

**MINUTES**  
**CANBY PLANNING COMMISSION**  
Regular Meeting  
July 14, 1997  
7:30 P.M.

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**I. ROLL CALL**

**Present:** Chairman Ewert, Vice-Chair Stewart, Commissioners O'Shea, Tallman, Prince and Keller.

**Staff:** James Wheeler, Planning Director; Clint Chiavarini, Intern; and Joyce Faltus, Secretary

**Others Present:** Jerry Barkman, George Wilhelm, Richard Greer, Wayne Scott

**II. MINUTES**

The minutes of June 23, 1997 were held over to July 28, 1997.

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

None

**IV. FINDINGS**

**DR 97-03 - Les Schwab**

Commissioner Stewart moved to approve the final order for DR 97-03, as amended to indicate that the Commission "recommends" that when the buildings need repainting, they are painted in a more subdued color scheme. Commissioner Keller seconded the motion and it carried unanimously.

**ANN 97-02 - City of Canby**

Commissioner Prince reiterated his opposition to the annexation of the Logging Road as being untimely. He added that rather than annex the Logging Road to facilitate the Transportation Plan, it is more to facilitate expansion of property that will be annexed for the future phase 3 plan for the industrial park. Further, he expressed the need for a signal at Redwood/Highway 99-E before phase 3 begins.

Commissioner Keller moved to approve the final order for ANN 97-02. Commissioner O'Shea seconded the motion and it carried 5-1, with Commissioner Prince voting nay.

**MLP 97-04 - Moir**

The Commission discussed condition #17, wherein the need for a fire hydrant would be determined by the Fire Marshal. Mr. Wheeler explained that he spoke with the Fire Marshal and there does not appear to be a need for an additional fire hydrant as suitable distance exists to provide hydrant service to the site. The Commission agreed to retain condition #17. Commissioner Stewart moved to approve the final order for MLP 97-04, retaining condition #17. Commissioner Prince seconded the motion and it carried unanimously.

**V. PUBLIC HEARINGS**

**DR 97-04**, an application by H.O.P.E., Inc. for Site and Design Review approval to construct a 50 apartment, 2-story wood framed apartment building, which will also include a lobby, laundry facilities, and recreation space. The site is located on the west side of S. Ivy Street, south of S.W. 13th Avenue [Tax Lot 800 of Tax Map 4-1E-4D].

Chairman Ewert reviewed the hearing process, procedure and format. He referred to the applicable criteria posted on the wall and on page 2 of the staff report. When asked if any Commissioner had ex-parte contact or conflict of interest, except for visiting the site, but coming to no conclusions, none was expressed.

Clint Chiavarini presented the staff report. He explained that this application is phase 3 of the HOPE Village project. This phase of the project will consist of a 2-story 46,512 square foot, 50-unit elderly living apartment building on lot 8. Lot 8 is located in the southwestern corner of the project. The project meets or exceeds most of the criteria, as rated on the design review matrix, for a total of 75.6% of the total points (minimum is 65%). The architecture will be similar to the currently existing garden homes with similar roofs and siding. Public facilities and services are, or will become, available to the site. The applicant has indicated that the primary sanitary service will come from S. Fir Street, extended from S.W. 13th Avenue. With this phase, 65 parking spaces are required and are being proposed. The applicant is proposing 37.2% landscaping, 7.2% more than is required. Ten trees are required for the parking area and 22 are proposed. Due to the layout of the project, a small grove of 65 year old hazelnut trees must be removed.

**Applicant**

**Jerry Barkman, Executive Director of HOPE, 137 N.W. Reed Lane, Dallas, Oregon 97338** stated that the H.O.P.E. project is a low income housing project, the purpose of which is to provide month-to-month rental units for individuals with medium income or exceedingly low income. H.O.P.E. secured federal tax credits through the Oregon

Housing Agency for the proposed Cascade House, which will be a 50-unit apartment building for low income seniors, (62) years of age and older. A market study showed that well over 500 low income units are needed in the Canby area, he added, and this project only provides 10% of that number. Most of the seniors that were found to need the low income units are in the Canby-area and do not want to live independently any longer, especially those in the outlying areas. The project will remain in the low income housing market for 40 years, he added, which is contracted with the State, as part of the application process. The proposed Cascade House, he explained, will be located on lot #8 of the subdivision. The corridor to the west, he added, is designated to provide street access, as required by City code for subdivisions. At the present point, HOPE is proposing to provide the second entrance for that project using the Holly/13th Avenue exit, due to economics. To improve S. Fir, from SW 13th to the south end of this project, Mr. Barkman explained, would cost well over \$150,000. Given the type of financing and the type of paybacks, because the project is geared to the low income, would make such improvement impossible. The applicant believes there is adequate access via the front access on S. Ivy, as well as Cascade Drive, which end up on S.W. 13th, and which all be well drained, with curbs and streets. Cascade House, he explained, was designed to be compatible with the existing garden homes, using the same materials and colors for the siding and roofing. Additionally, Cascade House will be about half the size of the Assisted Living Facility, which is presently under construction. The back part of the Cascade House, which is a completely independent living facility, will include a covered pavilion, a barbeque, and garden plots which will be irrigated from the well. The 1-bedroom bath apartments are 650 square feet and all appliances are included. Four of the fifty units are 2-bedroom/2-bath units, he added, and there will be an on-site manager. He explained that: all apartments have outside access, there is an elevator in the main lobby, the lobby has a sitting area, mailboxes are in the lobby, and there will be a full-time receptionist. Additionally, an activity room is included, which has a small kitchenette, to hold group meetings and family gatherings. To provide laundry facilities, a laundry room is included on each floor. Finding that the wheel stops are now part of the City code, the applicant has no objections to installing them, he added, although they were planning to use the rollover curb rather than a step curb.

