

# MINUTES

## CANBY PLANNING COMMISSION

7:00 PM January 26, 2004  
City Council Chambers, 155 NW 2<sup>nd</sup>

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### I. ROLL CALL

**PRESENT:** Chairman Jim Brown, Commissioners Geoffrey Manley, Dan Ewert, Molamphy, Robert Able, Tony Helbling, Randy Tessman

**STAFF:** John Williams, Planning & Community Development Director, Darren Nichols, Associate Planner,

**OTHERS PRESENT:** Jamie Netter, Ralph Netter, H. Dan Smith, Daniel Webb, Bernard Levy, Gail Kraxberger, Mark Kraxberger, Jeff Scott, David Riener

### II. CITIZEN INPUT

None

### III. NEW BUSINESS

### IV PUBLIC HEARINGS

**ANN 03-08 Wightman/Netter** the applicant is seeking to annex one 1.65 acre tax lot. If annexed the applicant intends to build approximately 10 single family homes. The site is located on the east side of South Ivy St. south of SE 13<sup>th</sup> and across the street from HOPE Village. The parcel currently contains on single family residence with several outbuildings, several trees and an active well.

Mr. Brown read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, Mr. Ewert and Mr. Tessman had visited the site but had drawn no conclusions. No questions were asked of the Commissioners.

Darren Nichols, Associate Planner presented the staff report. He explained that the parcel is currently zoned for exclusive farm use by Clackamas County. Under Canby=s comprehensive plan when it is annexed it would be zoned R 1.5. Darren explained that 2 adjoining parcels are inside the City limits the remaining parcels are inside the Urban Growth Boundary. The parcel is designated Priority A on the Annexation Priority Map.

Darren stated that the City currently has a 3 year 3 month supply of buildable

lands with approximately a years supply of actual platted land. With the addition of the Northwoods property the buildable lands supply would be approximately a 4 year supply. Annexation of this parcel would add a few weeks to the buildable land inventory.

Darren stated access to this parcel is limited to S. Ivy Street, the applicant does not intend to develop this parcel until he is able to access other collector streets through future development of parcels to the east, which would allow access to SE 17<sup>th</sup> and or SE 13<sup>th</sup>.

Darren explained that a traffic study had been commissioned for the parcel directly to the east for the purposes of the traffic study for this parcel we assumed that the 10 lot subdivision would be located where it is, with access to SE 13<sup>th</sup>. There are no foreseeable negative impacts to the surrounding intersections with the development of this project.

Darren stated that the property is designated smaller non farm land which has typically been considered a priority by the Commission. Public facilities are available or will become available with the development of the parcel. The applicants estimated time frame for development is 5 to 10 years as surrounding properties are annexed.

Darren explained there are no risks of natural hazards, there is no designated open space, and it is not estimated the annexation of this property would have any significant adverse effects on either the short term or long term economy of Canby.

Darren stated that staff recommends sending a recommendation of approval for ANN 03-08 to the City Council for their consideration and then subsequent approval or denial of the Canby voters.

Mr. Tessman stated his concern that the Commission is looking at transportation connections that don=t exist and are not even annexed into the City. Darren explained that SE 17<sup>th</sup> Street has been annexed into the City.

#### **APPLICANT:**

**Jamie Netter** addressed the Commission on behalf of the applicant Ralph Netter. She stated the owners are interested in selling the property since they intend to move to HOPE Village in the future.

Ms. Netter stated that this property is Priority A and the criteria states that smaller farm land parcels should be annexed in with a greater priority. This property is under 2 acres which is not enough land to be a productive farm and has not been used in the recent past as farmland.

She stated that cost of purchasing land has skyrocketed and it is difficult to find affordable land to build housing for the average income family. She stated that development of this site would increase local employment, since 70% to 75% of the subcontractors they hire are local businesses.

Ms. Netter stated that the property is within the urban growth boundary with Hope Village on one side and Tofte Farms behind this parcel and they believe it is ideal land to build a subdivision on. She stated that development of this property depends upon the development of the surrounding properties and the installation of a sewer lift station. They believe it could be developed in 3 to 10 years.

Ms. Netter stated that this property will only add approximately 10 homes which is about a 3 week supply of buildable land. She believes the application meets all necessary criteria and asked the Commission to recommend approval to the City Council.

