

A G E N D A

CANBY PLANNING COMMISSION REGULAR MEETING Canby Adult Center Monday, August 9, 1993

7:30 p.m.

I. ROLL CALL

II. MINUTES

July 26, 1993

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. COMMUNICATIONS

V. FINDINGS

None

VI. NEW BUSINESS

VII. PUBLIC HEARINGS

CPA 93-01/ZC 93-01, a request by Northwood Investments for a Comprehensive Plan Amendment of the Urban Growth Boundary and Land Use Element, and also the Zoning Ordinance map designation to R-1 (Low Density Residential) to "accommodate the development of a single family subdivision." specific subdivision plan approval is not part of this application. The subject site is 30.19 acres. It is a cultivated field for growing seedlings and part is vacant. The site is located on the south side of Territorial Road, east of N. Holly Street (Tax Lot 800 of Tax Map 3-1E-32AA; Tax Lots 100, 200 and 1700 of Tax Map 3-1E-33AD; Tax Lots 300 and 501 of Tax Map 3-1E-33BB; and Tax Lot 6600 of Tax Map 3-1E-33BC). *Continued from July 26, 1993.*

TA 93-03, City of Canby Zone Text Amendments initiated by the City of Canby Planning Commission. The amendments affect Chapters 16.50.020, 16.60.010, 16.62.010, 16.64.070, 16.68.060, 16.84.030, and 16.88.150. The amendments will: 1) require twenty-five (25) copies of site plans or maps for departmental review; 2) require street trees with land divisions; and 3) alter language regarding variance standards for self-created hardship situations. The effect, if adopted, would be Citywide.

VIII. DIRECTOR'S REPORT

The City of Canby Planning Commission welcomes your interest in these agenda items. Please feel free to come and go as you please.

Kurt Schrader, Chair
Linda Mihata, Vice-Chair
Tamara Maher
Bob Gustafson

Henry Fenske
Wade Wiegand
Stan Elliot



MEETING TIMELINES AND PROCEDURES

- *In order not to restrict any person from testifying but, rather, to encourage everyone to do so, the Canby Planning Commission shall try to adhere as closely as possible to the following timelines:*

Applicant (or representative[s]) - not more than 15 minutes

Proponents - not more than 5 minutes

Opponents - not more than 5 minutes

Rebuttal - not more than 10 minutes

- *Everyone present is encouraged to testify, even if it is only to concur with previous testimony. For more complete presentations, Proponents and Opponents may "buy" time from one another. In so doing, those either in favor, or opposed, may allocate their time to a spokesperson who can represent the entire group.*

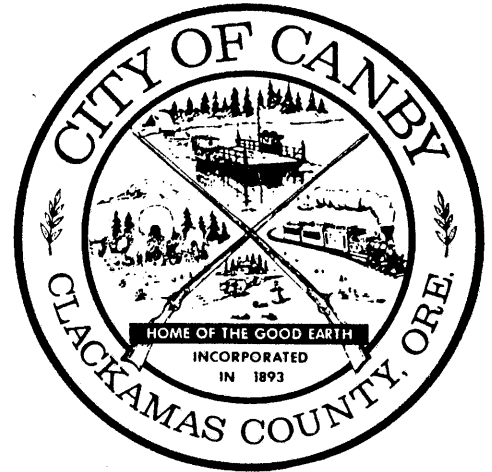
- *All questions must be directed through the Chair.*

- *Any evidence to be considered must be submitted to the hearing body for public access.*

- *All written testimony received, both for and against, shall be summarized by staff and presented briefly to the hearing body at the beginning of the hearing.*

Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.





- STAFF REPORT -

TITLE: AN ORDINANCE AMENDING PROVISIONS OF TITLE 16 OF THE
CANBY MUNICIPAL CODE

FILE NO: TA 93-03
(Amendment to Land Development and Planning Ordinance)

STAFF: James S. Wheeler
Assistant Planner

DATE OF REPORT: July 30, 1993

DATE OF HEARING: Planning Commission, August 9, 1993
City Council, tentatively September 15, 1993

I. APPLICANT'S REQUEST

The Planning Commission is initiating amendments to the Land Development and Planning Ordinance. The purpose of the amendments are to facilitate better planning through: requiring more copies of plats or site plans as the City has extended the number of agencies and departments to which request for comments on any application are sent; revised wording regarding the variance standard for self-created hardship situations; requiring street trees for developments involving land divisions; and requiring land division plat information to be submitted to the City in a computer compatible format for use in the City's new Geographic Information System.