**Proponents**

None

**Opponents**

None

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

1. The Commission discussed the condition of S. Fir Street and asked whether or not access will be taken to and from S. Fir. Mr. Wheeler explained that although the lot configuration and project goes out to S. Fir, there will not actually be any access or development out to S. Fir. Additionally, Mr. Wheeler explained that, technically, the 20 foot paved S. Fir is a County road in poor condition
2. The Commission discussed access to and from the site. Mr. Chiavarini explained that there is primary access onto S. Ivy Street and secondary access to S.W. 13th Avenue.
3. The Commission discussed the minor land partition, which included the piece of land going out to S. Fir from this parcel. Mr. Wheeler explained that the purpose was to have fee title access for the parcel from a public road.
4. The Commission discussed movable planters, and whether they were part of the landscaping plan. Mr. Chiavarini explained that he described the shrub area as being movable planters, but, actually, they are permanent and stationary.
5. The Commission discussed staff's proposed condition regarding wheel stops. Mr. Chiavarini explained that although he had not discussed this issue with the applicant, he understands that it is a standard condition of approval.
6. The Commission questioned the rent structure. Mr. Barkman explained that there are 9 apartments that are set aside for people whose income is 40% or less than the average medium income, and would run \$315. per month. The standard income range goes as high as 55% of average income.
7. The Commission discussed the numbering system for the homes and buildings. Mr. Barkman explained that staff has a numbering system in place for the entire HOPE Village, which tries to clearly identify each building. All of HOPE Village will have a S. Ivy address, with different numbers for the buildings. The numbering system will be reviewed with both the Fire Chief and Police Chief.
8. The Commission discussed the hours for the on-site manager. Mr. Barkman explained that the on-site manager will have one of the larger apartments, but is not actually an employee of HOPE Village, but of the management company who trains the person. Once the Community Center is completed, there will be a HOPE office next door to it and if assistance becomes necessary, it will be available there also.
9. The Commission discussed the third access, the crash gate at the south end of the Assisted Living Facility and agreed it was an entrance/exit only for emergency purposes. Once S. Fir is improved, there would be four access points.

10. The Commission discussed the linear park along the edge of the project. Mr. Barkman explained that the agreement for the linear park is a legal easement which calls for a park all along the outer edge of the site and each phase of the project will provide its piece of the park. Mr. Barkman further explained that HOPE Village would like to develop 10-15 RV parking spaces on the southwest corner of this lot, abutting S. Fir.

Based on the findings and conclusions contained in the staff report dated July 3, 1997, on testimony at the July 14 hearing, and on Commission deliberations, **Commissioner Prince moved to approve DR 97-04 with the following conditions:**

**For the Building Permit Application:**

1. A detailed landscape construction plan shall be submitted with the building permit. The detailed landscape plan shall show: the number of plants, plant spacing/location of planting, the type of plants, the size of plants, the schedule of planting, and irrigation plans. The irrigation plans shall show automatic irrigation from an on-site well.
2. The landscaping shall be planted at such a density so as to provide a minimum of 95% coverage of the landscape areas with vegetation, within a 3-year time period. Bark mulch and similar material shall consist of not more than 5% of the total landscape area after the 3-year period. The plant spacing and starting plant sizes shall meet the PUD plant spacing/starting size standards. Trees are to be a minimum of 2" caliper.
3. The trees and vegetation conform to the proposed lists included with the site Plan.
4. Wheel stops shall be provided for all parking spaces located adjacent to landscaping and pedestrian access ways. The wheel stops shall be placed two (2) feet in front of the end of the space.
5. In conformance with the Police Chief's recommendation, staff recommends that "and adequate and easily understood numbering system" exists for the units to aid in emergency response by both police and fire. Staff recommends a numbering system of 101-125 for the first floor units and 201-225 for the second floor units.

