proposed subdivision. Mr. Middleton explained that it is the residents who are the traffic generators and speeders. Furthermore, Mr. Middleton stated that most of the concerns center around cars parked on the east side of Maple Street. He stated that although the street is 20 feet wide at the point of main concern, it is perfectly straight, but he questioned why people would want to park on a 20 foot wide street if they know it would cause safety concerns for their neighbors, or inconvenience their neighbors. If parking was not allowed, he believed there would be no debate about capacity on Maple Street. With the numbers generated from the traffic report, results show that it is not a severe bottleneck condition, that there is not a lot of traffic, and that the proposed subdivision would not add a lot of traffic.

Doug Sprague stated that Kittleson reviewed the traffic study and concurs with the traffic report that was submitted. The present application improves the current situation, he added, and N. Maple, beyond N.E. 31st was not addressed because the street is wider beyond 31st Avenue. Mr. Sprague stated the applicant was relying heavily on the traffic study to determine the usability of Maple Street. The report verifies that the road conditions are very poor, but that in itself does not determine the level of service of the road, which is determined by traffic counts and traffic studies. In past subdivision approvals in the City, Mr. Sprague stated, there is access onto roads that are also in "poor" to "very poor" conditions, and some road are even described as "failed." The fact that N. Maple is in dire need of repair is a City maintenance issue, not a developer's issue. The level of service of the road is determined by traffic counts, he added. The developer will improve a situation that is very poor now, but there are other mechanisms that the City has to take care of these issues, if people are truly concerned. With the 5 foot easement, an L.I.D. could be formed to build a sidewalk down the west side of N. Maple, along the entire road. Mr. Sprague agreed that there are a lot of pedestrians along N. Maple, who walk there because they feel it is a safe place to walk.

Mr. Kelley, City Attorney, asked if anyone wanted the record left open for seven days, in order to respond to any new testimony. There was no affirmative response to his question.

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

1. The Commission discussed safety concerns on N. Maple, especially when there are cars parked on the east side of N. Maple. The Commission discussed bringing this issue before the Traffic Safety Committee to discuss whether street parking should be eliminated on the east side of N. Maple.
2. The Commission discussed the Logging Road and the safety concerns for children due to access to the river.
3. The Commission discussed adding a sign at Territorial and N. Maple, denoting "No River Access" and possible "Dead End."
4. The Commission discussed the need for a tree retention plan. The Commission questioned why staff was only requiring one street tree per lot. Mr. Wheeler explained that the difficulty lies in the placement of driveways and requiring at least one per lot meets the purpose of the street tree ordinance for having tree lined streets. It also allows some flexibility in house and lot design.
5. The Commission discussed the fact that approval would have to be contingent upon getting access from the Logging Road for emergency purposes prior to the signing of the final plat. Mr. Wheeler explained that if an easement is granted and recorded, it becomes permanent access, regardless of ownership. So there is a means available to secure access across the Logging Road. Mr. Kelley explained that the easement would run with the land as a perpetual easement, no matter who owned the land.
6. The Commission discussed the Request for Comments returned by Roy Hester, Public Works Supervisor, which raised serious concerns about the adequacy of N. Maple. In his written comments, Mr. Hester stated: "The present N. Maple is not wide enough for safe traffic flow. [The] N. Maple road surface has failed [and] with added traffic, it will not withstand added average daily trips. . . ." The May 20, 1996 letter submitted by the applicant from its traffic engineer, Kittleson & Associates, states at page 2, paragraph 3, that much of N. Maple has pavement in "poor/very poor condition," and that pavement maintenance for N. Maple has a very low priority in the City's 20-year plan developed by Kittleson. Improvements on Maple Street, Mr. Wheeler explained are a very low priority, due to other streets needing repairs that have a much higher volume of traffic, nor is it identified in the Transportation System Plan for SDC improvements.

