

A G E N D A

CANBY PLANNING COMMISSION

REGULAR MEETING City Council Chambers

January 13, 1992 - 7:30 p.m.

I. ROLL CALL

II. MINUTES

November 25, 1991
December 9, 1991

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. COMMUNICATIONS

V. FINDINGS

MLP 91-01 - Carl Stuart
CUP 91-08 - Canby Union High School

VI. NEW BUSINESS

VII. PUBLIC HEARINGS

SUB 91-01, a request by David Anderson to develop a 17-lot single family subdivision, North Pine Addition II. The property is located east of N. Pine Street and north of N.E. 14th Avenue (Tax Lot 1500 of Tax Map 3-1E-34B). **Continued from November 25, 1991.**

DR 91-08/CUP 90-06(Mod. 1/92), a request by David Nelson (applicant) for Site and Design Review of a mobile/home park known as "Village on the Lochs." Additionally, Mr. Nelson is requesting an extension of his Conditional Use application and modification of certain conditions of approval. The property is generally located east of the Canby Community Park and south of S. Elm Street (Tax Lot 1790 of Tax Map 4-1E-4C).

VIII. DIRECTOR'S REPORT

IX. ADJOURNMENT

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

Wade Wiegand
John Zieg
Henry Fenske



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 30 minutes

Proponents - not more than 10 minutes

Opponents - not more than 10 minutes

Rebuttal - not more than 20 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.*

Failure of an issue to be raised in 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 appeal to the State Land Use Board of Appeals.

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.



- M E M O -

TO: Site and Design Review Application File DR 91-08

FROM: James S. Wheeler, Assistant Planner

RE: January 8, 1992 Site Visit

DATE: 08 January 1992

The November 1990 report, "Wetlands And Wildlife Of The Proposed Village Of The Lochs Site," is an unscaled topographic map that bears significant discrepancies with both the City's topographic maps and the most recent topographic map produced by the applicant. The resulting confusion regarding the location of the wetlands boundary prompted the site visit.

The results of the site visit, in conjunction with the text of the Wetlands Report, left the Planning Staff confident that the wetlands boundary as presented on the Grading Plan are correct. Unfortunately, the Grading Plan does not show the complete boundary of the wetlands. The Grading Plans show two small areas of the wetlands that will be filled under the current proposal (Lot 27 and an area near Lot 117). Two other small areas may also be slated for filling, depending on the precise location of the wetlands boundary (Lots 31 and 32, and Lots 38 and 39). The total combined acreage of the four possible wetland fill sites is approximately 3,500 square feet. The two wetland areas currently proposed to be filled is approximately 2,400 square feet.

- M E M O -

TO: Planning Commission

FROM: Robert G. Hoffman, Planning Director

**RE: Supplemental Staff Report
- North Pine Addition II (SUB 91-01)**

DATE: January 3, 1992

This supplemental staff report is in response to the attached opponents' Position Statement of November 25, 1991 and will follow in the same order. The hearing has been re-noticed in the Canby Herald, and it ran in the January 1, 1992 edition.

Land Use

While the school has been approved for the site at Redwood and Territorial, such approval is being appealed to LUBA. The school district has announced it is analyzing alternative school sites. Adequate school service will be available. The site is proposed for "Public Use."

While no parcel immediately contiguous with the proposed subdivision has been developed with urban type uses, there are subdivisions only one parcel removed, on 13th and 14th Avenues, to the south and southwest.

The opponents do not explain **how** or **why** development of a subdivision is "not compatible with adjacent livestock farm land." Implementation Measure C, under Policy 1-R-B states: "Encourage growth into areas where land is fragmented into small parcels which are not conducive to productive agricultural use." The County portion of the area has previously been subdivided into 4.47 acre parcels and zoned RRFF-5. This action is consistent with the inclusion of the area within Canby's Urban Growth Boundary and the recent annexation of the area of the subdivision for urban type development. Staff sees no incompatibility of a subdivision adjacent to livestock farming on small parcels. This is permitted and anticipated.

Planning Commission Memo

RE: SUB 91-01

January 3, 1992

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Environmental Concerns

The proposed subdivision has lots which are consistent with its R-1 (Low Density Residential) zoning which permits lots with a minimum lot area of 7,000 square feet. These lots are not "extreme," but are common throughout Canby. Whether this type of development "**improves** the overall scenic and aesthetic quality of the City" is a matter of judgement.

There is no requirement for the dedication of park space as a part of small subdivisions. However, development of each lot will require the payment of about a \$900 Systems Development Charge which will be used to acquire land and develop parks in Canby.

Transportation

A traffic analysis report is not needed to determine the relative impacts of a small 17-unit subdivision. The usual procedure in Canby has been that dedication of road space and paving is done by the developer of each parcel at the time of subdivision or partition. It is known that major intersections will ultimately require improvement but, so far, small developments have not been required to participate in these improvements. Ultimately, an SDC for road improvements will probably be needed in Canby.

Staff-proposed Condition #1 provides for a temporary turnaround at the end of 15th Avenue. Staff is of the professional opinion that a loop street design is the preferable pattern for the ultimate local streets in this vicinity, rather than a cul-de-sac design. This will provide for better traffic circulation and a final utility grid including looped patterns, rather than dead ending. It is the City's right and responsibility to require this.

The staff does not understand how a "10 foot connection to the Logging Road or the 15th Avenue dead-end" will encourage trespassing on private property. The adjacent property is already fenced.

Planning Commission Memo

RE: SUB 91-01

January 3, 1992

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Public Facilities and Services

The City has a plan and implementation process underway to make improvements at the sewer plant. There are numerous possible funding mechanisms to make these improvements. The City Administrator has publicly stated that funding will be provided from some alternative source if the vote on the initiative rejects revenue bonds. The process to establish a "moratorium" has not been initiated. Actions, such as denial of a subdivision, having the effect of a moratorium are not permitted without following the required moratorium adoption process.

The "high water table" has been determined to be at 17 feet below the surface. Alternative solutions are being investigated besides the usual drywell design. A nearby subdivision has solved the problem with an alternative design for stormwater.

"Plans" for an area are a necessary consideration in the approval of any land division. The new Systems Development Charge will help pay for new park development.

Design and Lot Arrangement

Flag lots are permitted under the Canby development code. Police and fire staff have reviewed the plan and approved of it. The Franz family has developed flag lots. The referenced 25 feet was required as part of a proposed new street to access an area. Code Section 16.64.040(I), regarding flag lots, requires access strips of a minimum of twenty feet in width and also allows reciprocal agreements of adjacent lot owners to share these. (See attached memo of February 22, 1982.)

Some lots are proposed to be 7,000 square feet. Lot #5 is a flag lot and is permitted under Section 16.64.040(I). Lot #4 is permitted by Code provision in Section 16.16.030(B), provided there is adequate access. Section 16.04.380 defines "Lot Width" as follows: "Lot width means the **average** width of a lot when measured at the front and rear setback lines." (emphasis added). Application of this definition would yield a lot **width** of approximately 62 feet for Lot #4.

Planning Commission Memo

RE: SUB 91-01

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Sidewalks are a requirement for all new subdivisions. They will be required at time of development. When the tax lot occupied by 1430 N. Pine is partitioned, or further developed, sidewalks on Pine and 15th Avenue will be required. Thus, sidewalks will be available on both sides of 15th Avenue and on the east side of Pine Street when development of the proposed subdivision **and** 1430 N. Pine are complete.

Staff is recommending that 15th Avenue be designed for ultimate extension without full-scale permanent turnarounds. However, staff is recommending the use of one of the standard hammerhead-type turnarounds as a temporary measure. Fire and police have not recommended full turnarounds.

Conclusion (Opponents)

The professional opinion of staff is that the proposed treatment of 15th Avenue will not "hinder" development of the Franz property, but will help facilitate a total development which is of benefit to the community.

Recommendation (Opponents)

Staff is of the professional opinion that a 6 foot fence is **not** a reasonable requirement between residential properties, as proposed for this area. A fence between properties already exists.