**During Construction:**

6. Erosion-control during construction shall be provided by following Clackamas County's Erosion Control measures.

**Commissioner Stewart seconded the motion and it carried unanimously.**

**SUB 97-04** an application by Willow Creek Estates to subdivide a 5.04 acre parcel into 22 single family residential lots. The site is located northwest of Highway 99-E, on the south side of Territorial Road [Tax Lot 600 of Tax Map 3-1E-27DB].

As everyone in the audience had been present when Chairman Ewert reviewed the hearing process, procedures, and format, it was not reiterated. Chairman Ewert asked if any Commissioners had ex-parte contact or conflict of interest. Commissioner Keller explained that he could become financially involved in the buying or selling of homes. No one from the audience had any questions of Commissioner Keller. Commissioner O'Shea explained that some relatives and friends who live nearby asked him about the subdivision application. No one from the audience had any questions of Commissioner O'Shea. Other than visiting the site, but coming to no conclusions, no other ex-parte contact or conflicts of interest were noted.

Mr. Wheeler presented the staff report. He explained that since the parcel sits at almost a 45 degree angle to the north, for presentation purposes, we should consider Territorial Road to be to the north, the highway and the railroad will be considered to be to the east of the site, the existing Willow Creek subdivision to the west and south. The applicant is requesting approval for a 22 lot subdivision and has proposed an access cul-de-sac road off Territorial Road, approximately 550 feet long. The subject site is long and rectangular, so it will be impossible to provide a second or a looped road. Staff is recommending a continuation of the cul-de-sac road to the east, mainly to facilitate the eventual potential development of the properties to the east, between the railroad and the highway, which staff believes will have the least impact on the proposal. A nearby property owner, Mr. Greer, brought to staff's attention that there is a smaller parcel off Territorial, approximately half the length of the proposed parcel. The proposed access road will not facilitate any development of that site, nor will it help access that parcel. Furthermore, Mr. Wheeler explained that the Fire Code requires a 50 foot radius turnaround for the cul-de-sac. In order to approve a smaller cul-de-sac (45 feet), everything that accesses off this proposed road would have to have a residential sprinkler system, approved by the Fire Marshal. The Code also states that a roll curb would also be required. Since the roll curb is not a standard configuration used for residential subdivisions, the Fire Marshal has indicated that if each lot had a sprinkler system, he would not require the roll curb. Staff is recommending the larger cul-de-sac and a continued access road to the east, which will facilitate some reconfiguration of the lots, to ensure they are all at least 7,000 square feet with such a dimensions size so as to be reasonably developable. Staff believes it is possible to reconfigure the lot dimensions to accommodate for the additional right-of-way. Sewer is proposed to be brought to the site from two different directions, the northern half out through Territorial, and the southern half along property line easements to a utility easement and driveway that accesses two flag lots in the southwest corner of the project site and then out to N.E. 19th and through Willow Creek. The sewer pipe size is more than adequate to handle the additional sewer flow. Stormwater is proposed to be handled by drywells except that the type of soil is the same type that is located between Pine and Redwood, where drywells have not worked. Staff is recommending that test wells be

installed to see how it will work and to find out whether on-site drainage for the lots would have to go into the street. In the existing Willow Creek, drainage from the lots go out into the street into the street stormwater system and then out into the wetland located between Willow Creek and Redland Meadows. Mr. Wheeler pointed out that since the access road is parallel to the highway and the railroad, according to the ordinance it must be a numbered street. The applicant has proposed calling it Vine Court, but it must be numbered N.E. 19th Avenue. Because of the orientation of the property and access requirements, only four of the lots could meet the Solar Ordinance basic standards for new developments with regard to building orientation and lot dimensions. Although an additional 8 lots could utilize the protected solar building line to enhance the solar access for the buildings and properties adjacent to them, only 54% of the project would be complying with the Solar Ordinance standards. There is a provision with permits an adjustment of the 80% standard, dealing with road orientation, which staff believes would be appropriate to apply in this situation. The traffic study that was completed when this site was annexed determined that there is a level of service "F" at the intersection of Territorial/99-E, at peak p.m. hours and it has been determined that this development would increase the delay time for people headed northbound on Highway 99-E from Territorial, by less than 1 percent. At one time it had been determined by the Planning Commission and City Council that adequate facilities are available for annexing this property. There hasn't been a change in the information since that time, so staff is recommending approval of the subdivision application. Additionally, Mr. Wheeler explained that the City is continuing to hold meetings with ODOT regarding a signal at this intersection. He reported that ODOT would like to separate the grade between the railroad and Territorial Road, which is not in accordance with our TSP or the initial draft of the Access Management Plan, but the intersection is ODOT-controlled. Although the City has a solution and a possible means of financing, ODOT is forcing a generally bad planning situation. It appears that the only way to make it work is to make the area more urban. It is kind of a Catch-22 situation - - you have to add traffic in order to solve the problem, or you don't solve the problem because you don't add any traffic.

