

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
May 13 , 1996
7:30 p.m.

I. ROLL CALL

Present: Commissioners Dillon, Stewart, Hartwell, Gerber, Ewert. Chairman Schrader arrived late and did not chair the meeting.

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, John Burgi, Diane Burgi, Carl Gardner, Marilyn Gardner, Bob Kauffman, Betty Faist, Gary Kuykendall, Jerry Barkman, Doug Poppen, Nathan Clayton, Laura Settler, 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

Commissioner Gerber moved to approve the April 22, 1996 minutes, as submitted. Commissioner Stewart seconded the motion and it carried unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

Commissioner Stewart advised the Commission he had conversations with the O.D.O.T. Director of Aeronautics, Mr. Hightower, who explained that O.D.O.T. is reviewing tall structures along major arterials in Oregon, of which Highway 99-E is one. The

department is coming out with a new rule that any structure greater than 80 feet in height will be required to have a rotating red light on it. Mr. Wheeler offered to contact Western PCS to relay this information.

Acting Chairman Ewert noted corrections on the letter to PCS: Latitude [north] and Longitude [east].

V. OLD BUSINESS

None

VI. NEW BUSINESS

None

VII. FINDINGS

DR 96-03- Highway 99-E Mini Storage

Commissioner Hartwell moved to approve the Final Order for DO 96-03, as submitted. Commissioner Stewart seconded the motion and it carried unanimously.

DR 96-04 - Oregon Bag Company [OBC]

Commissioner Gerber moved to approve the Final Order for DR 96-04, as submitted Commissioner Stewart seconded the motion and it carried unanimously.

VIII. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission decided not to hold the discussion of planning issues that is usually held at the first meeting of the month due to the heavy public hearing agenda.

IX. PUBLIC HEARINGS

SUB 96-01, *reconsideration* of an application by Pahlisch Duncan Homes [applicant] for approval to develop a 57-lot subdivision known as Tofte Estates I. The property is located on the south side of S.E. 13th Avenue, east of S. Ivy and west of S. Redwood Street [Tax Lot 2200 of Tax Map 4-1E-3].

Acting Chairman Ewert reviewed the hearing process and procedures. He asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site, but coming to no conclusions, there was none indicated. He then referred to the applicable criteria posted on the wall.

Mr. Wheeler reviewed the staff report briefly, as it was presented in its entirety at the April 8th hearing. The applicant is requesting approval of a 56-lot subdivision located on the south side of S.E. 13th Avenue, across from S. Pine Street. The matter has been reopened for reconsideration due to concerns about the signalization of the 13th/Ivy intersection, and the increased traffic that will be generated by the proposed subdivision. Mr. Wheeler referred to a memorandum from Michael Jordan, City Administrator, explaining that the signalization of the subject intersection is now scheduled, with a goal date of September 1, 1996. A meeting was held at the intersection in question with the County, the utility providers, the general contractors for the H.O.P.E. project, and the City, where time lines were discussed. The County will be coordinating the project, which will be funded by the City, and will be bringing in a design proposal for the intersection shortly.

Applicant

Mike Duncan, 15100 S.W. Cole Parkway, Beaverton 97006 expressed his pleasure with the facts presented in Mr. Jordan's memorandum. He explained that he had attempted to work with the County to have a 4-way STOP installed at the intersection. The most aggressive action that was taken, besides meeting with the County, was to submit a traffic engineer's study that justified a 4-way STOP at the intersection. With regard to the crosswalk on N.E 13th near Pine, he added that the applicant would be pleased to install the crosswalk, with the appropriate warning signage, in accordance with the conditions of approval, as discussed at the April 8th public hearing.

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

1. The Commission discussed the signalization. Mr. Wheeler explained that it would be a full-cycle signal for all four directions, with buttons at the crosswalk.
2. The Commission asked if the crosswalk on S.W. 13th, near Pine, was discussed at the meeting between the City, County, and service-providers. Mr. Wheeler explained that it was not included in the discussions between the parties. Mr. Duncan reiterated that he would install the crosswalk and that he felt it would be appropriate to place it close to the intersection of S. Pine and S.E. 13th Avenue, but that he would rely on his traffic engineer for the exact placement to ensure the safety of school children.

