

**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – December 11, 2006  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Chair Jim Brown, Commissioners John Molamphy, Geoffrey Manley, Randy Tessman, Bruce Holte and Janet Milne

**ABSENT:** Commissioner Dan Ewert

**STAFF:** Kevin Cook, Associate Planner; Jill Thorn, Planning Staff

**OTHERS PRESENT:** Dave DeVore, Lisa Dietz, Thelma Kriegshauser, Ryan Morris, Jason Taylor, Susan Myers, Ed Netter, John Phillips, Marie Feddern, Ed Feddern, Jared Taylor, Randy Rosane, Jan Palmer, Neil Thogerson, Wes Bailey, Jill Shreve, and Sandy Woods

**I. CITIZEN INPUT** Ed Netter requested that the Commission look at changing the code to require the applicant of a land partition to provide all utilities to the site before the site is platted. Chair Brown requested staff to put on the list of topics for future work sessions.

**II. PUBLIC HEARINGS**

**MOD 06-19 – KIMCO Properties** – An application from Neil Thorgerson who proposes a 4 lot subdivision for single family dwellings as a modification to SUB 00-01 – Tofte Farms III.

Chair 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, Commissioner Holte stated that several months ago he had had a conversation with the realtor, but reached no decision and Chair Brown stated he, too had had a conversation with the realtor, but reached no decision and he had visited the site also. No questions were asked of the Commissioners.

Kevin Cook presented the staff report. The Planning Department has received an application from KIMCO Properties to allow a modification to the previously approved Tofte Farms Phase III subdivision. This request came to the Planning Commission previously back in August of 2006. At that time, staff presented the application as an Intermediate Modification in which the Planning Commission would render a decision and public notice would follow the decision. Notified citizens would have had the right to request a public hearing after the fact.

At the August hearing the Planning Commission denied the applicant's request indicating that the Planning Commission would be willing to consider the request as a Major Modification which requires a standard public hearing prior to a decision. The

applicant has resubmitted the original request as a Major Modification and staff has sent out notice of a public hearing to neighboring property owners. Additionally, the applicant has attended a pre-application meeting with staff and utility providers.

The applicant is requesting that the Planning Commission consider a Modification to the subdivision that created Tofte Farms, Phase III (SUB 00-01). Specifically, the applicant seeks to utilize the provision for lot size averaging [CMC Section 16.16.030(A)(3)] from the original subdivision in order to allow the applicant to subdivide the existing lot 4100 (Map 4-1E-04DA), which contains the original Tofte home, into four lots.

Chair Brown asked about the CC&R's and home owner association. Kevin Cook indicated he had received the documentation form the Applicant.

Mr. Cook circulated to the Commissioners letters from the following:

- Nancy, Paul, Chris and Heidi Muller at 1493 S Pepperwood Street
- Randy Rosane at 390 SE 13<sup>th</sup> Place
- Mike Davis at 1402 S Lupine Street
- Caroline Showman at 345 SE 13<sup>th</sup> Place
- Susan Myers at 372 SE 13<sup>th</sup> Place
- David and Sarah Carlock at 388 SE 14<sup>th</sup> Place
- Jason and Mary Taylor at 1374 S Maple Street
- Tofte Farms Owner Association at 388 SE 14<sup>th</sup> Place

Chair Brown stated that the last time the Applicant was before the Commission, there was concern about the process and notification of adjacent property owners before the Commission made a decision. The Commission did not discuss the design and merits of the application. That would happen at this hearing.

**Applicant:** Neil Thorgerson, applicant and Sandy Woods, real estate agent. Mr. Thorgerson stated he had purchased the property in June of 2006. The house has extensive dry rot, plumbing issues, need for floor and roof replacements and work on the basement at an estimated cost of \$200,000. With the approval of the application he would be building 4 homes of 2,500 to 3,500 square feet and a selling price in the \$500,000 to \$600,000 range. Mr. Thorgerson stated that he would accept the condition that the property would come under the Tofte Farms Homeowner Association and accept the CC&R's requirements. He felt the public benefit was the aesthetics to the neighborhood by removing the house that had fallen in disrepair.

Sandy Woods stated that documents had been given to the City showing the Declaration of Annexation to Tofte Farms (Lot 143) with signatures by all concerned parties.

Commissioner Holte asked the price and style of the homes to be built. Mr. Thorgerson responded that the homes would be in the \$500,000 to \$600,000 range and styles similar to the neighborhood.

Chair Brown asked why application was not to demolish the home and build only three new homes. Mr. Thorgerson responded that the reason was financial.

**Proponents:** None

**Opponents:** Susan Myers representing the Tofte Farms Owner Association read a letter from the association requesting denial of the application because it was inconsistent with the existing character of the subdivision; the impact of the parcels location was crucial; the approval set a precedent; and removal of the Tofte farm house was not desirable. However, if the Commission were to approve, the association was requesting lots 143A and B face north; that the existing subdivision's design standards be applied; that the parcels become a member of the home owner association prior to building in order for enforcement of the CC&R's.

Commissioner Tessman asked about the removal of the Tofte house. Ms Myers stated the house was not technically "historic" but felt the house had value to the community.

Chair Brown asked about the value if 4 homes in the \$500,000 to \$600,000 range would be built on the site. Ms Myers felt they would not retain their value.

Susan Myers then spoke representing herself. She felt it was important that the houses be developed mirroring the design of existing homes.

Commissioner Holte stated he liked the idea that the two houses be required to face north.