Further Recommendation (Staff)

Add the following to proposed Condition #3:

"The utility easement between Lots #2 and #3 of Block #1 shall also provide utility access for servicing Lot #1.

Planning Commission Memo

RE: SUB 91-01

January 3, 1992

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Add Condition #17 to read:

17. The stormwater disposal system shall be reviewed and approved by the Public Works Director.

Add Condition #18 to read:

18. The developer and owner shall submit a Waiver of Remonstrance against establishment of any needed L.I.D. for financing facilities or road improvements.

Staff continues to recommend approval of SUB 91-01 with conditions as previously recommended in the staff report dated November 15, 1991.

OPPONENTS POSITION STATEMENTS
NOVEMBER 25, 1991

RECEIVED
NOV 25 1991
CITY OF CANBY

RE: File No. SUB 91-01
legal Description: Tax lot 1500 of tax map 3-1E-34B
Location: East of Pine and just North of NE 14th Avenue

Due to the fact that the public hearing advertisements gave an erroneous location for the property covered in application # Sub-91-01 we hereby request that the application be withdrawn until such time that a new and corrected public hearing notice can be re-advertised. To hold this hearing without proper and correct notice is a violation. You must be aware that we as opponents to this project feel that all the applicable laws must be complied with.

LAND USE:

The staff report states that a new school was approved on territorial. It should be noted that there is a great deal of question as to whether it will in fact be built at that location.

None of the other developments are in the immediate vicinity of this property. Contrary to the analysis on page 5 there has been no urban development of any kind around this site. In fact the property is totally surrounded by county parcels of an acre or more, none of which have applied to be a part of the city or to be subdivided.

This project conflicts with land use policy # 1, in that this dense of housing is not compatible with adjacent livestock farm land.

ENVIRONMENTAL CONCERNS:

This development with such small lots does not allow for the needed space for shade trees and landscaping that is the beauty and the restful qualities of our city. The extreme denseness of this development makes it impossible to meet Policy #7-R which states Canby shall seek to improve the overall scenic and aesthetic qualities of the City.

Policy 8-R states that Canby shall seek to preserve and maintain open spaces. The applicant does not propose nor does the plot show any public open space. In addition there is no mention of park dedication in the form of monetary or land.

TRANSPORTATION:

Policy #1, states Canby shall provide the necessary improvement to city streets. It has been mandated that a half street improvement along Pine street including a 10 foot dedicated strip along the width of the property will be paid for by the developer. We feel that a traffic report should be submitted with Pine Street being designated as a Collector Street prior to approval of this project. We also question who will be expected to pay to widen the balance of Pine Street, since at the end of the developed property, Pine Street will narrow down and cause a serious potential traffic hazard.

Policy #3, requires Canby to attempt to improve problem intersections. Due to the significant increase in traffic the intersections at Pine & 99E, Pine & Territorial, and Territorial & 99E all will be impacted. There is nothing substantive in the staff report in the way of a concrete proposal to address any of these intersections.

Policy #6, makes Canby responsible to assure that all new developments provide access for emergency vehicles and convenience of the general public. In its present format 15 Street does not provide adequate width at any point for emergency or any type of vehicles to turn around. We formerly reject the traffic pattern allowing 15 Street to dead end into the Franz property.

Analysis concluded that 15th Street will eventually loop through the adjacent Franz property. The Franz's are unwilling to have their property in any way associated with a development of this quality and therefore object to being forced in the future to continue this street.

We note that no provisions have been made to keep the pedestrians who use the 10 foot connection to the logging road or the 15th street dead end from trespassing on private property. We feel that this must be addressed.

PUBLIC FACILITIES AND SERVICES:

Analysis under this section made no mention of the sewer plants ability to handle any new developments. we have been exposed to a series of conflicting statements as to the plants capacity to handle much more development ranging from "We have 15 years till we meet plants capacity", "as little as 100 more connections could effect capacity", and "Canby still has capacity for 800 more household connections". The

public deserves to have the situation clarified and documented as to the actual facts.

In regards to this property we feel a moratorium of building at this time is more desirable than burdening the tax payers with an additional bond issue.

The staff report states the development will need to participate in the cost of service facility extensions. It is our position since the plot is not truly adjacent to the city, it should therefore be required to pay all of the cost of extension. The standards and criteria that are used to determine how much he participates should be stipulated prior to acceptance of the petition.

Since this vicinity has recently experienced problems because of a high water table, a decision on this petition should be delayed until public works has come up with a viable solution to this problem.

Analysis states that "the new park plan proposes a park to serve the population. It is located east of the logging road." At this time there is no park east of the log road, no property has been purchased or negotiations made, it is only a plan. Therefore it should not be given any consideration concerning the project before us.

DESIGN AND LOT ARRANGEMENT:

We do not agree that the present plan is acceptable. The flag lots being created deny, residents; street frontage and create poor living conditions for those living on the flag lot as well as those living in front of them. These lots are not easily accessible and are dangerous to emergency personnel. We feel this plan can be made to eliminate flag lots and allow all the lots have traditional street frontage.

If however you choose to accept the flag lots, we would expect that the city be consistent with the past. As in the case of the property at 1144 & 1154 N. Pine was subdivided they were required as the attached letter shows to dedicate 25 feet for the two flag lots created. We feel that the situation is no different in this case and that 25 feet rather than 20 feet should be dedicated as access to the two flag lots.

This section states that all lots are "larger than the required 7000 square feet", several are only 7000 square feet total. We question if adequate frontage to NE 15th is available for Block #2, lots 4 & 6. We are led to believe that frontage requirements were at least

60 feet, and neither of these lots have more than approximately 40 feet.

The requirement for 5 feet of sidewalk on each side of the street are not stated in his proposal. Sidewalks on both sides of the street are a necessity along with 36 feet of street pavement.

We feel that 15th Street should not be designated as a dead end with a temporary barricade. The street should be required to have permanent turnarounds.

CONCLUSION:

We must reiterate that we feel that the dead ending of 15th into the Franz property does in fact hinder the use and development of their property. This tactic creates an extremely dense development of odd shaped properties and furthers a preconceived presumption that they desire to eventually develop their property to match this development.

RECOMMENDATION:

Because 15th Street will not be developed onto the Franz property "temporary turnarounds" are not an adequate solution.

Items 1 and 6 discuss a "barricade" and "one foot plug". We feel it is necessary that a more adequate barrier be placed to prevent trespass at this public access point.

In relation to item 10, we do not feel a signed agreement to not discard waste on adjacent property will gain compliance from the future residents. We feel that the developer should be required to not only place a 6 foot fence on the Eastern boundary but also the Southern and Northern boundaries to protect all parties concerned.

We as the opponents to this application for subdivision request that it be denied.

Ray A. Franz
Charles J. Franz
Lucille Franz

DATE: February 22, 1982
TO: Canby Planning Commission
FROM: Bud Atwood
Public Works Supervisor

SUBJECT: Minor Land Partition

APPLICANTS: Schaefer and Franz

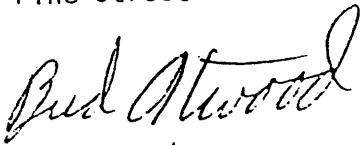
I have reviewed the application and would make the following requests and comments.

Request a ten (10) foot dedication on the west boundary, bordering Pine Street for street purposes.

Request a twenty-five (25) foot offer of dedication on the north property line for possible street use at such time as the Bell property would be developed.

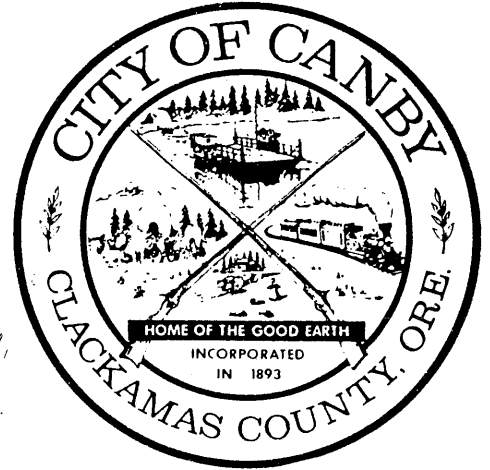
Request a waiver of remonstrance for any future street, curb, storm drainage, and sewer L.I.D. bordering the property.