3. With regard to proposed condition #17, regarding the entry designation for the development, the Commission asked the applicant what design he planned for the entryway. Mr. Duncan explained that it has been his practice to build monumental entryways, paying strict attention to vision clearance and sight distance. Further, Mr. Duncan explained that a system has been developed whereby common areas are maintained perpetually, with funds generated through the project to do so. It includes irrigation systems for common areas, rights-of-way maintenance and improvement, replacement and upkeep of letters and numbers, etc.
4. The Commission discussed the fence issue between the agricultural area and residential area, which was originally proposed by staff. It had been previously agreed that since the owner of the agricultural land did not request such a fence, not to impose such costs on the developer. Mr. Duncan explained that the property to the east is under option to the applicant and would probably be developed in two years. The property to the west was retained by Mr. Tofte for his residence, and would not be farmed. Furthermore, Mr. Duncan stated that it is rare that a homeowner does not naturally fence his backyard. Should the applicant be conditioned to put all the fencing in, it would be very costly [\$35,000], thereby increasing the cost of the homes. Under normal circumstances, the CC&Rs enforce uniformity in fencing, offering the option between two styles of fencing that are very compatible.
5. Regarding proposed condition #21, the Commission discussed street trees. Mr. Wheeler explained that street trees are not an option and will be included in the CC&Rs so the property owners are aware of it. Depending on the timing, the developer will either plant trees or provide bonding to ensure they are planted.
6. The Commission debated whether or not to delete the wording in the proposed conditions relating to the signalization at the intersection. It was agreed to retain the wording under proposed condition #1, #2, and #3, as the intersection is not actually signalized at this time.

Based on the findings and conclusions contained in the staff report dated March 29th, on testimony and deliberations at the hearing of April 8th, on testimony at this hearing, and on deliberations at this hearing, **Commissioner Gerber moved to approve the Final Order for SUB 96-01, as presented by staff, with the following conditions:**

1. The subdivision's approval is contingent on the approval of the annexation of the property to be subdivided and dedicated. No construction approval, grading work, or plat approval shall be granted or permitted prior to the effective date of annexation.

For the Final Plat:

2. Twelve (12) foot utility and sidewalk easements shall be provided along all exterior lot lines. The interior lot lines shall have six (6) foot utility and sidewalk easements.
3. The final plat shall reference this land use application - City of Canby, File No. SUB 96-01, 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.
4. 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.
5. The street proposed as S. Pepperwood Lane shall be designated S. Pepperwood Street.
6. The prohibition of direct access onto S.E. 13th Avenue from lots 1-6, shall be stated on the final plat.

As a part of construction:

7. A pre-construction conference shall be held prior to construction. The pre-construction plans shall be reviewed and approved by the Canby Utility Board, the Canby Telephone Association, Clackamas County (S.E. 13th Avenue) and the City prior to the pre-construction conference. The City's review and approval shall be coordinated through the Planning Office. The construction plans shall include the street design, sidewalks, storm water, sewer, water, electric, telephone & cable, gas, fire hydrant location, street lights, and street trees.
8. A Street Construction and/or Encroachment Permit shall be obtained from the Clackamas County Department of Transportation and Development prior to road construction and/or work along S.E. 13th Avenue.
9. Any necessary utilities shall be constructed to the specifications of the utility provider.
10. The construction of the sewer system and street storm water system for the

subdivision shall meet the standards and specifications of the City for the local streets and the County for S.E. 13th Avenue.

11. All local streets shall be constructed to the City specifications and standards. The widening of S.E. 13th Avenue shall be constructed to the City and the County specifications and standards. The improvements shall include the street, curbs, sidewalks, street lights, and street trees.
12. Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," as used by Clackamas County, dated August 1991, and as revised.
13. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Public Works Supervisor.
14. The sidewalks shall be located against the curb, and shall be five-feet wide, including the curb. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width.
15. Street trees shall be planted along all streets. The type of street trees to be planted along all the streets shall be selected from the Recommended Street Tree list. The trees shall be a different variety for each street. The number of street trees to be planted shall be in accordance with the recommended spacing for the selected tree. The trees shall be planted eleven (11) feet from the street curb, and shall be 2" in caliper.
16. A pedestrian crossing of S.E. 13th Avenue at the intersection of S. Pine Street, shall be provided, in accordance with County road standards. It is suggested that a cross walk, with school crossing signage and speed limit controls be implemented for this pedestrian crossing.
17. If there is some kind of entry designation for the development, it shall not include gates, or other means of restricting either pedestrian or vehicular traffic.

Prior to the signing of the Final Plat:

18. The developer shall offer to the County means of further controlling traffic at the intersection of S.E. 13th Avenue and S. Ivy Street. The suggested means of traffic control shall include, at a minimum: a 4-way stop, reduced speed limits to the south of the intersection, warning signage for the S. Ivy Street approaches to the intersection, and possibly "rumble warning strips" near the north-bound approach

to the intersection. The offer shall be documented. A total period of not less than thirty (30) days shall be allowed after the offer, for Clackamas County to respond.