7. The Commission discussed the merits of vacating the cul-de-sac to address safety concerns, as testimony was given that a variance was granted due to the length of the dead end street. Mr. Wheeler explained that a variance was granted for the extension of N. Maple for Country Club Estates #3, but that he has not found evidence backing up that decision. He further explained that NE 35th Place was within the 450 feet limitation.
8. The Commission discussed the school capacity issue and agreed that the schools have adequate capacity.
9. The Commission discussed criteria #4 and agreed that the required public facilities and services with respect to vehicular, pedestrian, and bicycle access, and access for emergency vehicles, are neither available at this location at the present time, nor will become available as a result of the proposed development.
10. The Commission discussed the 5 foot walkway. It was agreed that by the applicant's admission, the walkway has construction difficulties, and therefore would not be adequately provided. Rather than constructing a sidewalk, the applicant is proposing a "walking lane" with bumps. The Commission agreed such walkway would not provide adequate pedestrian safety. At the present time, there is not enough room for safe passage by vehicles, pedestrians, and bicyclists. Even with the changes made by the applicant, the additional traffic generated by the subdivision will only make the present unsafe situation worse. Drivers are already forced to veer into the unpaved western portion of the right-of-way on occasion, especially when .
11. The Commission discussed the overall design and agreed it is not functional.
12. The Commission discussed the storm water drainage issue. Mr. Wheeler explained that the developer would put it in, adding that it was covered by proposed condition #19.
13. The Commission agreed that the concerns identified by the City Council in File No. SUB 94-02 remain as serious as before, and the proposed changes do not resolve them. N. Maple is still in unacceptable condition. It cannot accommodate the traffic which the proposed subdivision would generate. The Commission was concerned that the proposed at-grade walkway would cause more safety problems than it would solve. The problems of safe and adequate pedestrian and bicycle access are still unresolved.
14. The Commission discussed the issue of locked gates along the Logging Road, which would require a lot of time to open in the event of an emergency.

15. The Commission agreed it is a developable site. It discussed the possibility that the proposal requested too many units for the site, under the present road conditions and lack of pedestrian safety measures based on the road conditions.
16. The Commission discussed the possibility of an L.I.D. to construct sidewalks and asphalt the 5 foot easement. Mr. Wheeler explained that if the Commission feels the street is unsafe and has an inadequate road surface, there are inadequate services to the site. To require the applicant to construct a sidewalk on the east side of Maple, for an indeterminate distance, as a condition of approval, would not be proportional to off-site improvements in relation to the proposed development. With that condition in mind, Mr. Wheeler explained, he would recommend denial. The Commission discussed whether extruded curbs would be better than bubbles in the walkway. Mr. Sprague stated it would be a problem if the Montecucco family continued to farm right up to the pavement. Further he stated he would be agreeable to putting some type of retaining situation on the low areas if nothing could be worked out with the Montecucco family to regrade that portion of the roadway. Steve Montecucco stated that he hesitates to grade any farmland because top soil would be moved around, moving good soil off some land and covering it up in other areas. To get crops to grow again would mean building up the organic materials again, and sometimes crops just will not grow there again. Since he would not be making this decision on his own, he would have to discuss it with the other 3 partners. Maintenance of the extruded curb and walkway as a means of keeping the walkway clean.
17. The Commission discussed vector control, as mentioned in Roy Hester's statement. Mr. Sprague stated that the wetlands are fairly dry during the summer months so no plans have been made regarding vector control. He added that he would be willing to research the issue.
18. Regarding the wetland, the Commission asked Mr. Sprague about maintenance. Mr. Sprague stated that he would be willing to turn the wetland over to the City or the school district. If neither party wanted it, the maintenance would be covered under the CC&Rs so the homeowners association would maintain it. The Commission agreed that if the wetlands is not deeded to the City or the school district, the maintenance should be included in the conditions of approval.
19. The Commission asked if the subject site was in an H-Overlay Zone. Mr. Wheeler explained that it is not identified as such.
20. The Commission discussed the grading permit. Mr. Wheeler explained that when the previous application was withdrawn, there was no longer an active application for the site. When the application for filling and grading was brought in it was not stated that it was being done toward future subdivision of the property and,

when granted, met the Building Codes requirements. Until all the requirements have been met, the permit is still under review.

21. The Commission asked if monumentation was proposed for the entryway to the proposed subdivision. Staff explained none was presented. The Commission agreed that if the application was approved, any signage or monumentation would have to come back before the Commission for approval.
22. Regarding the solar issue, the Commission felt comfortable with staff's amendments. The building orientation on Lot #8 could not be oriented north, Mr. Wheeler explained.