II. APPLICABLE CRITERIA

This is a legislative land use regulation amendment application. In judging whether a legislative amendment should be approved, the Planning Commission must consider the following standards from City Code Section 16.88.160:

1. That the amendments conform with the Comprehensive Plan of the City of Canby;
2. That there is a public need for the amendments and that such changes best serve the public need for the City of Canby;
3. That the amendments will preserve and protect the health, safety, and welfare of the residents of the City of Canby; and
4. That the amendments conform to the statewide planning goals.

III. BACKGROUND AND RELATIONSHIPS

The Planning Commission and staff is continuously reviewing the Land Development and Planning Ordinance for revisions that will allow a more efficient use in reviewing land development applications. The proposed amendments are meant to implement changes that were not prepared in time for the comprehensive set of amendments recently adopted (TA 93-02). The Planning Commission considers the proposed changes important enough to implement in the near future, not desiring to wait for the time when another set of comprehensive amendments would be drafted.

The proposed amendments do not address certain difficulties arising from the processes of administering the ordinance, such as who is responsible for which review. These type of amendments may be considered at a later time under a separate application.

IV. FINDINGS

A. CONFORMANCE WITH THE COMPREHENSIVE PLAN

- **Citizen Involvement** - Public participation is provided by this review and hearing process.

- **Urban Growth** - The proposed amendments would apply only within the City limits. The proposed amendments would apply to properties outside the City limits, but within the Urban Growth Boundary only upon annexation. The County's zoning designations and land use ordinances will continue to apply to all properties outside of the City limits. Thus, the Urban Growth policies are followed.
- **Land Use** - The proposed amendments will not affect the uses permitted in the City's various zones. The recommended change in the language for variance standards is intended to have the effect of clarifying circumstances that warrant the granting of a variance from the standards of the ordinance.
- **Environmental Concerns** - Included in the proposed amendments is a requirement for street trees with any land division development. The effect of this requirement is to provide more greenery outside of the city parks and thus improve the overall scenic and aesthetic qualities of the city (policy No.7-R). The remaining changes will not adversely affect the natural or historic resources of the City.
- **Transportation** - The traffic volumes and patterns will not be significantly altered by the proposed amendments. The requirement for street trees is not expected to have an effect on traffic volumes or patterns.
- **Public Facilities and Services** - The proposed amendments will not have a significant effect on the current or projected future need for public facilities or services. The proposed amendments will not affect any land outside of the city limits. The requirement for street trees will have an effect on the placement of utilities in or near the street right-of-ways. Necessary adjustments to the placement of utilities will be handled on an individual basis, at the time of development.
- **Economic** - The proposed requirement of street trees with any land division development will increase the cost of development by approximately \$70-\$180 a lot (\$70-\$90 a tree, 1 to 2 trees per lot). The increased value of the lots in the land division development due to the street trees is relatively uncertain. According to a 1991 Global Cities Project, "Building Sustainable

Communities: An Environmental Guide for Local Government: Urban Forestry", houses on tree-lined streets command prices that are 21 percent higher than houses in more barren areas. If this statistic holds true for Canby, or even an increase in house prices of 10 percent, the cost of the street trees would be more than compensated by the increase value of the homes and lots.

- **Housing** - The proposed amendments will not adversely affect the availability of housing as called for in the Comprehensive Plan. The requirement for street trees may result an increase of lot sizes. The increase lot sizes would be a result of maintaining the same size "buildable" area on a lot while accommodating room for both utilities and street trees.
- **Energy** - The requirement for street trees will have the effect of helping to reduce the "urban heat island" affect that results from a concentration of asphalt and concrete in urbanized areas. Even a relatively small city such as Canby creates an "urban heat island". Vegetation helps reduce this effect. Individual applications will still be reviewed for energy efficiency through the Building Code and through the Solar Access Ordinance.

B. Comprehensive Plan Consistency

According to the above described analysis, the proposed amendments are consistent with the goals and policies of the Comprehensive Plan and will not prevent accomplishment of Plan policies, as far as staff analysis can determine.