19. The subdivision development fee, as provided in the Land Development and Planning Ordinance Section 16.68.040(G), shall be paid.
20. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.
21. Included in any Covenants, Conditions, and Restrictions filed with the subdivision, shall be wording that states that street trees are permitted, and will be planted, within the utility easement along the street frontage. If no other CC&R's are filed with the subdivision, then this wording shall be filed individually. A copy of the CC&R's to be filed with the subdivision shall be submitted to the City Planning Department with the Final Plat prior to the signing of the Final Plat.
22. One of two options shall be fulfilled for the planting of street trees prior to the signing of the final plat: Option 1, a contract, with a licensed landscape contractor, shall be executed, and the contract shall include the City as the contractee; Option 2, the developer shall pay the City \$11,715 for the 71 trees to be planted (\$165 a tree). If option 2 is chosen, the City becomes responsible for the planting of the street trees.

After construction:

23. "As-built" drawings shall be submitted to the City within sixty (60) days of completion.
24. Garages shall be set back a minimum of nineteen (19) feet from the back of the sidewalk. The distance shall be measured from the closest edge of the sidewalk at the driveway.

Additional Notes:

25. The final plat must be submitted to the City within one (1) year of the approval of the preliminary plat approval according to Section 16.68.020.
26. The approval will be null and void if the final plat is not submitted to the County within six (6) months after signing of the plat by the chairman of the Planning Commission (Section 16.68.070).

27. Prospective property owners shall be notified of the permitted agricultural uses on the adjacent fields.

Commissioner Hartwell seconded the motion and it carried unanimously [5-0].

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 Annex 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].

Acting Chairman Ewert asked if anyone in the audience was not present when he reviewed the hearing process and procedures. There was no response. He again referred to the applicable criteria. Commissioner Ewert asked if any Commissioner had ex-parte contact or conflict of interest. Commissioner Gerber explained that Mr. Kleinman was retained as the attorney for the Quality of Life Committee, which he chaired, during the appeal of the Transfer Station application. No one in the audience had any questions or concerns for Commissioner Gerber, nor did the applicant. Other than visiting the site, but coming to no conclusions, no ex-parte contact or conflict of interest was expressed.

Mr. Wheeler explained that the applicant is requesting approval for a twenty-three (23) lot subdivision. The subdivision includes the extension of N. Maple Street and the construction of N.E. 35th Place. The proposed lots will vary in size from 7,300 square feet to 13,300 square feet.

He reviewed the history of this application, explaining that there was a previous subdivision application proposed for this property in 1994 [SUB 94-02]. The original application was denied by the Planning Commission on June 13, 1994. When appealed, the City Council, on July 20, 1994, remanded the application back to the Planning Commission for reconsideration, specifically regarding adequacy of school capacity. Under the reconsideration hearing on September 26, 1994, the Planning Commission approved the application, which was then appealed to the Council. On December 7, 1994, the Council decided to overturn the Planning Commission's decision, but before the Final Order was approved and signed, the applicants withdrew the application [on January 3, 1995]. Therefore, **officially**, this previous application was **withdrawn**, not denied. The main issue under consideration by the Council was pedestrian safety on N. Maple Street, Mr. Wheeler explained. Mr. Wheeler explained that the main reason for the Council's action and decision was based on pedestrian safety on N. Maple Street.

A grading permit, BP #4976, was issued on April 3, 1995. Although the grading work has been completed, the City has received no notice of completion or any final reports

which are necessary in order to complete the requirements of the building permit and to comply with Uniform Building Codes. Final reports must include the daily inspection reports, civil engineer's report, the soils engineer's report, the engineering geologist's report, and information regarding off-site disposal of excess organic material and the disposition of rock material with maximum dimensions of greater than 12 inches. The site plans for the current application indicate the topography of the site after the grading was done, Mr. Wheeler added.

Mr. Wheeler explained that the Montecucco farm's current storm water line will be redirected into the development's storm water system, and then taken out to the Willamette River, providing more efficient disposal of the storm water runoff. The storm system will be sized to handle a 10-year, 24-hour storm, as is done in stormwater engineering calculations, which is standard in road practices as far as culvert sizing goes. To allow the best drainage possible, especially during times of high runoff and when the Willamette River is high, a backflow prevention device at the outflow of the storm water system will be required, and oversizing the subdivision storm water pipes will allow some storage capacity for storm water during the times that the Willamette River is running high. [The storm water lines should be oversized to be able to store the runoff from the subdivision and the approximate 200 acres of the Montecucco Family Farms fields that drain into the system during a 10-year, 24-hour storm.] The water line for the subdivision is being extended from the end of N. Maple through the subdivision and is proposed to be terminated at N.E. 35th Place in the cul-de-sac. The Canby Utility Board requests that it be looped and connected into N.E. 34th Place, which is included in the proposed conditions, if the subdivision is approved. An easement will be needed for the storm water line crossing the Logging Road. The sewer line for the subdivision will be taken to the Logging Road and then down to the existing pump station at the southeast corner of Country Club Estates #3 on N.E. 34th Place.