### **Applicant**

**George Wilhelm, P.O. Box 561, Woodburn 97071** stated that the proposed Vine Meadows is a 22-lot subdivision on 5 acres south of Territorial Road and northeast of Willow Creek Estates I. The parcel is approximately 715 feet north-south, by 310 feet east-west. Mr. Wilhelm explained that one of the goals of the land use laws is to encourage high density development in urban areas so that rural agricultural lands and open space can be preserved. He stated that that goal is accomplished by providing trade-offs between individual desire and what the general public has determined to be desirable. As small, irregularly shaped parcels are developed, it is difficult to meet all the land use goals. Properties that are much deeper than they are wide, present a interesting challenge because they are too narrow to develop with a looped road or a grid system and are much larger than what is efficient for flag lots. If adjacent parcels appear to be configured such

that future development is practical, the applicant would provide for future access - - which is a trade-off because that would provide a less efficient subdivision, waste of valuable residential land, decreases urban density, and provides useless public facilities which need to be maintained forever - - all of which increases the cost of residential lots. Where the conditions indicate that development of adjacent property is not likely it is much more desirable to do the best that one can with the developable property. The applicant believes that future development of the parcels to the east of the subject site is unlikely and that this proposed development should be laid out to stand alone. Mr. Wilhelm pointed out that every community has development standards for parcels utilizing cul-de-sacs. There appears to be some inconsistency between the Land Use Ordinance and City of Canby street improvement design manual. Staff has correctly pointed out that the proposed cul-de-sac does not meet all of the requirements of the Land Development and Planning Ordinance and requires a variance for both length and number of units. The best option for development of this property is presented on the plat. If the Commission agrees with staff that future development of the adjacent property is likely, then the applicant feels that it is unreasonable to expect the developer to provide both a cul-de-sac with a 100 foot diameter and a roadway dead-ending at the easterly property line. Mr. Wilhelm defined "cul-de-sac" as "a sac-like cavity or tube open only at one end. If the roadway is extended to the easterly boundary, it is not a cul-de-sac. He pointed out that "eyebrows" are constructed in Township Village and Valley Farms that right-of-way diameters of 76 feet, that are 3,318 square feet less than what the Commission is considering using when conditioning a 100 foot diameter cul-de-sac.

Regarding proposed condition #9, Mr. Wilhelm pointed out that the engineering firm should not be required to put improvements on their plans that they do not design -- electric, tv, telephone, street lighting, gas, etc. It might not even be legal to do so. If the City decides to get the utilities under control, it needs to require that the utility companies be responsible and respond to requests for service within a reasonable amount of time, preserve and be responsible for all real property monumentation. Most developers work well with public utilities, but get no information or comments from them until time for the preconstruction conference. Regarding proposed condition #11, Mr. Wilhelm stated that it is not an appropriate condition of approval at the preliminary plat process. The request for comments returned from Mr. Hester did not mention storm drainage. It is more appropriate that this type of information be generated at the design process and that there should not be a requirement for a certain amount of testing at this point in the process. Mr. Wilhelm requested approval of the preliminary plat as submitted, eliminating proposed conditions #6, 7, removing mailboxes, electric, telephone, gas, street lights, and street trees from sentence #2 of condition #9, eliminate condition #11, eliminate sentence #2 of condition #12, and eliminate condition #19. Mr. Wilhelm explained that the applicant was not aware that the Fire Code requires 100 foot diameter cul-de-sacs. If the subdivision is approved without access to the east, the applicant would want to comply with the Fire Code.



If dead-end access to the easterly boundary is required, a cul-de-sac would no longer exist as it would no longer fit the definition, and he requested that all references to cul-de-sacs in the approval conditions be removed, including #6, 7, and 19. The layout should remain essentially as it is with a 45 foot diameter eyebrow and add a 40 foot right-of-way to the easterly boundary; remove mailboxes, electric, telephone, gas, street lights, and street trees from sentence #2 of condition #9, eliminate condition #11, eliminate sentence #2 of condition #12, and eliminate condition #19.

### **Proponents**

None

### **Opponents**

**Richard Greer, 2147 NE Territorial** stated that he owns the adjacent property on the eastern boundary of the proposed subdivision. Mr. Greer stated that he is not opposing the overall applicant, but he addressed his concern with the layout of the subdivision and the traffic conditions at Highway 99-E/Territorial. He explained that signalization is badly needed at that intersection due to the increased traffic and excess speeds, development in the area, and the number of churches in the immediate area. Further, Mr. Greer explained that he feels a privacy fence should be required on the western boundary of his property where it meets the eastern boundary of the subject site because all the vegetation has been removed from the subject site and it intrudes on his privacy. The original design of the roadway access does not allow any access to the eastern properties which will be developed at some time in the future. Not knowing what Mr. Cutsforth has planned for his parcel, which lies between the subject parcel and Mr. Greer's parcel, Mr. Greer expressed concern for the placement of the stubbed road which does not give him the option to develop his property because the 100 foot strip between the subject site and his parcel is too narrow to put a permanent 40 foot roadway in. He proposed eliminating the proposed stubbed road and running another roadway further north which would access his property. Another concern is stormwater drainage. The property drains from an east to west slope with the low area at the 100 foot strip. He pointed out that when the roadway was laid out for the previous owners of the subject parcel, the Baptist Church, consideration was given to ensuring sufficient visibility from both directions to enter the property.