I would make the Commission and owners aware that without a city sewer lateral and lift station, or home sewer pumps, only the lot bordering Pine Street can be connected to the city sewer.



Bud Atwood

- STAFF REPORT -



APPLICANT:

David Nelson

FILE NO.:

DR 91-08

OWNER:

John and Sande Torgeson

STAFF:

Robert G. Hoffman, AICP
Director of Planning

LEGAL DESCRIPTION:

Tax Lot 1790 of
Tax Map 4-1E-3C

DATE OF REPORT:

January 3, 1992

LOCATION:

Southeasterly end of S. Elm

DATE OF HEARING:

January 13, 1992

COMP. PLAN DESIGNATION:

Low Density Residential/
Hazard Overlay

ZONING DESIGNATION:

R-1 Low Density Residential
with Hazard Overlay

I. APPLICANT'S REQUEST:

The applicant is requesting approval to construct a 128 lot manufactured home community, known as "Village on the Lochs."

II. APPLICABLE REGULATIONS:

This is a Site and Design Review application as well as a quasi-judicial land use application. The proposed use has been previously approved as a conditional use in an R-1 zone (CUP 90-06). In judging whether a Site and Design Review application should be approved, the Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

Ordinance No. 848 (as amended by Ord. 854)

Section 2. Criteria and Standards

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:
 - A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - B. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and
 - C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the Site and Design Review Plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.

3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirement of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.

4. As part of the Site and Design Review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for Site and Design Review.

Section 3. Conditions Placed on Site and Design Review Approvals

1. A Site and Design Review approval may include restrictions and conditions. These restrictions and conditions shall be reasonably conceived to:
 - A. protect the public from the potentially deleterious effects of the proposal; and/or
 - B. fulfill the need for services created, increased or in part attributable to the proposal; and/or
 - C. further the implementation of the requirements of the Canby Municipal Code.

2. The following types of conditions are specifically contemplated by subsection (1) of this section and the listing below is intended to be illustrative only and not to be constructed as a limitation of the authority granted by this section.

- A. **Development Schedule** - A reasonable time schedule may be placed on construction activities associated with the proposed development, or any portion thereof.

- B. **Dedications, Reservation** - Dedication or reservation of land, or fee in lieu thereof, for park, open space purposes, rights-of-way, bicycle or pedestrian paths, greenway, riverbank or easements; the conveyance of title or easements to a homeowners' association.

- C. **Construction and Maintenance Guarantees** - Security from the property owners in such an amount that will assure compliance with approval granted.

- D. **Plan Modification** - Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this ordinance.

- E. **Off-Site Improvements** - Improvements in public utility facilities not located on the project site where necessary to assure adequate capacity and where service demand will be created or increased by the proposed development. The costs of such improvements may be paid for in full while allowing for recovery of costs from users on other development sites, or they may be pro-rated to the proposed development in proportion to the service demand projected to be created on increases by the project.

- F. **Other Approvals** - Evaluation, inspections or approval by other agencies, jurisdictions, public utilities or qualified consultants may be required for all or any part of the proposed development.

- G. **Access Limitation** - The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

III. FINDINGS:

A. Background:

1. Property Identification:

- a. The subject property is identified on the Clackamas County Assessor's Map as Tax Lot 1790 of Tax Map 4-1E-3C.
- b. Access to the property is to be by way of a public street to be an extension of S. Elm, southwesterly across a County area and outside the Urban Growth Boundary and then back into the City from the south.
- c. The Cedar Ridge Subdivision and Elmwood Subdivision and 70 foot high embankment area are located immediately to the north. The Canby Community Park is located to the west and farms and aggregate mining are located to the south and east.

2. Site Characteristics

The site is a 28± acre property located adjacent to the Mollala River embankment, partly on flood plain and partly with the wetlands. Most timber has been removed. Most of the site has been disturbed by grading or gravel mining. In January 1991, CUP 90-06 was approved by the Planning Commission with 44 conditions. Site and Design Review was one of those conditions. Since then, the applicant has been attempting to comply with each condition.

B. Criteria Consistency Analysis

Part IV, Section 2, #2:

"Minimum area for landscaping is 15% of the total area to be developed. . . including a strip at least 15 feet wide along all interior lot lines." See Section 16.44.030(I).

The site is approximately 28 acres, 15% of which equals 4.2 acres. The site plan approved under the Conditional Use included a condition that a major part of the site be preserved as wetlands. Wetlands mitigation is recommended by the wetlands expert. The landscaped area includes dedication of a large area for a park to be added to the City park system, pedestrian trails to be constructed, and a large portion of each lot to be landscaped according to a "native palette" or an "ornamental palette," and the buffer area around the wetlands and new small lake, which are proposed to be landscaped. The landscape plan was prepared by Mike Faha, a registered landscape architect. Only the area of the streets and area covered by the homes and parking will not be landscaped. Thus, the proposed landscaping of either native or ornamental landscaping far exceeds the required 15% area. Timing of when these improvements would be made is not clear. Recent discussions indicate that the intentions of the developer are to **phase** the development. Occupancy permits should be held or staged until agreements are reached on phasing of improvements which include landscaping. No development is proposed for the park area. Trees to be retained are indicated on the engineering plans and are being reviewed by the City Forester. The landscaping installation and maintenance should be supervised by a landscape expert to ensure compliance with Ordinance No. 848.

Parking and Loading Space

The applicant has proposed a carport or garage, plus a driveway, on each lot. In addition, parking is permitted on all private streets. "One Side Only" parking is allowed where the streets are less than 32 feet in width. Thus, there is on-site parking for residents and guest parking on the private streets (see Condition #26). There are no loading requirements for a manufactured home park. It is not always clear that there is enough room on the illustrative lot landscape plans for parking on each lot.

Access

Major access to the development will be by way of a 32 foot wide public street. The developer has proposed an 8 foot wide sidewalk on **one** side. The local streets are proposed to be 24 feet with a 3 foot sidewalk on **one** side. Chapter 16.46 permits up to 54 dwellings units on the portions of the drives which are looped, and up to 36 units on the short segment which is not looped. The largest number on a looped street is 44 units, and 11 on an unlooped street. Thus, the widths and number of units meets the access requirements. The developer has not yet proven to the City Attorney that he has full property control for access.

Architecture

There are no permanent buildings proposed as part of the landscape plan. Each manufactured home will be built accordingly, to fulfill Conditions #24 and #38. However, the drawings L-4 and L-5 of the Landscape Plan do **not** fully comply with the requirements of Condition #38 regarding site development. Each proposed manufactured home will be reviewed by the site manager according to the approved operating rules, to ensure compatibility and meeting Conditions #24 and #38. The square footage requirements have not been met and the required distance between buildings has not been provided. For lots near the public road, or for lots near the property line, these illustrative plans do not provide the fifteen feet between the unit and the lot line, or the 25 feet between the unit and the public street. Two parking spaces are required on each lot. It is not clear that these are always available on each lot. A minimum of a 15 foot separation needs to be maintained between individual units. This may not be provided for the illustrative site plans.

Other Aspects

Utilities - The utilities proposed are being reviewed by the relevant utility providers. The City Planner will ensure that their requirements will be complied with.

Effect on needed housing - The manufactured homes will provide needed housing under State rules and policies. While the requirements under Site and Design Review will increase costs, the requirements are considered by staff to be the minimum necessary to achieve the purposes of the ordinance.

Trees - Trees are proposed to be cut and are shown on the engineering plans. The City Forester is reviewing these plans to determine compliance with the Tree Ordinance and conditions of approval.