Tony Helbling questioned if there will be any coordination with an adjacent property owners. Mr. Netter stated they have had some conversations with the developer regarding the sewer lift station. Mr. Helbling asked if there would be any continuity of size, style and designs for the homes. Ms. Netter stated they would definitely be open to any ideas.

Mr. Tessman believed the last election was an indication of how the citizens of Canby feel about growth. He asked the applicants to explain why people should support this application. Ms. Netter stressed that they are a local family business and their name speaks for their company. She stated that when this property is developed they hope to be able to build housing for average income families which would benefit the city.

Mr. Tessman stated his concern with the over crowding at Trost School. It was discussed that the children from this subdivision would be attending Knight School. Ms. Netter stated she is a past PTA President and is aware of the school situation. She stated people are going to move to Canby and the children will still need to go to Trost and to Knight Schools. She did not believe that 10 homes will have much impact on the situation.

Mr. Brown expressed his concern that the surrounding properties would not all annex and the area would be built out in pieces and instead of having a well designed development there would be many cul-de-sac developments with accesses every 150' instead of one access onto Ivy. Ms. Netter agreed that the proposed plan may not be the final design for the subdivision but she hopes they can work with the surrounding property owners and can come up with a plan of action.

Mr. Helbling stated that since Ivy is a county road, access has to be approved by the County. John Williams, Planning Director stated he does not know what the County spacing limit is on Ivy, but this issue had been discussed with staff when this application came in. This application does have a master plan on how it would fit in the area and the applicant has stated he won't develop until it can be serviced that way. John was unsure whether it was a binding statement but that is how staff looked at this application. Mr. Brown questioned that if, in a year or so the property value become high enough to have the applicant do something else with the property, could the property be developed with access to Ivy. John stated that if the application met the spacing standards it could be approved.

**PROPONENTS:**

None

**OPPONENTS:**

None

**REBUTTAL:**

None

Mr. Brown closed the Public Hearing and opened Commissioner deliberations.

**Discussions:**

Mr. Molamphy was concerned about the access along 13<sup>th</sup> St. and the need for a lift station to service this area, he believes there has to be a master plan. He stated that the lift station would be a major issue since it needs to be built to make this property and the surrounding property viable.

Mr. Able stated he was concerned about annexing a parcel that does not have utilities to it. If it is not developed for 5 to 10 years there could be other utility issues at that time. He believes the availability of utilities is a crucial issue for development.

Mr. Tessman would like to see a master plan that included the neighboring property. He also had concerns regarding loading the ballot up with annexations after hearing the voters at the last election, which isn't a part of the criteria, but he believes the chances for approval went down when more annexations were on the ballot. He believes annexations need to be carefully thought out as to what they provide the city and what the future needs will be such as the lift station, portables for the school and the locations of parks.

Mr. Brown stated his major concern is that the onus is placed on builders, they front all the costs of infrastructure and SDCs because there is no other mechanism for handling them. He believes having the applicants responsible for the schools is not appropriate.

Mr. Brown addressed the criteria for approval. He believes the application does not meet the requirements of Criteria #2 and #5. The need for the land, since there is now a 4 year supply. And the availability of public facilities, since a lift station is so expensive and is necessary for all development. He believes that the Commission needs to continue to enforce the code, so that regardless of the political ramifications of people voting down annexations, if an application is appropriate by the criteria the Planning Commission should keep sending them to the voters, even if they keep turning them down.

Mr. Molamphy stated that he interpreted the code stating that adequate public facilities shall be available means at some time in the future. This property cannot be

developed until that sewer lift station is put in.

It was moved by Mr. Manley to recommend denial of ANN 03-08 to the City Council due to not meeting annexation criteria #2 and #5. Seconded by Mr. Tessman. Motion carried 6-1 with Mr. Able voting nay.

**MLP 03-08 Mark Kraxberger** The applicant is seeking approval to partition two existing parcels located on the east side of N. Ivy, south of NE 10<sup>th</sup> Avenue, into four lots. Existing lots of 12,632 SF and 16,553 SF are proposed to be divided into four lots of approximately 7,020 SF each. The applicant proposes to provide access to the rear lots by means of twelve foot wide access drive off N Ivy St.

Mr. Brown read the public hearing format. When asked if any Commissioner had a conflict of interest, Mr. Tessman stated he knew the applicant and would abstain from this hearing. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners. Mr. Tessman left the dias.