### **Rebuttal**

**George Wilhelm** stated that it was his understanding that Mr. Greer owned tax lots 602 and 700 and, since his home is situated on lot 700, he could understand the need for a buffer between the proposed development and Mr. Greer's home. If the Commission requires a roadway to the easterly boundary of the subject site, Mr. Wilhelm stated it should be as far from Territorial Road as possible in order to eventually connect with

development of the properties to the east. Mr. Wilhelm further explained the difficulty of putting information from the electric company, telephone company, N.W. Natural Gas, information about street lights, mail boxes, and street trees on the plans due to lack of feedback from various utility companies, to requests for comments, prior to the preconstruction conference. Mr. Wilhelm further explained that he was unsure if it was legal for an engineer to design electric facilities, cable, etc., into the plans. The issue of drywells should be worked out at the design stage between the engineers and public works staff, rather than conditioned by the Commission, Mr. Wilhelm added, explaining his request to eliminate proposed condition #11. Further, he added that proposed condition #11 and proposed condition #12 somewhat conflict because City standards must be met. Proposed conditions #6 and #19 are the same, he added. If an eastern dead end approach road is required from the cul-de-sac, Mr. Wilhelm explained that it would no longer be considered a cul-de-sac, but an "eyebrow" access, or an L-shaped street similar to the ones in Valley Farms and Township Village. Eyebrow access streets are a way to increase the frontages so that each of the properties have more frontage. An eyebrow would be a 38 foot radius, and 76 foot diameter, as in Township Village and Valley Farms and it would be acceptable to leave it at the present 45 foot radius in this subdivision.

**Wayne Scott, 1988 NE 19th** stated that when Willow Creek was originally developed, drywells were initially approved. When they were actually attempted to be installed, they hit water, so alternate plans were made. Whether it results in drywells or is connected to meet the what the City is doing on Redwood will not result in a surface water problem. If drywells exist, rain drains will go into them or they will go into the collection system in the street if drywells do not work. When talking with Mr. Cutsforth, he indicated that he had no intentions of developing his property. Further, Mr. Scott stated that he believes a portion of the adjacent land is industrial, rather than residential. He expressed sympathy for Mr. Greer's concerns, adding that if the adjacent properties to the east are ultimately developed, a connecting road system would be appropriate, adding that less access roads out to Territorial would be considered safer. When the applicant applied to annex this property, it was determined that development of this parcel would enhance the ability to secure the signal at the intersection of Highway 99-E/Territorial, although he is not convinced a signal would be of any benefit for the area. Mr. Scott added that the safety corridor signage slows traffic down, and is more beneficial than a signal, as is the police enforcement that has taken place lately. He urged the Commission to approve the application as submitted.

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

1. The Commission discussed the proposed dead-end road as it affects the adjacent properties to the east and agreed with staff's recommendation to condition the road to the easterly property line.

2. Regarding proposed condition #11, the Commission discussed the "surface channel." Mr. Wheeler explained that there is a possibility that a piping system exists between this site and the adjacent development to the west whereby this subdivision could tie into the stormwater system at Willow Creek that drains into the wetlands. Furthermore, Mr. Wheeler stated that if drywells were going to be used, test holes will be necessary.
3. The Commission discussed proposed conditions #11 and #12 and felt they were the same. Mr. Wheeler explained that #12 means that whichever system ends up being in place, it must meet design standards. Proposed condition #11 requires testing the soil to see which system was going to be used. Mr. Scott explained that at 24 feet, on Lot 7 in Willow Creek, there is a river running. He was unsure if it drifts up to hit this parcel and explained further, that the only way to know, is to dig the 7 foot diameter test holes.
4. The Commission discussed the pros and cons of developing flag lots, especially the safety aspects of having so many flag lots access off a single entry dead-end cul-de-sac. Mr. Wheeler explained that they meet Code requirements.
5. The Commission discussed the issue of parking on access drives to flag lots with regard to emergency vehicles needing access. Mr. Wheeler explained that it is posted "No Parking," but that it is the personal responsibility of residents not to do so as they could endanger themselves and their neighbors, and that they could be cited for doing so.
6. The Commission address the request for comments received from the Fire Chief, who addressed concern with the number of cul-de-sacs in new developments. Mr. Wheeler explained that, more explicitly, it is the size of the cul-de-sac that the Chief is concerned with and whether they meet the new Fire Code. Furthermore, Mr. Wheeler explained that staff is proposing the continuation of the cul-de-sac to the east in order to eventually extend further connections to adjacent properties with a looped road system.
7. The stormwater system's adequacy was discussed. The Commission discussed the heavy rains during 1996 which caused a lot of standing water on Territorial Road. Mr. Wheeler explained that the findings in the staff report were derived from the Public Works Department. He further pointed out that 1996 was an unusual year, with heavy rains and the force of the 100-year flood.
8. The Commission questioned Mr. Wilhelm with regard to his request to delete proposed condition #6, the 50 foot cul-de-sac right-of-way radius. Mr. Wilhelm explained that if the subdivision is approved as designed, the applicant would not object to using the 100 foot radius to comply with the Fire Code. Further, he explained that the applicant would like proposed condition #7 eliminated, so that the road to the easterly portion of the project would not be required.