C. Public Need

The purpose for each of the proposed amendments is given in exhibit 2 (under each proposed change, a reason is given for the change). In general, the proposed amendments are meant to provide a better land use application review, through better information dissemination; to clarify wording regarding standards for the granting of a variance; and to enhance the aesthetic quality of living in the city through street trees. The proposed amendments were considered, through discussions by the Planning Commission during their monthly "Discussion of Planning Issues", to be the best alternative to meet the purpose of each amended section of the Land Development and Planning Code and the purpose of the code as a whole.

D. Health, Safety and Welfare

The Land Development and Planning Code's purpose is to protect the health, safety and welfare of the citizens of the city, and to implement the goals and policies of the acknowledged comprehensive plan. The proposed amendments will facilitate the ability of the Code to better fulfill its purpose. This is done through drafting "clear and objective standards" and a smooth, comprehensive review process to accomplish the Comprehensive Plan purposes.

E. Conformance to Statewide Planning Goals

State Land Use Goal #4 and its implementing procedures require that the City's Comprehensive Plan conform to the Statewide Planning Goals. The City's Comprehensive Plan has been acknowledged by the State Department of Land Conservation and Development (1984). The City's Land Development and Planning Ordinance, and all amendments, is required to conform to the goals and policies of the acknowledged Comprehensive Plan. As the analysis in sections A and B of this report has shown, the proposed amendments conform to the City's acknowledged Comprehensive Plan, and therefore, conform to the Statewide Planning Goals.

V. CONCLUSION

1. Staff concludes that the proposed amendments to the Land Development and Planning Ordinance conforms with the Comprehensive Plan.
2. Staff concludes that there is a public need for the amendments and that such changes serve the public need of the City of Canby.
3. Staff concludes that the amendments will preserve and protect the health, safety, and welfare of the residents of the City of Canby.
4. Staff concludes that the amendments conform to statewide planning goals.

VI. RECOMMENDATION

Based upon the findings and conclusions in this report, without benefit of public hearing, and with the additional information contained in the file, staff presents proposed Ordinance No. ___, as requested by the Canby Planning Commission, and recommends that the Commission recommend City Council approval.

Exhibits:

1. Application and Notice
2. Proposed Amendments and Reasons

ZONE CHANGE APPLICATION

Fee: \$1000.00

OWNER

APPLICANT

Name CITY OF CANBY

Name City of Canby Planning Commission

Address _____

Address 182 N. Holly

City _____ State _____ Zip _____

City Canby State _____ Zip _____

SIGNATURE Robert Hoffmann
Dir of Planning

Phone: 266-4621

DESCRIPTION OF PROPERTY:

Tax Map _____ Tax Lot(s) _____ Lot Size _____
(Acres/Sq. Ft.)

or CITY WIDE

Legal Description, Metes and Bounds (Attach Copy)

Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be typed onto an 8-1/2 x 11 sheet of labels, just as you would address an envelope.

USE

Existing _____
Proposed _____

Existing Structures _____

PROJECT DESCRIPTION

Amend the Land Development and Planning Ordinance -
Title 16 of the City Code - Chapters 16.50.020, 16.60.010, 16.62.010,
16.64.070, 16.65.060, 16.84.030,
and 16.88.150

ZONING _____ **COMPREHENSIVE PLAN DESIGNATION** _____

PREVIOUS ACTION (if any) _____

File No. TA-93-03
Receipt No. _____
Received by _____
Date Received 7/16/93
Completeness Date 7/16/93
Pre-App Meeting _____
Hearing Date 8/19/93



* If the applicant is not the property owner, he must attach documentary evidence of his authority to act as agent in making application.

DATE: July 20, 1993

A M E N D E D

AMENDMENT TO THE LAND DEVELOPMENT AND PLANNING ORDINANCE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the City of Canby Planning Commission on Monday, August 9, 1993 at 7:30 p.m., in the Canby Adult Center, S. Ivy Street, Canby. The hearing is being held to consider TA 93-03, Zone Text Amendments initiated by the City of Canby Planning Commission. The amendments affect Chapters 16.50.020, 16.60.010, 16.62.010, 16.64.070, 16.68.060, 16.84.030, and 16.88.150. The amendments will: 1) require twenty-five (25) copies of site plans or maps for departmental review; 2) require street trees with land divisions; and 3) alter language regarding variance standards for self-created hardship situations. The effect, if adopted, would be Citywide.