Signs - No sign has been submitted for design review.

IV. CONCLUSION

Considering the previous analysis, staff hereby determines that the proposed manufactured home park described in the application and accompanying materials is in conformance with the standards of this and other applicable ordinances; the design is compatible with the design of other developments in the vicinity; and, the location, design, size, color and materials of the exterior of the structure and signs will be compatible with the proposed development and appropriate to the design character of other structures in the same vicinity, provided that certain conditions are applied to such approval.

V. RECOMMENDATION

Staff recommends that the Planning Commission, based on the application and facts, findings and conclusions of this report, approve DR 91-08 for a manufactured home park, with the following conditions of such approval:

1. The City Planner shall review and approve the Landscape Plans and Engineering Plans for consistency.
2. The City Forester shall submit to the Planning Commission, for its approval, his evaluation of the appropriateness of the tree retention plan.
3. A registered landscape architect shall be retained to supervise the landscape installation and maintenance for a 3-year period after installation, to ensure compliance with Ordinance No. 848, Part IV, Sections 2-7.
4. Drawings L-4 and L-5 of the Landscape Plan shall be redrawn to comply with Condition #38. All manufactured homes shall comply with Condition #38. The revised drawings shall be reviewed and approved by the Canby Planning Commission.
5. The setback and separation requirements of Code Section 16.44.020(C), (F) and (I) shall be followed for each manufactured home. Each manufactured home shall be reviewed by the City Planner for compliance.
6. The utilities installed shall meet the requirements of the service provider. The City Planner shall ensure that the utilities requirements are met.

7. Any identification sign for the manufactured home park shall be reviewed and approved by the Planning Commission.

Exhibits:

1. Application
2. Landscape Plan
3. Grading Plan and Tree Removal Plan

OWNER

APPLICANT

Name John Sande Torgeson

Name

DAVID A NELSON

Address 26940 S BOLLAND RD

Address

25610 SW MT RD

City CANBY State OR Zip 97013

City

WEST LINN

State

OR

Zip 97068

SIGNATURE

[Handwritten Signature]

Phone:

503 638 5537

DESCRIPTION OF PROPERTY:

Tax Map 4S 1E 4C

Tax Lot(s) 1790

Lot Size

28 ACRE APPROX

(Acres/Sq. Ft.)

or

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 UNDER CONSTRUCTION

Proposed

RESIDENTIAL

Existing Structures

NONE

Surrounding Uses

RESIDENTIAL, PARKS, MINING, FARMING

PROJECT DESCRIPTION

"VILLAGE ON THE LOCHS" MANUFACTURED HOME COMMUNITY

ZONING R-1

COMPREHENSIVE PLAN DESIGNATION

LOW DENSITY RESIDENTIAL

PREVIOUS ACTION (if any) _____

File No. DR91-08

Receipt No. _____

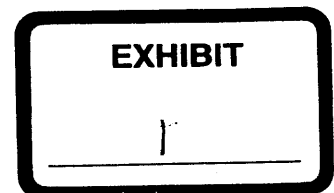
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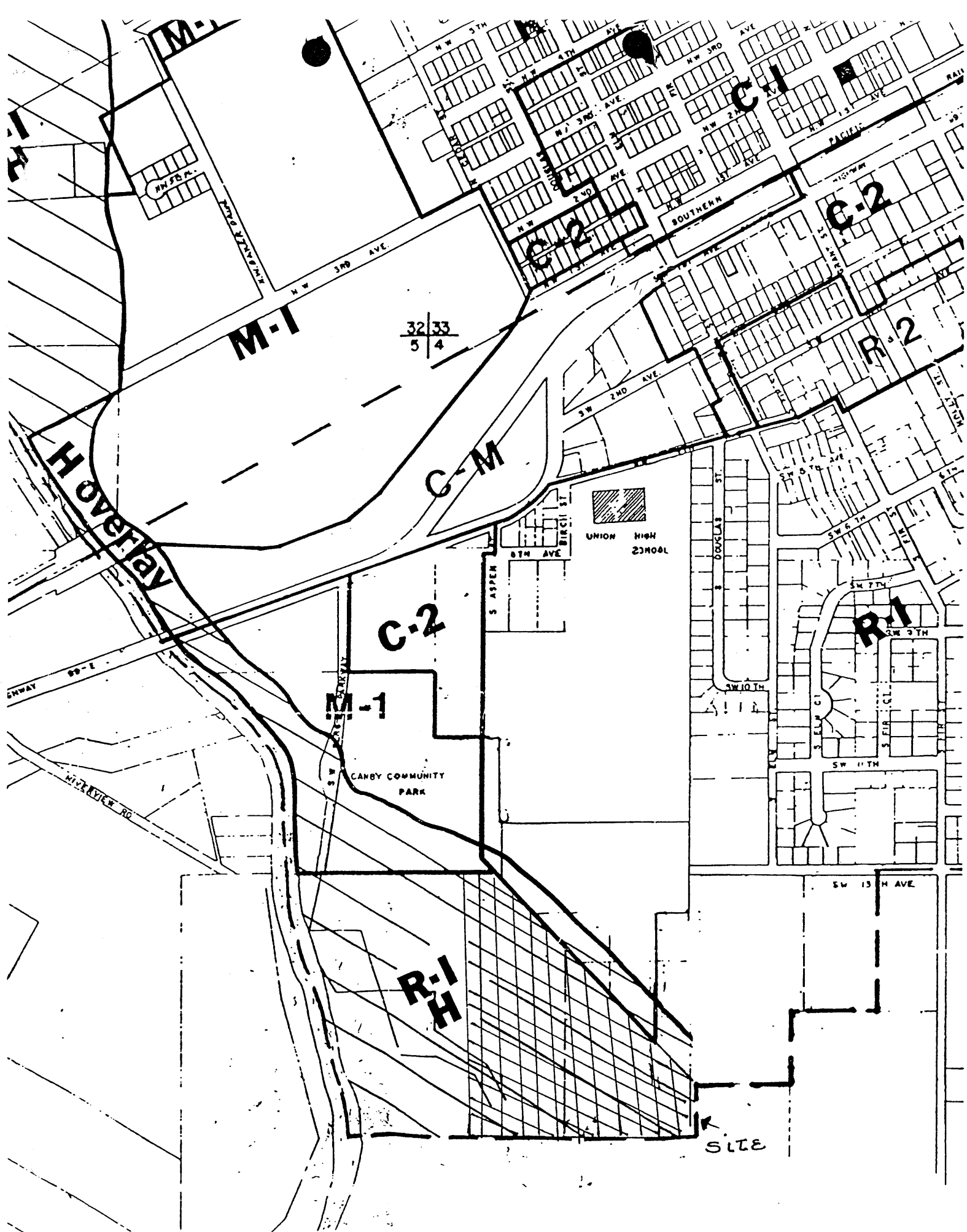
Completeness Date _____

Pre-App Meeting _____

Hearing Date 1-13-92



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



VICINITY MAP

Plan as Approved
in Final Order
1-17-91

"VILLAGE ON THE LOCHS"

PRELIMINARY PLAN

TAX LOT 1790, IN THE S.W. 1/4 OF SECTION 4, T.3S., R.1E.,
W.M., CLACKAMAS CO., CITY OF CANBY, OREGON
NOVEMBER 1990

DEVELOPER - CONTINGENCY PURCHASER

DAVID A. NELSON, P.E.
23610 S.W. MT. RD.
WEST LINN, OR. 97068

PROPERTY OWNER, SELLER

JOHN SANDE TORGESON
P.O. BOX 65
CANBY, OREGON 97013



5' BARKOUST FOOTPATH

CHRISTINA ST.