9. With regard to feedback from utility providers, the Commission asked Mr. Wheeler to notify them that lack of response is not acceptable. Responses should be returned prior to preconstruction conferences.
10. The Commission agreed that a looped water system would be beneficial.
11. The Commission agreed that the least amount of access points from Territorial would increase safety in the area.
12. The Commission agreed that the applicant and City staff must work together to address the surface water issue to ensure that the properties to the east do not get flooded.
13. The Commission agreed some form of traffic control at the intersection of Highway 99-E/Territorial was needed.
14. The Commission discussed a fence on the east boundary of this parcel. It was agreed that wording should be included in the CC&Rs requiring fencing on the eastern boundary.

Based on the findings and conclusions contained in the staff report dated July 3, 1997, on testimony at the hearing, and on Commission deliberations, **Commissioner Keller** moved to approve SUB 97-04 with the following conditions:

**For the Final Plat:**

1. The final plat shall reference this land use application - City of Canby, File No. SUB 97-04, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.
2. 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.
3. Easements shall be provided as follows:
  - Six (6) foot wide public utility easements along all interior lot lines, except along the eastern property line of the subdivision, which shall be ten (10) feet wide.

- Twelve (12) foot wide public utility, sidewalk, and tree planting easements along the street frontages.
  - Mutual access and maintenance, and public utility easements along all flag lot access drives.
4. The "protected solar building lines" shall be shown on the plat for lots 9-12, 14, 15, 20, and 21, and shall be shown at the designated distance north of the southern property line, as measured from the southwestern corner, and shall be provided at an orientation of no more than 30 degrees from true east-west, as follows:

Lot 9	17 feet	Lot 14	18 feet
Lot 10	17 feet	Lot 15	12 feet
Lot 11	27.5 feet	Lot 20	26 feet
Lot 12	27.5 feet	Lot 21	18 feet

If the "protected solar building lines" are not shown on the plat as stated above, they shall be included in the CC&R's that will be recorded at Clackamas County with the final plat.

5. The street names shall be N.E. 19th Avenue for the portion that accesses Territorial Road, and shall be N. Vine Court for the portion that extends east from the previously called cul-de-sac.
6. The local road shall extend from the previously called cul-de-sac to the eastern property line. The right-of-way width of the road extension shall be forty (40) feet. The "eyebrow" in the bend in the road shall have a radius of 30-feet, as measured from the centerline of the 40 foot standard right-of-way.
7. A copy of the CC&R's that will be filed with the subdivision that includes: a statement that street trees will be planted along street frontages, within the tree planting easement; a prohibition against parking in the flag lot access drives and shall indicate that fences are required along the east boundary,

**Prior to construction:**

8. 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, and the City prior to the pre-construction conference. The City's review and approval shall be coordinated through the Planning Office. The construction plans shall include the street design, storm water, sewer, water, electric, telephone, gas, street lights, mail boxes and street trees. The street tree planting location shall be determined as a part of the pre-construction review process.

9. The type of street trees to be planted shall be determined by City staff prior to the pre-construction meeting. The number of street trees to be planted shall be one per interior lot, none for flag lots that do not have frontage on a street (excepting access drives), and two per corner lot. The trees shall be planted eleven (11) feet from the street curb. The street trees along Territorial Road shall be the same type as planted along Territorial Road in front of the Willow Creek Subdivision.
10. The storm water design for the subdivision shall conform to the Canby Public Works Department standards. The storm water design shall be as determined by the drywell tests. Protection from excess surface drainage or runoff water shall be provided to the properties located on the eastern side of the subdivision.

**As a part of construction:**

11. Any necessary utilities shall be constructed to the specifications of the utility provider. The water system shall be looped to the existing water line in N.E. 19th Avenue.
12. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Director of Public Works.
13. 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.
14. The storm water construction for the subdivision shall conform to the Canby Public Works Department standards.
15. The construction of the sewer system for the subdivision shall be approved by the Public Works Supervisor.
16. The local roads shall be constructed to the City specifications and standards. The improvements shall include the street, curbs, sidewalks, street lights, utilities and street trees.
17. Half-street improvement shall be provided for Territorial Road, constructed to the City and Clackamas County's specifications and standards. The improvement shall include the street, curb, sidewalk, street lights, utilities and street trees, matching with the existing improvements located in front of the Willow Creek Subdivision.