The Commission took a straw vote to determine if further discussion of potential conditions of approval was warranted. Four Commissioners appeared ready to deny the application and two appeared ready to approve it. **Commissioner Gerber moved to deny SUB 96-02. Commissioner Stewart seconded the motion and it carried 4-2, with Commissioners Keller and Ewert voting nay.**

Commissioner Schrader referenced Criteria #3 and #4 as reasons for the denial, as well as Policy 1 of the Transportation Element, Policy 6 and 7, Section 16.56.010(B)(1) and (7), subdivision guidelines, and Section 16.46.010, and the Transportation Report by Kittleson and their 5/20/96 memo, page 2, number 3.

Mr. Wheeler requested that Mr. Keller and Mr. Ewert submit a memo explaining why they voted against the motion. Such information, he explained, would assist City Council in the event of an appeal.

Mr. Wheeler explained that the prevailing attorney would draft the final order, in this case, Mr. Kleinman. The final order would be reviewed by staff before submitting it to the Commission. The Commission will review it and can amend it.

MLP 96-02, an application by **H.O.P.E.** [applicant] and Birkemeier Farms, Inc. [owner] for approval to partition a 27.67 acre parcel into two parcels, 4.8 acres and 22.87 acres, respectively. The applicant intends to develop an assisted living facility on the 4.8 acre parcel as part of the Hope Village Retirement Community. The partition is necessary in order to have clear title to the parcel for financing purposes. The site is located on the southwest corner of the intersection of S. Ivy/S.W. 13th Ave. [Tax Lot 800 of Tax Map 4-1E-4D].

As nobody was in the audience except for the applicant, who was present when the hearing process and procedures were read earlier, Acting Chairman Ewert did not repeat his presentation. He did refer to the applicable criteria posted on the wall.

Mr. Wheeler presented the staff report. He explained that the partition itself did not necessitate improvements. Further improvements would be necessitated by development of Phase 2 of the Assisted Living Facility, mostly to S. Ivy Street. Phase 2 is in the southeast corner of the property, immediately south of the Phase 1 partition, which was previously approved. Staff amended Condition #5 to read: "Prior to **further development**, the applicant shall provide deed restrictions. . ." rather than providing deed restrictions with the minor land partition, as that was addressed in the conditional use permit regarding dedication and deed restrictions for park and open space for public use.

Regarding the sewer issue, Mr. Wheeler explained that further development would necessitate some kind of sewer improvement. Originally, the City was looking at extending the sewer from Pine or Redwood, down 13th, to Ivy and intercepting the Ivy line and diverting it. This was due to questions of capacity and a bottleneck down at Knott and Locust near Highway 99-E, as far as the actual capacity of the line. As it turns out, there is not adequate depth in either Pine or Redwood to be able to extend it to Ivy and intercept the line. The City also looked at making it part of Township Village 8 and a connection between 10th and Ivy, but there is not adequate depth there either. What is being reviewed now, independent of this development, as stated in the memo from Curt McLeod, is that there is the possibility of improvements at the Knott and Locust location and that it will adequately handle the HOPE project and other developments along S. Ivy Street. Therefore, the second sentence in proposed condition #8 should be deleted, Mr. Wheeler explained. Staff recommends approval with conditions.

Applicant

Jerry Barkman, 237 NW 2nd Avenue stated that he concurs with the staff report. Further, he stated that the plan for this 4.8 acre parcel is to develop 80 units of assisted living and 50 nursing units and everything will conform to the HOPE Village PUD. The applicant is requesting the partition in order to have clear title for that piece of land. The issue of the parks will be worked out before the Site and Design Review application is submitted. Construction is planned to begin prior to March 1997. The traffic signal issue at 13th/Ivy intersection has been resolved, with the City now having a project in place to install a traffic signal. With receipt of Curt McLeod's letter, the sewer issue is also resolved, Mr. Barkman added. He explained that although HOPE is leasing the land, it is being constructed to meet the requirements of the PUD. The first two phases are being developed now, on the southeast portion of the site so as to tie in with the main entrance to the village. The northeast corner of the site, at 13th and Ivy will be developed within 3-5 years, as the units are marketed and as funds are available to further develop the site.

Proponents

Bob Kaufman, 420 SW 6th Avenue, President, Board of Directors, stated that the ground breaking ceremony was very successful. A facility will be developed that the City of Canby will be very proud of. As the market dictates, the independent units will be developed, he added.