10' DAWG FOOT PATH UP HILLSIDE

RECEIVED

NOV 19 1990
CITY OF CANBY

REVISED
12-9-90

130+
+25 RGH

26 AC. (APPROX.)
5.3 UNIT/AC.
PARK/OPEN SPACE 2.50 AC.



6' FENCE WITH GATE
RESPECT BUFFER ZONE
AND PUBLIC PATH

PUBLIC STREET

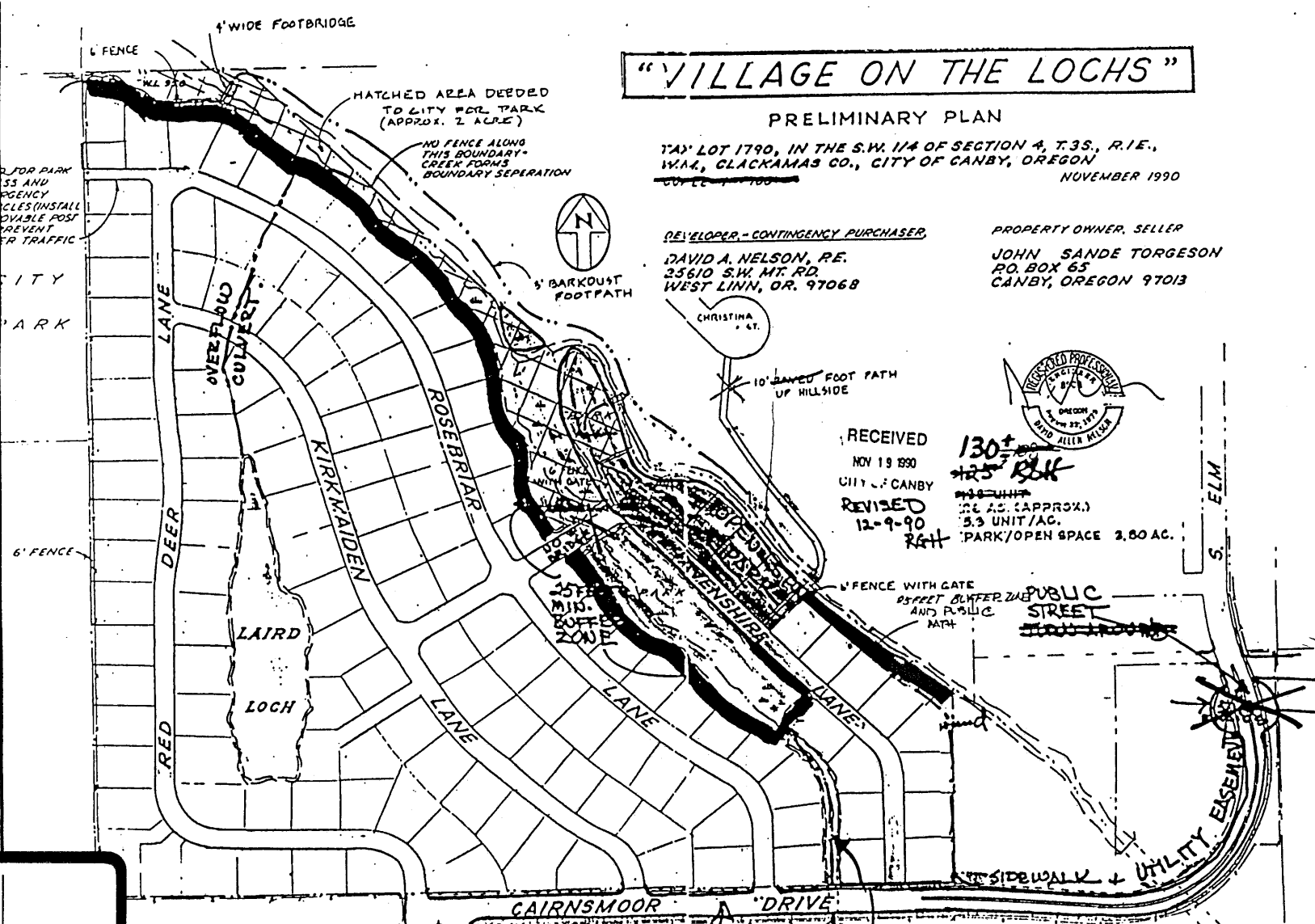
S. ELM

UTILITY EASEMENT

CAIRNSMOOR DRIVE

PUBLIC (RGH) PRIVATE ROAD

CULVERT
PRIVATE FOOTPATH

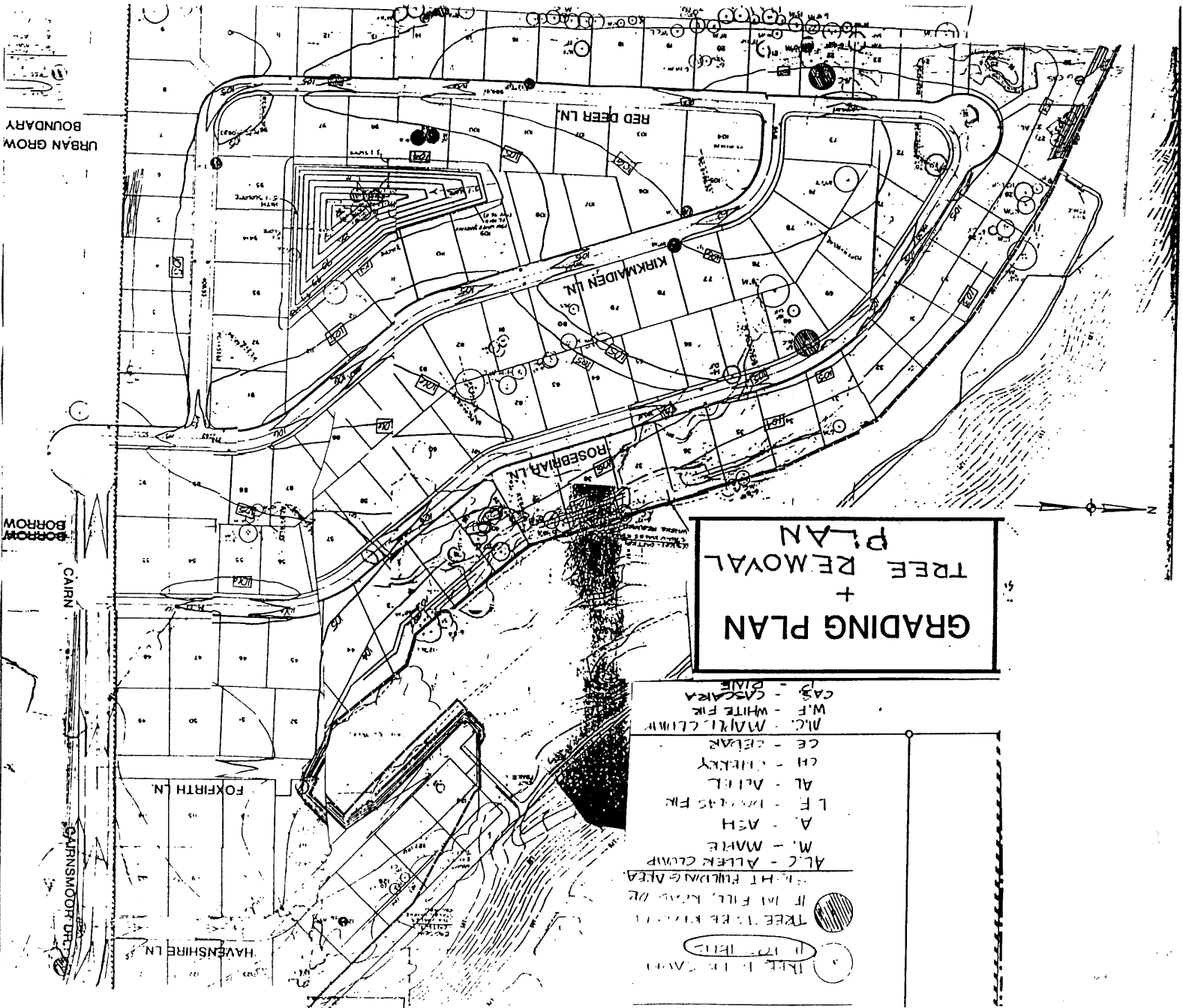


FOR PARK
AND
AGENCY
VEHICLES (INSTALL
AVAILABLE POST
TO PREVENT
TRAFFIC

CITY
PARK

6' FENCE

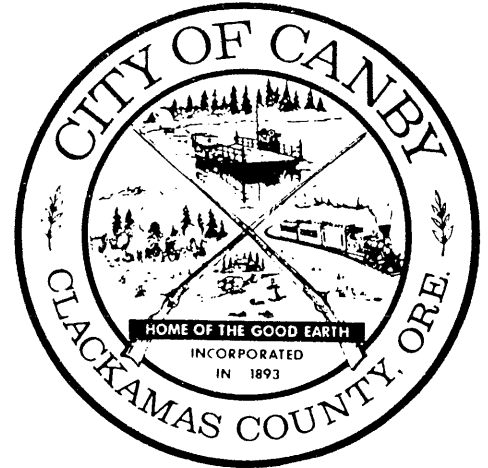
EXHIBIT
2



**GRADING PLAN
+
TREE REMOVAL
PLAN**

- TREE TO BE RETAINED
- TREE TO BE REMOVED
- HIGH FILL AREA
- ▲ LIGHT FILLING AREA
- ALC - ALDER CLUMP
- M - MAPLE
- A - ASH
- LE - LARCH
- AL - ALDER
- CH - CHERRY
- CE - CEDAR
- ALC - MAPLE CLUMP
- W.F - WHITE FIR
- CAS - CASCARA
- P - PINE

- STAFF REPORT -



APPLICANT:

David Nelson
25610 S.W. Mountain Rd.
West Linn, OR 97068

FILE NO.:

CUP 90-06(Mod.1-92)

OWNER:

John and Sande Torgeson
26940 S. Bolland Road
Canby, OR 97013

STAFF:

Robert G. Hoffman, AICP
Director of Planning

LEGAL DESCRIPTION:

Tax Lot 1790 of
Tax Map 4-1E-3C

DATE OF REPORT:

January 3, 1992

LOCATION:

Southeasterly end of S. Elm

DATE OF HEARING:

January 13, 1992

COMP. PLAN DESIGNATION:

Low Density Residential/
Hazard Overlay

ZONING DESIGNATION:

R-1 Low Density Residential
with Hazard Overlay

I. APPLICANT'S REQUEST:

The applicant is requesting approval to modify conditions of approval for a 130-unit manufactured home community, known as "Village on the Lochs." Specifically, the applicant is requesting the following modifications:

1. Changing Condition #9 from: "A grading permit shall be secured from the City of Canby for any on-site grading." To: "A grading permit shall be secured from the City of Canby for any on-site grading within two years of the issuance of the Conditional Use Permit."
2. Changing Condition #20 from: "To assure public awareness of flood potential, past and potential flood heights shall be prominently displayed in the designated flood plain areas on the site. Also, residents shall be informed of the existence of adjacent property sand and gravel operations." To: "The mobile home park operating rules and regulations described in Condition #24 shall also disclose flood potential, past and potential flood heights and the existence of adjacent property sand and gravel operations."
3. Striking Condition #24 ("A vehicular bridge and stream crossings to be used by fire equipment shall be engineered to sustain 41,800 pounds of vehicle minimum."), as it is no longer applicable.

II. APPLICABLE REGULATIONS:

A. City of Canby Comprehensive Plan:

- I. Citizen Involvement
- II. Urban Growth
- III. Land Use
- IV. Environmental Concerns
- V. Transportation
- VI. Public Facilities and Services
- VII. Economics
- VIII. Housing
- IX. Energy

B. City of Canby Municipal Code

- 15.12 Flood Hazard Protection
- 15.12.170 Manufactured Housing Units (relative to flooding)
- 15.12.180 Floodways
- 16.04.387 Manufactured Home - Manufactured Housing Unit (def)
- 16.04.400 Mobile Home Park (definition)
- 16.04.640 Urban Growth Boundary (UGB) (definition)
- 16.10 Off-Street Parking and Loading
- 16.16 R-1 Low Density Residential Zone, especially 16.16.020(K)
- 16.40 Hazard Overlay Zone (H), especially 16.40.010, 16.40.018, 16.40.020, 16.40.030, 16.40.050
- 16.42 Signs

- 16.44 Mobile Homes and Trailers, especially 16.44.020(A-E) and 16.44.030(A.1, C-J)
- 16.46 Access Limitations, especially 16.46.010(A.3, B, C)
- 16.50 Conditional Uses
- 16.64 Subdivision Design (while not required, this section gives a sense of the type of standards Canby has been seeking within other large developments)
- 16.86 Street Alignments
- 16.88 General Standards and Procedures, especially A1, A2, C, 16.88.090 and 16.88.130