**Prior to the signing of the Final Plat:**

18. The subdivision development fee, as provided in the Land Development and Planning Ordinance Section 16.68.040(C), shall be paid.
19. 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.
20. A copy of the CC&R's that will 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, that includes: a statement that street trees will be planted along street frontages, within the tree planting easement; a prohibition against parking in the flag lot access drives; and that fencing is required along the eastern property lines of the subdivision.
21. 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. The contract shall include the City as the contractee; Option 2, the developer shall pay the City \$3,135 for the 19 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:**

22. 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.
23. "As-built" drawings shall be submitted to the City within sixty (60) days of completion. A copy of the "as-built" drawings shall be submitted on a computer disk in an AutoCAD format.
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.

**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. A copy of all recorded CC&R's, easements for storm water (if necessary) shall be submitted to the City, prior to issuance of building permits (beyond one single family residence).
28. The road length for the temporary dead-end, which is beyond either of the two City standards of 400 and 450 feet for cul-de-sacs, is permitted.
29. No parking is permitted in the flag lot access drives.

**Commissioner Prince seconded the motion and it failed on a 1-5 vote with 5 votes against the motion. Commissioner Stewart noted that he voted against the motion because of the size of the cul-de-sac, which appeared too small for emergency access.**

**Commissioner Prince moved to amend the previous motion to specifically size the "cul-de-sac" to include a 45 foot turnaround. Commissioner Keller seconded the motion and it carried 4-2, with Commissioner Stewart and Commissioner O'Shea voting nay. Commissioner Stewart noted that he did not approve of the stub street and Commissioner O'Shea explained that he felt there were too many flag lots and that before any more developments should be approved in the area, a signal for the intersection of Highway 99-E/Territorial should be installed.**

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**ANN 97-03, an application by A. Wayne Scott for approval to annex a 4.84 acre parcel into the City of Canby. The site is located on the east side of S. Ivy Street, south of S.E. 13th Avenue [Tax Lot 700 of Tax Map 4-1E-4D].**

Since everyone in the audience had been present when the hearing process, format, and procedures had been reviewed, Chairman Ewert did not reiterate them. He asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site, but coming to no conclusions, none was indicated.

Mr. Wheeler presented the staff report. He explained that the parcel was Priority "A" for annexation and, although zoned County EFU [Exclusive Farm Use], upon annexation it would be zoned R-1, Low Density Residential. The property is across from the southern portion of HOPE Village, and abuts Phase 1 of Tofte Farms Subdivision to the east, which is zoned R-1. Properties to the north and south are not within the City limits but are within the UGB. The HOPE Village property to the west is in the City and is zoned R-1.5, Medium Density Residential. The subject parcel is 1200 feet in length by 160 feet in width. If annexed, five residential properties to the north, approximately 28 acres,



would be islanded [surrounded by land within the City]. The Boundary Commission might consider islanding of the properties an issue, because the City could force annexation of those 28 acres, although Canby has never done so previously. Sewer would come from Pine Street, down through Tofte Farms, and along a property line easement. The Ivy Street sewer line is at capacity with the first two phases of the HOPE project. The water line in S. Ivy is adequate. The school district has, at this time, reported that adequate capacity is available. There is concern with access to the property from S. Ivy. The Transportation System Plan calls for a connection from Redwood/S.E. 13th to S. Ivy, although the exact location has not been determined. When Tofte Farms I was initially laid out, S.E. 17th was determined to connect to S. Ivy. When a subdivision application for this property is submitted, staff will look at how the road system would tie in with the connections to the east and north to maintain a grid network and take the islanded 28 acres into consideration. The subject parcel has not been used agriculturally. Staff recommends that the Commission recommends approval for City Council to pass on to the Boundary Commission.

### **Applicant**

**George Wilhelm** explained that he concurs with the staff report and that it fairly and adequately addresses all of the pertinent issues with regard to this application. Since the application meets all of the applicable criteria for approval of the annexation, the applicant is requesting approval of the application. He pointed out the property owners that have been notified of the hearing. Mr. Wilhelm also indicated that he was not aware of any plans to develop the subject site, pointing out that it is a long, narrow piece of land that permits very few options for developing it by itself. Mr. Wilhelm pointed out that the parcel lies within the Urban Growth Boundary and is recommended in the Comprehensive Plan for R-1, Low Density, development.

**Wayne Scott** explained that he was the owners of the parcel. He concurred with Mr. Wilhelm's testimony and requested that the Commission recommend approval of the annexation request to City Council.