Mr. Wheeler explained that, currently, all of the area north of N. Maple Court only has one access for emergency vehicles, on N. Maple Street. If the subdivision is approved, staff is proposing a second emergency vehicle access easement across the Logging Road to Territorial Road, which would serve this subdivision and the remainder of N. Maple Street.

A traffic study regarding the volume on N. Maple was submitted. It included suggestions for addressing pedestrian safety on N. Maple. A substantial change from the original application, is the proposal of a walkway from the subdivision to N.E. 34th, along the west side of N. Maple, toward the farm field. This would be accomplished by extending the asphalt surface of N. Maple another 5 feet to the edge of the right-of-way and setting up plastic bubbles as a site divider. The Planning Commission would have to decide whether this proposal sufficiently meets the concerns raised about pedestrian safety by the City Council, which are found both in the Comprehensive Plan and Zoning Ordinance.

Regarding concerns raised by the Montecucco family about impacts of the development on their farm to the west, Mr. Wheeler stated that the following conditions were requested, if the subdivision is approved: a fence be constructed along the western property line prior to construction with specifics about the fencing; that the access to the farm field from N. Maple not be impeded by the walkway; that erosion control from the subdivision to the farm field be handled appropriately so that the farm does not have excess sedimentation on their property; that no rocks or gravel end up on the farm as a result of subdivision construction [which includes the walkway going down to NE 31st Place]; that fill on the subdivision site not to exceed the existing grade or 85 feet, whichever is greater; and that the stormwater system handle the 200 acres that drains to the catchbasin, as it currently does.

Regarding the solar ordinance, staff determined that lots 8, 11, 14, 15, 19, and 21 do not meet the basic solar access standard and that the use of a protected solar building line will be feasible for these lots. Once this is accomplished, the subdivision will be in compliance with the Solar Ordinance, as 19 of the 23 lots will meet one of the standards for solar access for new developments. Lots with the protected solar building lines will have a minimum of a 50'x50' buildable area, away from standard setbacks and solar protected building setback line, with at least one of the dimensions being greater than 50 feet. With this accomplished, at least 80% of the lots will meet the ordinance requirements for new developments through the solar building line or the basic standard.

With regard to the wetland issue, Mr. Wheeler stated that there is a 1 acre area that contains 2 small wetlands, which were specifically designated as such by the Army Corps of Engineers. The Corps has stated that these wetlands could be filled, but mitigation would have to be provided, usually in placing wetlands elsewhere. A letter from the Corps indicates they would prefer that the wetland areas be left undisturbed, which means that actual maintenance would be minimal. Mr. Wheeler further explained that the wetlands are not recognized in the City's Comprehensive Plan, but that it might be appropriate that the City obtain ownership. The applicant is proposing to retain the wetlands and some area around the wetlands. Staff recommends, should the Commission approve the application, that a 15 foot building setback around the wetlands be conditioned, with the exception of the road placement, to protect it from encroachment. Staff suggests that during construction activity, a sedimentation and construction barrier be erected so there is no intrusion into the wetlands. The applicant does not indicate whether Tract "A" will be dedicated to the City or retained as part of a homeowners association.

If the subdivision is approved, staff has proposed conditions be attached.

[Commissioner Schrader arrived at 8:35 p.m. Acting Chairman Ewert asked if Commissioner Schrader had a conflict of interest or ex-parte contact. None was indicated.]

Questions of staff:

1. The Commission questioned a statement made by the applicant's engineer, who stated [in a letter] that the "recent street inventory classifies the pavement condition from the Country Club entry to the cul-de-sac as poor to very poor with a small section that is fair." and asked how it pertains to this application. Mr. Wheeler explained that, according to the Transportation Plan, it is the City's responsibility to upgrade N. Maple. N. Maple can either be designated, because of its condition, for no further development, or the City can improve it. However, because there is concern that the condition of N. Maple might be worsened with further development, Mr. Wheeler could not speculate whether City Council considered that as sufficient reason to deny the application.
2. The Commission asked whether there would be a videotape made of the road condition prior to construction and afterwards, to ensure the road is brought back to the present condition. Mr. Wheeler explained that at the previous hearings for this subdivision, there was concern about the condition of N. Maple deteriorating further as a result of subdivision construction activity. It was proposed that the road be videotaped and after construction, the road be reviewed to ensure that any degradation be repaired. Mr. Wheeler pointed out that this action would not necessarily improve the condition of the road, and that it was subject to the Public Works Department review of the street.
3. The Commission discussed the result of the soils reports, and asked staff what would happen if the reports were not favorable. Mr. Wheeler explained that if the soils were not suitable for building a structure on, they would have to be removed and replaced and that a permit was required to move and replace 50 cubic yards or more of dirt.
4. The Commission discussed the walkway, with regard to the Montecucco's moving heavy equipment over it. Mr. Wheeler explained that the way it was proposed, it would permit the moving of heavy equipment over the walkway to and from the site on N. Maple.
5. Regarding drainage from the rear of the lots that back to 34th Avenue, Mr. Wheeler explained that a tile drain has been installed.
6. Regarding emergency access from the Logging Road, Mr. Wheeler referred to a letter that was included with the staff report [Exhibit 3], expressing concern that a fence be constructed along the eastern border of the subdivision property, which staff has included in the recommended conditions of approval, should the application be approved. With the installation of the fence, Caffall Brothers anticipated no further concern with granting the necessary easements for

emergency access to this development.

7. Regarding ownership of the wetlands, Mr. Wheeler stated that the applicant would address this issue.
8. The Commission discussed the letter from the Army Corps of Engineers encouraging vegetative enhancement around the wetlands.
9. The Commission discussed the lack of input from the school district, the Canby Utility Board, or the Police Department. Mr. Wheeler related that he had a conversation with C.U.B. regarding the water line that they requested to be looped.
10. With regard to the trees on the subject site, Mr. Wheeler explained that the applicant did not retain an arborist or submit an actual tree retention plan. Other than the trees that would be removed in order for development of the subdivision, the remainder would be reviewed as the applicant requests removal.
11. Mr. Wheeler explained that Lots 1, 9, 10, 16, 17, 18, and 20 meet the basic solar standard requirements. Lots 2, 3, 4, 5, 8, 11, 12, 13, 14, 15, 19 and 21 would utilize the protected solar building line to meet the solar ordinance requirements. Lots 6, 7, 22 and 23 do not meet the solar ordinance. The overall subdivision, 19 out of 23 lots, comply with the basic standards or one of the options for solar access for new development lots, which is more than 80% and, therefore, meets the requirement.

Applicant

Doug Sprague, 641 NE 22nd stated that the current application has reduced the number of lots being requested is two less than the previous application, which should comply with the Solar Ordinance requirements. Further, he stated that the applicant has installed backyard drains to drain the lower areas on the south. The fences that Caffall Brothers requested to be installed along the eastern portion of the development abutting the Logging Road are now included in the plan, he added. With regard to the deterioration of N. Maple, Mr. Sprague discussed the issue of using N. Maple to bring in fill. Because it appeared to be so contentious an issue, the applicant secured permission from Caffall Brothers to bring fill in via the Logging Road and, therefore, N. Maple was not used. The fill activity is a building construction issue and a certain criteria must be met in order to build on a lot. During the fill process, Carlson Testing, a Soils Engineering firm, monitored the fill progress. No report has been issued yet, as there is still some areas to be filled. All the lots on the entire site have been reviewed, tested, and approved by Carlson, as buildable. The pathway, Mr. Sprague explained, will serve to benefit the proposed subdivision and existing surrounding properties. The site distance on N. Maple

is so good that walkers feel very safe using the street, he added. Mr. Sprague reiterated that Caffall Brothers have agreed to issue the easements for emergency access over the Logging Road. Additionally, the sanitary sewer line that was originally designated to run through two of the lots, will be run on the Logging Road instead, as the applicant has reached such agreement with Caffall Brothers. The lot line will, instead, be used for the water line requested by the Canby Utility Board.