WAIVERS: The applicant has previously asked for "waivers" in a number of cases such as required fences, setbacks and access. The ordinance does not give authority to "waive" these requirements. The **variance** standards and criteria are given in Code Section 16.88.150. The applicant has **not** requested variances. The applicant could have applied as a Planned Unit Development under Division V, but he did **not**. He would have then had considerably more flexibility. Under Planned Unit Development requirements, considerable information is required of an applicant. The requested "waivers" were not granted by the Planning Commission.

16.88.090 Revocation of Conditional Use Permits and Variances

- A. **Automatic Revocation.** All conditional use permits and Variances shall be automatically revoked **if not exercised within one year from the date of approval**, or such additional time as is specified by the granting body at the time of approval. Conditional use permits and variances shall not be deemed exercised **until the use of the property permitted by the conditional use permit or variance has actually commenced**, or in the event that such use involves the construction of a building, that all required permits for said building have been obtained.
- B. **Revocation for Noncompliance.** Any conditional use permit or variance may be revoked by the Council for noncompliance with conditions set forth in the original approval, after first holding a public hearing and giving written notice of such hearing to the grantee.

III. FINDINGS:

A. Background:

1. Property Identification

- a. The subject property is identified on the Clackamas County Assessor's Map as Tax Lot 1790 of Tax Map 4-1E-4C. The applicant is requesting amendment of conditions of approval of a conditional use permit to construct a manufactured home park.
- b. The property is located southwest of S. Elm Street and east of the Canby Community Park.
- c. There is an existing residence, a new senior citizen subdivision and adult living facility, industry, and a mobile home subdivision to the north. To the south lies the Canby Sand and Gravel Corp. and agricultural land, and to the west lies Canby Community Park.

2. Site Characteristics

The site is generally flat. A steep 70 foot bank lies immediately to the north of the site. The U.S.D.A. Soil Survey for Clackamas County identifies the predominant soil on the property as Class V through VIII and Rivers. Labish much clay and Newberg fine sandy loam with gravel lie just below the surface in most locations. Portions of the site lie in a flood plain and contain wetland areas. There are a few low spots and high spots on the site.

3. Other Background

The Canby Planning Commission approved the proposed Conditional Use on January 17, 1991, with 44 conditions of approval. The effective date was 15 days later. The permit must be "exercised" and use commenced or required permits obtained by February 1, 1992, or the Conditional Use Permit will be revoked on February 2, 1992.

The City Attorney has now given an oral opinion that the modifications requested by the applicant do not warrant an additional one year period to "exercise" the original approval. This is because the request would not result in sufficient substantial changes in the conditions of the original approval.

A set of detailed engineering drawings have been submitted to the City for preliminary review. Meetings are being held to review them.

B. Approval Criteria

Revision of the conditions of approval which were granted in January, 1991, as the applicant has proposed, will not affect all criteria of a conditional use.

1. Comprehensive Plan Consistency

The proposed revised conditions only deal with:

- a. timing of a grading permit,
- b. notification of environmental factors such as flood heights and sand and gravel mining in the area, and
- c. elimination of bridge design limits (since no bridges are proposed).