Wes Bailey liked seeing the farm house and the story behind it. Requested rejection of the application and approve only three lots.

Jill Shreve felt the farm house was not displeasing and the need for CC&R's to be in place before starting construction.

**Rebuttal:** Sandy Woods stated that three lots would not be a modification to the approved subdivision and would not be a member of the Home Owner Association.

Neil Thorgerson stated that the 4-lot plan and design gives the Home Owner Association control of the project. A three-lot project would be less pleasing to all. His company had tried to maintain the property in a park like manner as any good neighbor would do.

Chair Brown closed the public hearing.

Commissioner Tessman felt this type of application was a continuing problem all over Canby.

Commissioner Holte liked the proposed Condition 18 about the home owner association and felt the application could be conditioned to require membership upon recording of the plat.

Chair Brown felt that Applicable Criteria C for a subdivision was not being met or a good match.

Kevin Cook stated that a finding must be made as to whether or not the applicant has demonstrated a public benefit.

Commissioner Molamphy stated the new lots being created were smaller than other lots in the surrounding area and did not see any public benefit.

Commissioner Manley felt there was no public benefit in removing the farm house.

Commissioner Holte liked the idea that the application would be conditioned to live within the wall of the current home owner association.

Commissioner Milne complimented the home owner association on their presentation. She did not see any public benefit and was a big fan of older homes.

It was moved by Commissioner Manley to deny MOD 06-19 as presented. It was seconded by Commissioner Milne. Motion carried 4-2 with Commissioners Tessman and Holte voting no.

**MLP 06-14 – 701 N Ivy Street** – Withdrawn by applicant prior to meeting.

### **III. NEW BUSINESS**

#### **MOD 06-20 – KRIEGHAUSER – Modification of MLP 06-12 – Condition 7**

Kevin Cook presented the staff report. The applicant is requesting the Planning Commission consider a Modification to condition number 7 of MLP 06-12. The partition request was approved by the Planning Commission in August of 2006. The approval allows 3 new parcels at the northwest corner of N. Maple and NE Territorial Road. An existing house would remain on the middle parcel; that house currently has a driveway that has direct access onto NE Territorial Rd. Condition 7 requires that as a requirement of the approval, the access for all three properties shall be by way of a common driveway via N Maple. The applicant's request is to modify Condition 7 so as to allow the two western lots to gain access off of NE Territorial Road by way of a shared access drive – the easternmost lot would still gain access off of N Maple St. The shared driveway accessing NE Territorial Road would be located slightly farther west of the existing driveway. The applicants state that they believe the proposed driveway should be considered a "relocation" of the existing driveway. Staff however, believes that a new access for a new use is subject to the City's access spacing standards and recommended denial.

Mr. Cook explained this was an intermediate application and if approved, notice would be sent to all who received notice of the original hearing. Mr. Cook pointed to Chapter 16.46.070 which deals with exception standards for City facilities. Mr. Cook also explained 16.46.050 which addresses nonconforming access.

**Applicant** - Lisa Dietz, daughter of Thelma Kriegshauser, stated that this was an established neighborhood and all the houses on Territorial Drive face Territorial Drive. The main concern with the approved plan is that the existing apple orchard would be destroyed and asked the Commission to reconsider Condition 7.

John Phillips, the Applicant, felt the Commission had been split on the Condition 7 before and requested they reconsider.

Commissioner Manley stated that the request created a new access, which could not meet the code.

Chair Brown asked if the ownership of the properties in question were all owned by the same person. Mr. Phillips responded that they were. Chair Brown felt that securing the easement should not be an issue.

Commissioner Molamphy asked if the reason for the request was because of the apple tree. Ms Dietz responded that it was.

Mr. Phillips read a letter from Mrs. Kriegshauser.

Chair Brown suggested to the Applicant that the decision being asked for was a political decision and the Commission could only deal with decisions within the code and the Applicant should appeal the decision to the City Council who may be in a position to deal with political decisions.

It was moved by Commissioner Tessman to deny MOD 06-20 as presented. It was seconded by Commissioner Molamphy. Motion carried 6-0.

#### **IV. FINDINGS**

**DR 06-09 – The Human Bean** - Commissioner Manley moved to approve the findings for DR 06-09 as presented. Motion seconded by Commissioner Holte and passed 6-0.

#### **V. MINUTES**

**April 24, 2006** - Commissioner Holte moved to approve minutes of April 24, 2006 as corrected. Motion seconded by Commissioner Molamphy and passed 4-0-2 with Commissioners Holte and Milne abstaining.

**July 24, 2006** - Commissioner Molamphy moved to approve minutes of July 24, 2006 as presented. Motion seconded by Commissioner Tessman and passed 3-0-3 with Commissioners Holte, Brown and Milne abstaining.

**November 27, 2006** - Commissioner Holte moved to approve minutes of November 27, 2006 as presented. Motion seconded by Commissioner Manley and passed 6-0.

## **VI. DIRECTOR'S REPORT**

Kevin Cook reported that tentatively the following applications would be on the January 8, 2007 agenda: DR 06-11 – Larios warehouse; CUP 06-03 – Ward Baker for a gravel parking lot; and SUB 06-05/ZC – Dinsmore Estates. He stated that the application for Burger King had been received.

Chair Brown thanked Commissioner Manley and Tessman for their years of service to the City of Canby on the Planning Commission as it was their last meeting as members of the Commission.

## **VII. ADJOURNMENT**