John Middleton, 3737 SE 8th Avenue, Portland submitted a handout that referred to various proposed conditions of approval. Regarding proposed condition #4 [solar ordinance], Mr. Middleton stated that the protected solar building lines shall be shown on the plat for Lots #2-5, 11-14, 19, 21 and 23. Regarding Lot #18, Mr. Middleton stated that fill should not be limited to 85 feet. He stated that the level of the fill on the site has no effect on adjacent properties; that the higher the ground is, the greater the factor of safety for future buildings; and that when the Willamette River is high, runoff is backed up to the river level. Therefore, he requested that proposed condition #18 be deleted. The storm water system shall be designed to include a line capacity that is large enough to carry storm water runoff from both the entire subdivision and the Montecucco family farm property. At the present time, there is a 12 inch pipe that takes the surface runoff from the farm to the existing system, but the new pipe will be 30 inches and carry a 10 year storm runoff, he explained. Regarding proposed condition #21, Mr. Middleton requested that the references to "road" be changed to "walkway." He explained that the proposed walkway slopes back toward the street to avoid draining to the farm and that future street construction would slope the other way, and that the proposed walkway is not a road. Furthermore, Mr. Middleton explained that Country Club Estates #3 has a 30 foot right-of-way with a 5 foot dedication off the property line. With this present application, 5 feet behind the curb line would mean tearing into peoples' property. With regard to proposed condition #27, two changes were requested. Mr. Middleton stated that because 25 trees meets the criteria for street trees, that the dollar amount be revised to \$4,125 and the number of trees, from 112 to 25.

Frank Charbonneau, Traffic Engineer, stated that the proposal with the shoulder walkway does not affect the parking situation on the other side of the road and, therefore, the parking can be retained. Furthermore, Mr. Charbonneau stated that after checking with the police department, zero accidents have been reported north of Territorial on N. Maple.

At 9:00 p.m., acting Chairman Ewert noted that, due to the lateness of the hour MLP 96-02 - H.O.P.E. would not be heard, and would be rescheduled to the May 20, 1996 Special Meeting, where it will be the second item on the Public Hearing portion of the agenda.

Proponents

Ed Sullivan, 111 S.W. 5th Avenue, Suite 3200, Portland 97204 stated that he was representing Montecucco Farms, who initially opposed the original application because of the negative impacts on its working farm. After the issues were resolved, the applicant withdrew the application. After reviewing the original concerns against the current application, certain conditions have been recommended which, if included, the Montecucco family would withdraw opposition. If the proposed conditions, as outlined in the staff report, remain in tact, with the revision of the 10-year storm condition, the Montecucco family will not oppose the application. The following conditions have been recommended, which respond to the Montecucco family's concerns:

1. Mr. Sullivan explained that the farm lies outside the Urban Growth Boundary, and the Montecucco family anticipates problems with the residential use right across from the working farm. Due to bad experiences with people driving across the farm fields, especially having a truck bringing fill to the subject site being stuck in the field, the Montecucco family is requesting that a six-foot high chain-link fence be constructed, with posts set in concrete, on the western property line, so the agricultural use of the property is not harmed by the applicant's residential use. The specifications have been outlined in staff's proposed condition #8.
2. Mr. Sullivan explained that the Montecucco family is concerned with the level of fill on the subject site, as it affects the level of flooding on the farm, particularly with the changes made to the grade pattern in the area by the fill. The Montecucco family is requesting that no further fill be placed on the site, or, as a maximum, that the level of the site not exceed 85-feet above mean sea level. Staff's proposed condition #18 meets this concern. The applicant requested removal of this condition during his testimony and, if it is removed, the Montecucco family will oppose the application because the fill will cause water to back up onto the farm property and the outflow, in the event of a major flood, may affect the way the field operates. Further, if the condition is removed, Mr. Sullivan stated he would request a 7-day continuance to respond.
3. Regarding the drainage, Mr. Sullivan stated that the farm now drains naturally. Changes in drainage patterns would cause water to back up and flood the farm fields. The fill that was added to the subject site has caused water to remain on the farm field this winter - not the result of the flood of February, 1996. As a result, Mr. Sullivan asked for a condition by which a drainage line able to drain at least 200 acres, would be installed. Staff's proposed condition #19 meets this concern.
4. There is concern that fill on the property will cause destabilization of the drainage pattern through erosion. Staff's proposed condition #9 states that no such destabilization or erosion will occur on the western property line at the western slope, and that condition appears to adequately meet this need.

5. The Montecucco family still is concerned whether or not there is enough land available on the eastern side of N. Maple to accommodate a pedestrian walkway. Mr. Sullivan stated he wanted to make sure there is enough right-of-way to accommodate both the road function on N. Maple, as well as the pedestrian walkway.
6. Mr. Sullivan stated that the Montecucco family seeks assurance from the applicant that the farm vehicles can cross the pathway in three specific places in order to access the farm.
7. Mr. Sullivan asked for assurance that gravel and rocks used in construction do not get into the farm fields, thereby harming the farming operations, as a result of construction. Proposed conditions #21 and 35 satisfy that concern.
8. In looking at the application, the Montecucco family is satisfied with the backflow prevention device that is being proposed.