The applicable criteria for this review is set forth in Chapter 16.88.160 of the Canby Municipal Code. This chapter deals with amendments to the text of title. Copies of the pertinent section of the proposed amendment to the Planning and Development Ordinance are available from the Planning Department located at 182 N. Holly. All testimony and evidence shall be directed to the applicable criteria or the person providing testimony shall state which other criteria they believe applies to the application.

Anyone wishing to comment on the proposed Text Amendment may do so by submitting written or verbal testimony at the hearing. Failure of an issue to be raised at a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision-making body an opportunity to respond to the issue, precludes an appeal to the State Land Use Board of Appeals. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.

A copy of the application and record are available for inspection at no cost, in the Community Services office, 182 N. Holly, Canby, Oregon, during regular working hours (8:00 a.m. to 5:00 p.m.). A copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing (at the Community Services office and at the Canby Public Library), and will be provided at reasonable cost. Staff coordinator is Jim Wheeler, 266-4021.

Notice of this hearing is as provided in Section 16.88.130 of the Land Development and Planning Ordinance (#740), as adopted February 1, 1984.

Publish: Canby Herald

Wednesday, August 4, 1993

FILE: TA 93-03

7/20/93 LAND DEVELOPMENT AND PLANNING ORDINANCE CHANGES

bold/strike outs = delete
bold/underline = add
one bracketed deletion ([-])

16.50.020 Application for conditional uses.

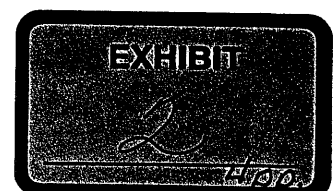
A request for a conditional use or modification of an existing conditional use may be initiated by a property owner or his authorized agent by filing an application with the city planner upon forms prescribed for the purpose. The application shall be accompanied by ~~a~~ **twenty-five (25)** site plans, drawn to scale, showing the dimensions and arrangement of the proposed development. The planning commission may request other drawings or material essential to an understanding of the proposed use and its relationship to the surrounding properties.

REASON: To require the applicant to submit a sufficient number of copies of a site plat or plan for an appropriately comprehensive review. Over the past year, the number of agencies involved in the review of land use applications has increased to the point that 25 copies of a plat or plan is necessary.

16.60.010 Filing procedures.

A. ~~Eighteen~~ **Twenty-five (25)** copies of the tentative partition map, drawn to scale and submitted on paper no less than eight and one-half by eleven inches in size, and showing all the following information:

REASON: To require the applicant to submit a sufficient number of copies of a site plat or plan for an appropriately comprehensive review. Over the past year, the number of agencies involved in the review of land use applications has increased to the point that 25 copies of a plat or plan is necessary.



16.62.010 Filing procedures.

A. Copies. ~~Eighteen~~ Twenty-five (25) copies of the tentative subdivision plat, together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project.

REASON: To require the applicant to submit a sufficient number of copies of a site plat or plan for an appropriately comprehensive review. Over the past year, the number of agencies involved in the review of land use applications has increased to the point that 25 copies of a plat or plan is necessary.

16.64.070 Improvements.

K. Other Improvements.

2. Street tree planting is ~~not~~ required of the subdivider and but, if planted, shall be according to City requirements and of a species compatible with the width of the planting strip.

(see Ordinance #852 - Tree Ordinance - for details)

REASON: To require street trees to be planted with any land division development. The purpose of which is to provide a more visually attractive streetscape, thus enhancing the "liveability" of the city.

16.68.060 Planning Commission approval.

B. After the plat has been approved by all city and county officials, ~~two~~ one reproducible copies of all data (plat face, dedications, certificates, approvals), one copy of all plat data in a "dxf" digital format, and one copy of recorded restrictive and protective covenants shall be returned to the city ~~engineer~~ planner.

REASON: One reproducible copy of a signed plat is sufficient for the City's record keeping needs, as all reproducible copies are stored together. The copies are stored in the Planning Office, Community Services Department, not by the city engineer. The Community Services Department was recently created and the Ordinance has not been changed to reflect the change in responsibilities of the city engineer and/or the city planner.

The City is in the process of implementing an automated information system in which parcel information, including subdivision plats, will be stored on a computer. In order to maintain the system properly, all new subdivisions will have to be entered into the system. If the information is provided to the city in a computerized format compatible with the City's system, the City will be able to maintain the system efficiently and effectively. The cost of providing this information in a computerized format is estimated to be in the range of \$50 - \$100, depending on the size of the development.