These revisions do not affect the Comprehensive Plan Urban Growth Element policies, Transportation policies, Public Facility and Services policies, Economic, Housing and Energy policies. Those which may be affected are Land Use, Environmental, and Hazards.

Only minimal construction permission can be given until a grading permit is issued. Allowing **two years** for the major permit will not affect the implementation of these policies. The notice of "past and potential flood heights and notice of sand and gravel operations on adjacent land seems appropriate for the operating rules and regulations. All manufactured home owners and occupants will be given copies of these rules. The road system and draining system has been changed so that vehicular bridges are no longer proposed. Thus, original condition #42 is no longer necessary. These revisions would still allow accomplishment of the Comprehensive Plan Land Use, Hazard and Environmental Policies.

2. Hazard/Overlay Zone and Manufactured Home Park Design Approval Criteria

The proposed amendments to conditions of approval are:

- a. extension of time to issue the grading permit of one year,

- b. notification of site users of flooding potentials and adjacent sand and gravel operations by inclusion of notice within the operating rules, and
- c. elimination of bridge weight restrictions (since there are no vehicular bridges).

These changes would not affect achieving the hazard overlay policies. These policies deal with minimizing hazards due to steep slopes or potential for flooding. Time limits for issuing grading permits and bridge weight restrictions are not related to steep slopes or flooding. Staff is of the opinion that notice of history of flooding and flood heights, to be provided in the parks operating rules to all site renters and manufactured home owners, will be as effective in providing site user protection as posting notices on the site. The proposed changes do not affect park design, as defined in Section 16.44, in any fashion. The changes affect only construction timing, notification process and means, and vehicular bridge design (which bridges have been eliminated).

3. Conditional Use Approval Criteria (Section 16.50.010)

- a. Consistency with the Comprehensive Plan and Other Applicable Policies

The previous discussion found the proposed conditions did not adversely affect achievement of these policies.

- b. Site Characteristics - Suitability

The proposed changes to the approval conditions do not appear to affect whether the site is suitable for a manufactured home park. The revision of the original site plan to eliminate the need for a vehicular bridge provides better protection of the wetlands and, therefore, bridge weight restrictions are not needed. Notice of flooding potential within the park operating rules, rather than through signs, appear to staff to be just as effective and less ominous. **Timing** of grading permit does not affect site suitability.

c. Public Facility and Services Availability

The proposed changes to the approval conditions related to timing of grading permit, notice of flooding potential and elimination of vehicular bridge weight limits (since no bridges are proposed) do not affect Public Facility or Service availability.

d. Impact on Surrounding Areas

The proposed modifications would not affect the use of the surrounding properties.

C. Other Information Regarding Revocation of Conditional Use Permit

It is possible that a case could be made for the argument that since a grading permit is part of the Manufactured Home Park construction permit and is a prerequisite to other construction, that specifically allowing a two-year time frame for that permit would have the effect of allowing an extended period for "exercising" the permit for the entire conditional use under Section 16.88.090.

The Canby City Attorney has orally stated to staff, applicant, and applicant's attorney, that this would **not** be the case. Allowing a two-year period for securing a grading period would not affect the "automatic revocation" of a Conditional Use not "exercised" within one year. The City Attorney argues that any additional time must be **"specified by the granting body at the time of approval"**. An unsubstantial change of a condition of approval at a later time would not result in the applicant's receiving an additional period of time to "exercise" his permit.

IV. CONCLUSION

The approval criteria have been complied with and the changes proposed to the original conditions of approval do not affect this.

V. RECOMMENDATION

Staff recommends approval of the proposed changes to the Conditions of Approval for CUP 90-06(Mod.1-92).

Exhibits:

1. Amended Conditional Use Application
2. Vicinity Map

AMENDED CONDITIONAL USE APPLICATION

OWNER

APPLICANT

Name JOHN & SANDRA TORGESSON

Name DAVID A. NELSON

Address 26940 S. BOLLARD RD

Address 25610 SW Mt Rd

City CANBY State OR Zip 97013

City CANBY State OR Zip 97068

SIGNATURE [Signature] 12/18/91

Phone: 503 638 5537

DESCRIPTION OF PROPERTY:

Tax Map 4 IE 4C Tax Lot(s) 1790 Lot Size APPROX. 2.8 AC (Acres/Sq. Ft.)

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...

USE

Existing LOGGING / FARM Proposed RESIDENTIAL

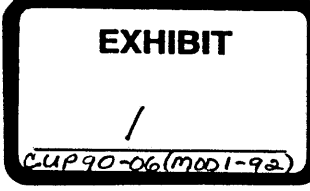
Existing Structures NONE

PROJECT DESCRIPTION

AMEND CUP 90-06 AS PER ATTACHMENT 'A'

ZONING R-1 COMPREHENSIVE PLAN DESIGNATION RES. w/ HAZARD OVERLAY PREVIOUS ACTION (if any) GRANTED C.U. 1/14/91

File No. Receipt No. Received by Date Received Completeness Date Pre-Ap Meeting Hearing Date



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

EXHIBIT "A"

1. Changing condition No. 9 from: "A grading permit shall be secured from the City of Canby for any on site grading." To: "A grading permit shall be secured from the City of Canby for any on site grading within two years of the issuance of the Conditional Use Permit."

2. Change condition No. 20 from: "To assure public awareness of flood potential, past and potential flood heights shall be prominently displaced in the designated flood plain areas on the site. Also, residents shall be informed of the existence of adjacent property sand and gravel operations." To: "The mobile home park operating rules and regulations described in condition 24 shall also disclose flood potential, past and potential flood heights and the existence of adjacent property sand and gravel operations."

3. Strike condition No. 42: "A vehicular bridges and stream crossings to be used by fire equipment shall be engineered to sustain 41,800 pounds of vehicle minimum." No longer applicable.