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

1. The Commission discussed the amendment to proposed condition #8. It was proposed that the second sentence be changed to incorporate the second to last paragraph of Curt McLeod's memo dated May 17, 1996, and add a sentence to read: "Such connection to be provided prior to project construction."
2. The Commission agreed to change the park requirement condition [#5] to read:
 5. As a part of the Site and Design Review application for further development, the applicant shall provide deed restrictions or other appropriate legal documents, to be reviewed and approved by the City Attorney, assuring park and open space for public use, as shown on the H.O.P.E. Master Plan dated July 8, 1991, on or about October 1, 1996.
3. The Commission agreed to include the analysis #2 on page 12 of the staff report in the findings to show that the City is not building R-1, low density residential development here, and that it was rezoned to R-1.5 to meet a critical need for senior housing that is affordable. The City is agreeable to increase density, where appropriate.
4. The Commission agreed to check with Mr. McLeod regarding sewer capacity to ensure capacity for the next phases of HOPE, and to assure adequate services for any other projects that might come in in the southeast or southeast quadrants of Canby. Mr. Wheeler explained that it was his understanding that the Ivy Street line would accommodate half of the HOPE project and the other side of Ivy Street,

with the remainder of that area to the east being accommodated by Pine and Redwood lines. The other half of HOPE would be accommodated by the line in S. Fir.

Based on the findings and conclusions contained in the staff report dated May 6, 1996, on testimony at the hearing, and on Commission deliberations, **Commissioner Schrader** moved to approve **MLP 96-02** 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, except where larger easements already exist or are proposed on the tentative plat.

2. The final plat shall reference this land use application - City of Canby, File No. MLP 96-02, 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. All monumentation and recording fees shall be borne by the applicant.

Notes:

5. As a part of the Site and Design Review application for further development, the applicant shall provide deed restrictions or other appropriate legal documents, to be reviewed and approved by the City Attorney, assuring park and open space for public use, as shown on the H.O.P.E. Master Plan dated July 8, 1991, on or about October 1, 1996.
6. The final plat must be submitted to the City within one (1) year of the approval of the preliminary plat approval according to Section 16.60.060.
7. Site and Design Review is required prior to any development of either of the partitioned parcels.
8. S. Ivy Street, south of the main entrance to the project, will need improvements, including utilities, with the development of phase 2 of the project. The construction of 1400 lineal feet of a 12-inch sanitary sewer line along S.E. 2nd Avenue, from S. Ivy Street to S. Locust Street shall be completed prior to construction of phase 2 of the H.O.P.E. project.
9. Parking for the assisted living facility and the Community Center shall be provided with the development of phase 2. It is not necessary that the parking be provided on the same parcel as that of the assisted living facility.

Commissioner Gerber seconded the motion and it carried unanimously.

IX. DIRECTOR'S REPORT

MLP 95-06 - The applicant is requesting that improvements on Township Road be extended from signing of the plat to occupancy of any of the vacant lots. The Commission agreed it should be accomplished prior to the signing of the plat, and agreed to leave the conditions as they presently stand.

DR 96-04 - Mr. Wheeler explained that Oregon Bag Co. plans to appeal the approval of their application with regard to the dedication of the right-of-way for S. Berg Parkway, believing there is no connection between the requirement and the development application. They will be basing their appeal on the Dolan Case. Mr. Wheeler explained that no new evidence can be provided supporting the connection and will, therefore, recommend that Council remands the application back to the Planning Commission, or delete that condition. Depending on the appeal dates, it is possible to run afoul of the 120-day rule. Mr. Wheeler further stated that if the Planning Commission reconsiders the application, reopens the hearing, and deals with the issue, even if it is appealed to Council, the 120-day rule could be met. While it is standard practice in Canby to require land to be dedicated for road improvements, it is staff's, and Mr. Kelley's, opinion that this requirement would not be upheld by LUBA, based on the Dolan case. With no expansion taking place at OBC, and no new employees added, the approval would be most likely overturned.

Commissioner Gerber moved to reconsider DR 96-04 on June 10, 1996. Commissioner Stewart seconded the motion and it carried unanimously. Staff will provide all background material on this application for Commissioner Keller to review.

X. ADJOURNMENT

The meeting was adjourned at 11:40 p.m.

Respectfully submitted,

Joyce A. Faltus