Darren Nichols presented the staff report. He explained that there are two existing houses which face Ivy Street if approved there will be two additional homes built toward the rear of the lots. On approval there will be 4 single family residences on 4 lots.

Darren stated there will be a 12' wide access drive extending 110' off Ivy Street to serve those 2 rear lots. Canby service providers indicate there are facilities to service the additional parcels. Existing streets and utility improvements are sufficient to support development, access and traffic from this development. Darren stated that the applicant had not proposed sidewalks but that sidewalks are conditioned to be installed along the entire full street frontage.

Darren stated that staff recommends approval of MLP 03-08.

Mr. Brown questioned splitting 2 lots into 4 lots with one partition application. John stated that issue had been discussed and it was decided that coordinating the development of the 2 lots into the one application was a good idea. John stated that the partition and the subdivision have the same notice requirements and the standards are the same in terms of providing access and lot size.

Mr. Manley questioned if there will be a driveway with an easement for the back lots or will it be a flag lot. Darren believes the plan is to use an easement. Mr. Brown questioned the placement of the driveway on the application. Darren explained that the property shown on their application has the existing property lines, which had been moved to make one lot larger than the other. He explained that the County never removes old lot lines and the County will reestablish the original line, when that is done the driveway will be located in the middle of the property.

**APPLICANT:**

Mark Kraxberger addressed the Commission. He stated that the Fire Marshall agreed that the access they proposed was adequate for the development with the

installation of an emergency vehicle turnaround.

Mr. Brown questioned if the applicant would lose any frontage when Ivy is improved. John explained that the street width will not change when Ivy is improved.

**PROPONENTS:**

None

**OPPONENTS:**

**Bernard Levy** stated he lives next to one of the lots on 10<sup>th</sup> and Ivy. He expressed his concern that Canby is becoming a city of flag lots. He stated that there have already been flag lots created and believes there will be more, which will create traffic and parking problems. He questioned that even if the application meets the criteria, whether it meets the principal of the law. Mr. Levy stated he has put in an arborvitae hedge and is concerned that the hedge not be damaged.

Mr. Levy asked if he decided to build a flag lot in the future could it be denied because of the problems that have been created by the existing flag lots. He believes the last piece of property developed has the most burdens placed on it.

Mr. Levy stated that if this application is approved he would like the opportunity to join with the builder to coordinate utilities for his possible flag lot. He stated that the existing house is less than modest, a glorified shack and believes it will be torn down and a new house built there so there will be 3 new homes built with this application.

Mr. Levy stated that developers and contractors are always looking for property to build on in the future. He believes that Canby is becoming a real estate driven economy. He stated that he has seen it cause a recession in San Diego. The flag lots are an indication of builders attempting to get inventory to build on.

**Dan Smith** addressed the Commission. He stated he owns property that is adjacent to this property. He stated he was concerned about livability and the character of the neighborhood. Most of the homes are single or story and half and questioned if a condition could be placed so the new homes don't stand above the existing ones.

Mr. Smith stated there is a row of cedar trees and a couple of sequoias that are approximately 60' high. He is concerned they will be damaged during development of these lots or that some will need to be removed because of this development.

Mr. Brown explained that the city has established in fill standards which allows a house to go higher up the further back from the property lines they build.

**REBUTTAL:**

Mr. Kraxberger stated that he has built in Canby for many years. He stated he would not put up a product that would devalue property values or make his business look bad. He would be glad to work with the neighbors and the City on this

development.

Mr. Ewert questioned the trees that are located on the property. Mr. Kraxberger intends to keep the trees if at all possible. Mr. Ewert questioned the arborvitae hedge. Mr. Kraxberger had not noticed the arborvitae but would be willing to work with the owner. Mr. Levy stated the trees that have been discussed have not been trimmed for years and need to be tended to.

Mr. Kraxberger addressed the 2 story home concerns and he is aware of the step back regulations. He agrees that no one wants someone looking down into their back yards.

Mr. Brown closed the public hearing and opened Commissioner deliberations.

Mr. Manley stated the application meets the guidelines. He asked that a condition be added that addressed reciprocal maintenance agreements for the access drive. Darren stated that State statutes regulate easements. The City can require CC&Rs to insure that. John explained that the applicant will have to show evidence of an easement before a building permit could be issued.