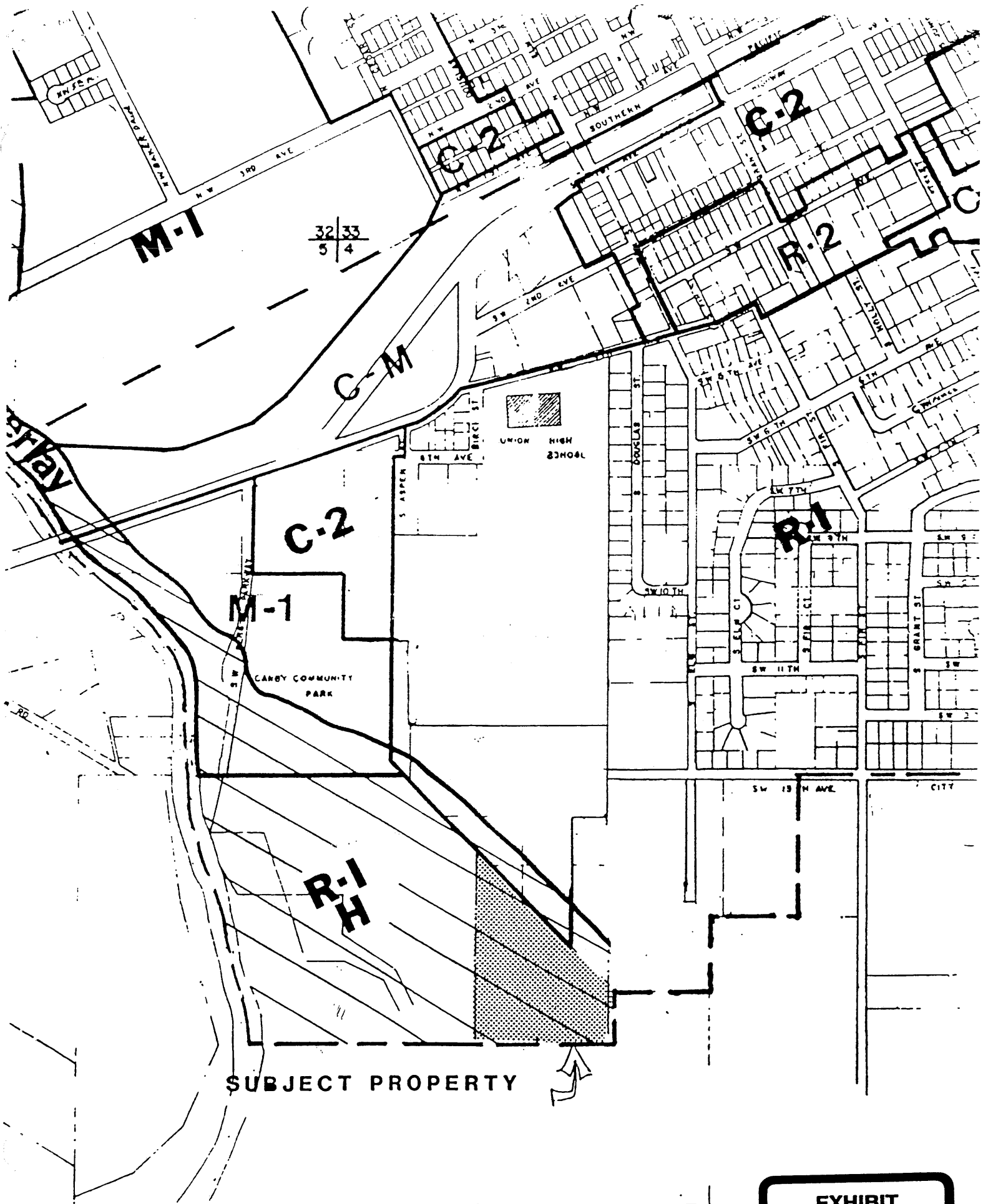


EXHIBIT
2
CUP 90-06(mod1-92)

- M E M O -

TO: City Planning Commission

FROM: Robert G. Hoffman, A.I.C.P., Planning Director

RE: Site and Design Review Application DR 91-08 (Nelson)

DATE: January 8, 1992

Attached you will find a copy of a memo from Rusty Klem, Director of Public Works, concerning his review of the engineering drawings which have been submitted to the Building Official as an application for Mobile Home Park Building Permit, including his Grading Permit. Mr. Klem expresses major concerns about these plans on three pages, which include 27 items. While the item before the Planning Commission is Site and Design Review, not review of the engineering plans, the two sets of plans need to relate to one another.

Site and Design Review includes review of access, landscaping, parking and architecture. Clearly, Rusty Klem's items #1, 2, 5, 6, 7, 9, 12, 14, 16, 17, 19 and 21 relate to design review. Approval of the landscaping plans could be interpreted as Commission approval of some of these items which still are not resolved.

Also attached is a memo from James Wheeler, Assistant Planner, discussing some concerns about possible fill of wetlands. While these are very detailed, the Commission's approval of the Conditional Use application anticipated **no** fill of wetlands, except to build the new public road (Cairnsmoor/Elm). The Army Corps of Engineers/Division of State Lands approval to build the road was given with the understanding that there would be no additional fill of wetlands.

In my staff report dated January 3, 1992, I expressed some concern about inconsistencies between landscape plans and engineering plans, about the details of the tree retention plan, about the lack of a plan for **installation and maintenance** of landscaping, about lack of drawings L-4 and L-5 consistency with Condition #38, and about the lot layout not providing room for the required setbacks and yards.

PC Memo Re DR 91-08
January 8, 1992
Page 2

Recommendation

Given the concerns expressed by the Director of Public Works, the apparent proposal to fill a small amount of wetlands, and the previously described deficiencies, I am now recommending **denial** of the Design Review application at this time.

Attachments: Memo from Rusty Klem, dated January 6, 1992
Memo from James Wheeler, dated January 8, 1992

cc: Rusty Klem
Mike Jordan
Roger Reif
David Nelson

- M E M O -

TO: City Planning Commission

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cc: Rusty Klem
Mike Jordan
Roger Reif
David Nelson

- M E M O -

TO: Canby Planning Commission, Bob Hoffman, Bob Godon

FROM: Rusty Klem, Public Works Director

RE: Questions Pertaining to Village on the Lochs

DATE: January 6, 1992

We have received several copies of Mr. Nelson's mobile home park plans. I know that staff has been reviewing different versions of the plans. The County and C.U.B. also have significant input into the approval process. The involved parties have not gathered to, at least, discuss common concerns. The County is proving to be the most difficult party to schedule for a meeting. My questions and concerns are noted below, for your review and for the applicant to address:

1. My understanding is that Elm Street is considered a "public road" by the County but that they do not want it. In that case, the road is to be constructed to City standards, not County standards.
2. Five foot sidewalks are required on both sides of Elm Street, not just one.
3. Vision clearance must be maintained for safety reasons when realigning Ellickson's driveway.
4. Cairnsmoor should be South Elm and other streets, even though they are private, must conform to the City's street naming ordinance.
5. It appears as though the applicant is proposing to fill wetlands adjacent to Lots 26, 27, 35, 36, 38, 39, 41, 42, 43, 44, 117, 127 and 128 and, if that is so, it is unacceptable.

6. If arrangements can be made with the affected property owners, it is a smoother transition to come off of existing Elm Street in a straight line instead of turning Elm and vacating the side street.
7. Our ordinance requires fifteen feet of separation between units.
8. There must be a sidewalks on one side of private streets inside the development.
9. Mobile home parks are required to have a playground with equipment.
10. The traveled portion of the road (excluding the curb) is shown to be 21 feet. Therefore, the maximum number of units that can get access to any one street is 36 and Rosebriar Lane has more than that number of units. If the street is widened to 24 feet of traveled surface, then it will be okay.
11. We need more detail on the pollution manholes (i.e., do they have concrete bottoms).
12. The streets intersecting with S. Elm all need radii of at least 10 feet, especially to facilitate movements of mobile homes.
13. If S. Elm is going to curve, as shown, we need an approved street vacation prior to approving the plans.
14. The very end of Havenshire is not wide enough to allow any on-street parking and none is permitted in the turnaround either.
15. There must be significant changes in the flood plain given the fact that the plans show ten feet of fill in some cases and 3 feet of removal in others.
16. An acceptable approach regarding the trees would be to remove the cross-hatched trees and leave the others, pending staff analysis and approval.
17. Elm Street requires sidewalks on both sides, so the plans should indicate 5 feet of fill beyond the back of sidewalks, not curbs.
18. Who owns the land to the south? Without proof, we can't approve plans that indicate fill removal from adjacent property, then discharges of stormwater too. We can't even authorize construction of a road on property that isn't clearly owned or controlled by the applicant.

19. It seems evident that some guest parking is needed.
20. The stormwater discharge from the catchbasins on Elm Street, near the top of the bank, is nearly fifty feet straight down. Instead, stormwater should go down the slope to the foot of the road, then to the stream or lake. The stability of the fill must be maintained and fifty feet of underground pipe doesn't do that.
21. The curbs on Elm Street must be matched and maintained to the end of Elm. I believe Elm is 40 feet curb-to-curb now, and not 32 feet as shown.
22. The realignment of Ellickson's driveway must include a concrete approach, construction of a manhole, and paving in the property shown as right-of-way on the plans.
23. I have questions of the engineer concerning the lift station:
 - a. Should it be deeper so as to provide a bit more reservoir capacity in case of temporary malfunction?
 - b. The lift station should be telemetered to central dispatch. Is #12 okay?
 - c. What is secondary surge protection?
24. The pollution control manholes should be in the street for easier cleaning.
25. Move the pressurized sewer line from the easement between Lots 47, 48, 49 and 50, and put it in the street. It is our experience that they require work more often than gravity lines and that will be much easier to accomplish than if it is in someone's yard.
26. The plans must indicate wheelchair ramps where sidewalks and curbs intersect.
27. The sidewalks in Elm Street must have six inches of compacted granular material under them.

cc: Dave Nelson
Ron Tatone