16.84.030 Filing procedure.

Property owners seeking to annex territory to the city shall file with the city planner an appropriate application form for the purpose. Included with the application form will be ~~eighteen~~ twenty-five (25) copies of a map or maps accurately showing the area proposed for annexation and any important features of the land. Also included with the application will be a written statement explaining the conditions surrounding the proposal and addressing the required criteria of Section 16.84.040.

REASON: To require the applicant to submit a sufficient number of copies of a site plat or plan for an appropriately comprehensive review. Over the past year, the number of agencies involved in the review of land use applications has increased to the point that 25 copies of a plat or plan is necessary.

16.88.150 Variances.

D. Standards and Criteria. A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute "other" exceptional or extraordinary circumstances.

2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and

3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's comprehensive plan or the land development and planning ordinance; and

4. Granting of this variance will not be materially detrimental to other property within the save vicinity; and

5. The variance requested is the minimum variance which will alleviate the hardship; and

6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, ~~acting in deliberate violation of these or other city regulations.~~

REASON: The change to standard number one is to clarify that the actions of previous owners (such as siting a home in such a way that an addition to a certain room is not possible without a variance, but is possible for other homes in the area because they were sited differently) does not constitute an exceptional circumstance.

The change to standard number six is for the purpose of stating that the exceptional or unique condition which necessitates the issuance of a variance is not caused by the applicant regardless of intent. Proving intent can be nearly impossible, and if a variance would not have been issued if the applicant had not caused the exceptional or unique condition, then the variance should not be granted.

Refer to the Oregon State Bar's Committee on Continuing Legal Education "Land Use" volume 2, 1982 revision. Cited: 2 Land Use (Oregon CLE 1982) Section 20.



PLANNING COMMISSION

TESTIMONY SIGN-IN SHEET

Date: August 9, 1993

NAME (Please Print)	ADDRESS (Please Print)
Christine Yoder	213 N. Douglas
Jack Pendleton	681 NW 13th
Earl Walker	9933 S. Carriage Lane
Del Kemp Hill	703 NW 13th
JORGE CARRION	1200 N. BIRCH
Jerry Summit	168 - NW 22nd
C. Mend	644 NW 13th
Ed Martecocco	3468 N. Holly
Ron Titone	
Frank Charbonneau	C.E.
PAUL SCOLES	P.O. Box 3558, Portland 97209
MARTHA STIVEN	14020 UPLANDS DR. LAKE OSWEGO 97034

PLANNING COMMISSION

SIGN-IN SHEET

Date: August 9, 1993

NAME (Please Print)	ADDRESS (Please Print)
EROMNES H	980 N BIK CIT
DICK SHANN	795 NW 10TH AVE
Keryn Scarborough	2600 N. maple Ct
Floyd H Mendenhall	791 NW 10TH
Esther Pomphrey	380 NW 10TH
Jack Pendleton	686 NW 13TH
Chris Pendleton	686 NW 13th
Cyndi Klaetsch	844 NW 13th, Canby
Mar & Edythe Waga	646 NW 12th ave
Kim Harzizis	1295 N. GRANT
Edna Vasicka	680 N. 9th Canby
Jesse Shuhart	606 NW 13th, Canby
Don Shuhart	606 NW 13th, Canby
Gordon Ross	489 SW 1st Canby (Brs)

PLANNING COMMISSION

SIGN-IN SHEET

Date: August 9, 1993

NAME (Please Print)	ADDRESS (Please Print)
Robert W. Watson	1205 N. BIRCH
JORGE CARRION	1200 N. BIRCH ST.
HERMAN G. & SNEY	683 NW 10 th Ave
LOWELL-BAGSHA W	607-N.W. 12 th Ave.
JOHN SCHLIT	700 NW TERRITORIAL RD.
Mavourn Stuart	603 N.W. 13 th Ave.
Margaret Seale	666 N.W. 13 th Ave.
Delbert Hemphill	703 NW 13 th Ave.
Judy Mead	644 N.W. 13 th Ave
Pat Mead	644 NW 13 th Ave
Kenneth A. Stuart	603 NW 13 th Ave
Lois & Archie McLeod	543 N.W. Territorial Rd.
Ron Tatone	P.O. Box 114, 1127 NW 12 th AVE
Pat Haphey	1185 N. Birch
Mary Lee	969 N. Birch
Fred Kahert	9911 S. Kvarbergel
Bob Backstrom	1395 N. Birch