Steve Montecucco, 4015 N. Locust stated that in 1964 his property and the subject site were all under water. Since then, a small dyke was built in the State park which kept the water from flowing through the farm in February, 1996. Mr. Montecucco stated that he is concerned that if another flood, similar to 1964, occurred, water would back up behind the fill and flood his property very severely.

Opponents

Jeffrey Kleinman, 1207 S.W. 5th, Portland stated that he is the attorney for "Friends of N.E. Maple," who oppose the application. He explained that the present application consists of two less homes than the original application of 1994, and that his clients have the same concerns as before. The addition of the pedestrian walkway does little to alleviate those concerns, he added. He reviewed the City Council's findings from the original 1994 application, which was eventually withdrawn in January, 1995. Mr. Kleinman stated that the issues which originally concerned City Council or his clients, have not been significantly addressed in this application. In fact, he added, the new application presents a potential safety problem that did not exist previously. The applicant presented a traffic study which measures the level of service at the intersection of N. Maple and Territorial, but does not address the additional traffic which would come from the new development and threaten the bicyclers and pedestrians even more. The "Friends" believe the addition of a pedestrian pathway is merely a band-aid solution to the current problem. He reviewed the Council's concerns about the condition of N. Maple, along the entire length from NE 23rd to NE 34th. N. Maple narrows to 20 feet from NE 31st to NE 34th, which is hazardous in itself, with out any increase in traffic at all. In trying to solve the Montecucco family's concerns about farm access, Mr. Kleinman stated that the walkway does not provide a separated right-of-way with the little plastic bubbles, from which no pedestrians would gain any sense of security if cars pass one another, or a parked car. The situation is particularly unsafe for youngsters, he added. Further, he questioned the mix of bicyclists and pedestrians on the narrow path, adding that people will be forced out into traffic, creating additional hazards. The easement for emergency access across the Logging Road will create another false sense of security for the residents because the road will have 3 locked gates, because by the time an emergency vehicle arrives, time is lost opening the gates. This circumstance does not comply with the Comprehensive Plan Policy #6.

Mr. Kleinman then reviewed the City Council's findings:

1. That N. Maple, north of NE 23rd, is a half-street with only an 18-20 foot roadway, with no shoulder, no sidewalks, with parking allowed on one side. With cars parked on one side, Council found severe bottleneck conditions would develop.
2. The Council found that the proposed development will result in a significant increase in vehicular traffic, with no improvements to the road conditions.
3. Mr. Kleinman pointed out that Z-Tec, the current applicant, pointed out during the previous application, that the City's street inventory classifies the pavement condition all the way from the Country Club to the cul-de-sac as "poor to very poor" with a small section that is rated as "fair." Under the City's Transportation Plan, this street is also rated as "poor."
4. He referred to the Comprehensive Plan Land Use Element Policy 3 that "Canby shall discourage any development which shall result in overburdening any of the community's public facilities or services," adding that based on this, the application does not comply with the Comprehensive Plan.
5. At the time the Comprehensive Plan was approved, the City realized there was a need to improve N. Maple. The Urban Growth Element states that "a strip of land under 150 feet in width has been included [for Urban Growth Expansion] on the west side of N. Maple Street to encourage the eventual expansion of the "half-street." The land is not available for the developer to bring it to full street width, he added. Further, Mr. Kleinman referred to the Comprehensive Plan's Transportation Element, Policy #1, which requires that Canby will provide necessary improvement to City streets in an effort to keep pace with growth. He added that the Transportation Element, Policy #7, states that Canby shall provide appropriate facilities for bicycles and other slow-moving energy efficient vehicles, and the opposite effect is created with this application.
6. The regulations concerning land divisions that are supposed to encourage the well-planned divisions of land, while preventing land division with high future costs to those who will occupy the land, their neighbors, and the City as a whole, under Section 16.56.010, have not been met because the costs to the neighborhood are extreme.
7. The Transportation Systems Plan which has been adopted by the City, indicates that N. Maple is a collector street between NE 10th and the dead end. He pointed out that where N. Maple narrows for approximately 1/4 mile, to the dead end, is only 20 feet, making it the narrowest collector in the City. He added that, according to the Plan, even the wider portion of N. Maple should be widened to full, three-lane collector standards with sidewalks between Territorial and NE 21st. Furthermore, according to the Transportation Plan, N. Maple, in no way, meets the standards for a collector street. He pointed out that the applicant's proposal fails to comply with the Transportation Systems Plan and cited the reasons for the failure.

Mr. Kelinman stated that staff indicates that Caffall Brothers closed the mill and the boom site has been deemed surplus and that there is a possibility the boom site could become a recreational facility, which would add traffic to N. Maple Street. Such additional source of traffic has not been

addressed in the traffic study, he added. Mr. Kleinman requested that the application be denied.