### **Proponents**

None

### **Opponents**

None

With no additional testimony, the public portion of the hearing was closed for

Commission deliberation. Issues discussed included:

1. That by annexing the parcel, 28 acres of land between the parcel and S.E. 13th Avenue would be islanded, without express written notification of all of the "islanded" property owners.
2. Annexation of the property is not appropriate at this time in that there is no need for additional land for development, as shown by no concurrent development application, or statement by the applicant that development was imminently planned.
3. Annexation of the property is inappropriate at this time in that there is no master plan for how the local road network will service this and adjoining properties.
4. The annexation proposal, is a Priority "A" area, but not appropriate for annexation because:
  - a. it will island 28 acres of nearby property, without express notification of all of the "islanded" property owners,
  - b. there is no need for the additional land for development,
  - c. there is no master plan for how the local road network will service this and adjoining properties.
5. The Commission discussed sewer service to this parcel, and whether it had to only come through Tofte Farms. Mr. Wheeler explained that at development time, there may be the possibility of sewer service coming from Ivy. He pointed out that in any event, there is reasonable means of providing sewer service to this parcel for development.
6. The Commission discussed the islanding concept. Mr. Wheeler explained that there was no definite policy with the Boundary Commission, but that some individuals were very set against creating islands. Between the Logging Road, on the north side, which was annexed into the City and Pine Street, there are about 50 islanded acres within Canby, he added.
7. The Commission discussed possible future development of the site, including access. It was explained that staff has not discussed development of the parcel with the applicant.

8. The Commission discussed future road alignment along the north property line. Staff explained that it could present a small problem in that there is approximately 200 feet, 15 feet wide, of useless land, where the roadway would have to be jogged.

Based on the findings and conclusions contained in the staff report dated July 3, 1997, on testimony at the hearing, and on Commission deliberations, **Commissioner O'Shea moved to approve ANN 97-03. Commissioner Keller seconded the motion and it failed 1-5, with Commissioner Keller voting aye.**

Commissioner Stewart stated that he did not understand why the applicant submitted the request to annex the property which would island 28 acres of land, since there are no immediate plans to develop the parcel, there was no feedback from the adjacent neighbors, all islanded properties were not notified of the hearing, there is no access plan, and there is no precedent for forced annexation in Canby.

Commissioner Keller stated that the islanded property owners do not suffer from being islanded, this the Commission only makes a recommendation to City Council and that the islanded property owners who were not notified will have an opportunity to appear before the Council at a public hearing to comment, if they wish, and that the access issue must be resolved when the applicant submits a subdivision application to the Commission. Further, he pointed out that this is Priority "A" land for annexation.

Commissioner Ewert explained that the parcel was designated Priority A, that 3 of 6 neighboring landowners who will be islanded have been notified and they did not choose to appear in opposition, that only annexation criteria should be considered, and that staff pointed out that a transportation plan for a subdivision on the subject parcel could be accomplished, but should not be considered as criteria upon which to base an annexation application decision.

**Commissioner O'Shea moved to deny ANN 97-03. Commissioner Stewart seconded the motion and it carried 4-2, with Commissioners Keller and Ewert voting nay.**

Mr. Wilhelm asked for an explanation as to why the application was denied, in light of the fact that it is Priority A land for annexation. Mr. Wheeler explained that it was denied because

1. There is islanding of adjacent properties without specific notification to all owners of islanded properties, and
2. There is no transportation master plan for local roads in the area,

Commissioner O'Shea stated that he made the motion because he saw no reason to annex the property since the applicant has no plans to develop it at the present time.

Commissioner Prince stated that he felt the property was too long and narrow a parcel to develop.

Mr. Wilhelm asked if he could request a continuance and notify the remaining owners of property that will be islanded. Chairman Ewert explained that this application automatically goes before City Council and that those property owners would be notified of the next hearing. Since a decision had already be made, the prevailing side did not choose to continue the hearing, but to forward it on to City Council.

## VII. OLD BUSINESS

None

## VIII. COMMUNICATIONS

Mr. Wheeler explained that the City is applying for 2 TGM grants to assist in the Periodic Review process, and submitted project descriptions that was written to apply for the grant. One of the projects is dealing with updating the buildable lands inventory in the Comprehensive Plan and the other is both an educational as well as a citizen involvement process to bring in a consultant/facilitator to deal with citizen input in the process.

## VIII. DIRECTOR'S REPORT

Regarding the fence issue at Eileen Acres, on S. Knott, where there are 3 large trees on the property line, the Commission agreed that a 6 foot sight obscuring fence should be built along that property line, as conditioned during the public hearing.

**Commissioner Ewert moved that a 6 foot sight obscuring fence should be built along the property line. Commissioner Stewart seconded the motion and it carried unanimously.**

**IX. ADJOURNMENT**

The meeting was adjourned at 12:10 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joyce A. Faltus". The signature is written in black ink and is positioned above the printed name.

Joyce A. Faltus