Mr. Manley that it would be appropriate to have a condition regarding the Fire Marshal=s requirement of a turn around or hammer head. He believes there should be a condition that requires the retention of the trees if at all possible. John suggested having the applicant get an arborist=s assessment before they can be removed.

Mr. Brown addressed whether this application met the intent of the code. He explained that the densification of Canby is driven by State law, during Periodic Review the City had to fight to keep the 7,000 sq. ft. lot size for the R1 zone, the state prefers the City to become denser not bigger. It is also economically feasible now for people to give up 7,000 sq. ft. of their back yard for the financial gain. Mr. Brown agreed the small house will probably be torn down at some point and a new house built. So the application does meet the intent of the code and State laws.

It was moved by Mr. Manley to approve MLP 03-08 as amended with the condition of having an easement clearly defined and the retention of the trees. Seconded by Mr. Helbling. Motion carried 6-0 with Mr. Tessman abstaining.

## **V FINDINGS**

**MLP 03-09 Goossen** The applicant is seeking approval to partition one 17,100 square foot parcel into two separate tax lots of 9924 SF and 7470 SF. It was moved by Mr. Able to approve MLP 03-09 as written. Seconded by Mr. Helbling. Motion carried 7-0.

**ANN 03-07 Cam/Dodds** A request to annex 19.91 acres into the city. The site is located north of Territorial Rd, between N. Locust St. and N Holly St.

Mr. Tessman stated that there have been 2 incidents that have caused him to reconsider his vote on this application. The LUBA decision which allows for the development of the Northwoods property, brings the need for this annexation into question. He stated that the recent fatal accident at Hwy 99E and Territorial makes him reconsider approving further development in that area until there is a date for the installation of the light at Territorial.

John explained that the oral vote is the initial vote with the final vote being the vote on the written findings. A Commissioner should vote the same way he did on the oral vote, unless they have changed their mind, they are not bound by the first vote.

It was moved by Mr. Able to approve ANN 03-07 as written. Seconded by Mr. Helbling. Motion failed 3-4 with Mr. Ewert, Mr. Tessman, Mr. Brown and Mr. Manley voting no.

The Commission discussed whether the land was still needed since the Northwood property is now developable. There was a discussion regarding having the ability to coordinate the development of the area to avoid having many small cul-de-sac projects which was seen as undesirable because of the many street accesses they create.

The Commission discussed whether bringing in an ample land would slow the development of flag lots. Some Commissioners believed that flag lots would still be created since people would want to take the financial benefit of selling 7,000' of their backyards.

The transportation issue was discussed. It was agreed the intersection at Hwy 99E and Territorial was a failed, dangerous intersection and that there have been many developments that were approved based on the light being installed at the intersection. The Commission would like to know a definite date that the intersection would be functional. John explained that the intersection is planned for 2006 but he has no information as to when it will begin.

Mr. Able stated his concern that the discussion regarding the Territorial intersection was not appropriate at a quasi judicial hearing. He believed that if this application was denied due to the traffic increase at the Territorial intersection then all development on the north side of Canby should be denied.

It was suggested that a workshop be scheduled to talk about the issues that have been discussed.

It was moved by Mr. Manley to send a recommendation of denial to the City Council of ANN 03-07 in that it fails condition #2, #3 regarding the size of the property and #5. Seconded by Mr. Ewert. Motion carried 4-3 with Mr. Able, Mr. Helbling and Mr. Molamphy voting no.

## **VI MINUTES**

December 8, 2003



Mr. Helping stated he had been in attendance at this meeting but his name was omitted from the Commissioners that were present. It was moved by Mr. Manley to approve the minutes as amended. Seconded by Mr. Ewert. Motion carried 6-1 with Mr. Tessman abstaining.

November 24, 2003

It was moved by Mr. Manley to approve the minutes for November 24, 2003 as written. Seconded by Mr. Molamphy. Motion carried 5-2 with Mr. Helbling and Mr. Tessman abstaining.

## **VII DIRECTOR'S REPORT**

John stated there were no public hearings scheduled for the next Planning Commission meeting and suggested that a workshop could be held on some of the issues that were discussed at this meeting. It was decided the workshop would be held at 7:00 with the Planning Commission meeting held directly after.

## **VIII ADJOURNMENT**