Mark Crorey, 925 NE 34th Place expressed concern for the safety of children, and other pedestrians, on N. Maple Street. Mr. Crorey pointed out that cars are always parked on N. Maple, and the difficulty another car has when it tries to pass a parked car, especially when people are walking dogs. Mr. Crorey referred to Section 16.86.010(7), street widths, pointing out that N. Maple is not in compliance with the current Ordinance requirements or standards. He pointed out that if this application was approved, the Planning Commission would be ignoring the compliance issue and permitting the condition to intensify. Further, Mr. Crorey pointed out that the application is not in compliance with Chapters 16.62.020, with regard to inconveniencing others, with Chapter 15.56.010(1) and (8), specifically because there are costs that would be incurred by citizens with regard to safety, with regard to increased inconvenience, increased drive time, costs of maintenance of additional facilities, and unknown costs with regard to maintaining the sewer after it has been dedicated back to the City; Section 16.08.010, with regard to an extension of a variance condition that had been issued in the past to develop Country Club Estates #3. The proposed 5-foot pedestrian way does not meet the criteria set forth in Section 16.64.030, he stated. Mr. Crorey stated that since grading is a building and construction issue, the applicant should not have been granted the authority to do so, in anticipation of developing a site, without development approval. With regard to the traffic study, Mr. Crorey stated it contained an unsubstantiated conclusion " that the width of Maple Street is less than optimum, but more than adequate for current projected traffic volumes," as the evidence is based on a one-day sample, which is not statistically valid. Additionally, Mr. Crorey read a letter from a neighbor who resides at 830 NE 34th Place, who stated he had delays of between 10 and 40 seconds during the period of time he goes to and returns home from work [6:00 a.m. and 3:00 p.m.]. The staff report does not compare the density of this development to others, or take in account where this particular development is located, or the road access.

Revaleen Smith, 2700 N. Maple Court questioned why the traffic report was conducted in November, when people were not golfing and traveling to the golf course for a tournament, which is a high usage time. During that time, in the summer, N. Maple is a very dangerous narrow street, she added. Many people use Maple Court to avoid using Maple Street, Ms. Smith stated. She added that the traffic on Maple Street early in the morning is very heavy, with people walking to Territorial to catch a bus. No development should be permitted in the area without N. Maple being improved prior to an approval.

Russ Langridge, 1947 N. Maple Street stated that he is a new resident in the area and, from the onset, has observed that N. Maple as a very busy street, especially for a low density area. Before new development is added, he suggested that N. Maple be brought up to standards. Mr. Langridge concurred with the Comprehensive Plan, where one of the objectives is to discourage development which would result in overburdening an area.

Bernie Van Houten, 950 NE 34th Place stated his concerns: that people use N.E. 34th to access the Willamette River which increases traffic in the area; that the Logging Road gates are locked for security purposes; and that the fence on the Logging Road should be extended so that NE 34th would not be a channel for people to cut through.

CONTINUED TO MAY 20, 1996 at 7:30 p.m.

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]. **Rescheduled to a special meeting on May 20, 1996.**

IX. DIRECTOR'S REPORT

Mr. Wheeler introduced the new assistant planner, Larry Vasquez.

The tree issue at Village on the Lochs was discussed, with regard to a 36-inch diameter Fir tree that remained after the house was sited. Mr. Wheeler explained that the tree is dying, due to fill placed around the root area when the property was graded, and will need to be removed. To remedy this situation, an arborist, paid by the developer, but hired by the City, could look at each lot with questionable situations, to suggest proper grading procedures in the future. On Lot 418 there are four clumps of Big Leaf Maple trees, a house has been sited with no problems, and the owners are requesting that the trees be removed. Another lot would have difficulty siting a home with a garage without removing some of the clumps of Big Leaf Maple trees. The Commission discussed the original tree retention plan, which was part of the conditions, when approved. Mr. Wheeler explained that where people are requesting permission to remove trees, they are proposing to replace many of the trees. The Commission agreed that the manager should review the existing tree population with an arborist.

Mr. Wheeler explained that Dave Eby [MLP 95-06] was requesting that the improvement conditions not be required at the time of signing of the plat, but prior to any occupancy of any development of any of the lots, specifically on Township Road. Mr. Eby is working on a potential multi-family use for one of the lots. Commissioner Schrader requested that this discussion be held over to May 20th, so he could review the application.

Mr. Wheeler explained that May 13 is the deadline for any appeal of the LUBA decision of the Transfer Station. Commissioner Gerber explained there would be no further appeals.

X. ADJOURNMENT

The meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Joyce A. Faltus