

AGENDA

CANBY PLANNING COMMISSION

REGULAR MEETING  
City Council Chambers

February 25, 1991 - 7:30 p.m.

I. ROLL CALL

II. MINUTES

February 11, 1991

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. COMMUNICATIONS

V. NEW BUSINESS

Interpretation by Commission regarding rear yard requirements for setbacks in R-1 zone.

Planning Commission Workshop - Regarding authorization of Planning Director to request information from applicants.

Planning Commission Workshop - When or how to defer decisions to Design Review Board.

VI. FINDINGS

SUB 90-06 - Wayne Scott (Willow Creek Estates)  
DR 91-09 - Canby Union High School

VII. PUBLIC HEARINGS

SUB 90-06, a request by the applicant, Wayne Scott, for reconsideration of the Commission's action on this application at its February 11, 1991 meeting. The applicant is requesting an opportunity to present additional informtaion, at a future date, previously requested by the Commission. Previously, the applicant was seeking approval of a single family residential subdivision with a PUD overlay for Willow Creek Estates (Tax Lot 500 of Tax Map 3-1E-27DB and Tax Lots [easterly portions]

700 and 900 of Tax Map 3-1E-27C and Tax Lot 800 of Tax Map 3-1E-27C). Eighty-three single family units and 60 condominium units have been proposed with 5.6 acres of greenway. A portion of the site lies in the Hazard Overlay Zone. The site (approximately 32 acres) is located northwest of 99E, south of N.E. Territorial and east of Redwood.

## VIII. ADJOURNMENT

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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  
Don Bear  
John Zieg

Wade Wiegand  
Robert Westcott  
Henry Fenske

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### *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.*

- M E M O -

**TO: Planning Commission**

**FROM: Robert G. Hoffman**

**RE: Interpretation of Development and Planning Code**

**DATE: February 13, 1991**

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Recently, a person discussed a proposal for an addition with Bob Godon, Canby Building Official. Bob has asked me to "interpret" the Zoning Ordinance related to the proposal. I concluded that the Ordinance did **not** permit what was being discussed. Bob Godon suggested that the Commission might give a different interpretation and that I ask for one.

We do not have an actual application for permit and do not have a formal appeal, but I am willing to be guided by the Commission's interpretation for situations such as follows:

An existing single-story home has been built with a fifteen foot rear yard and meets the current ordinance for single-story houses. The owner would like build a two-story addition and expand the home. The ordinance requires a twenty foot rear yard setback if the building is **two-story**. The owner proposes to build the portion of the addition between 15 and 20 feet, as a single-story only, and the portion that is beyond 20 feet, as a two-story. This appears to me to meet the intent of the ordinance related to need for light and air.

However, Section 16.04.680 defines "yard" as the "open space two and one-half feet above the ground level of the graded lot upward, except as otherwise provided in this title." "Rear yard" is then defined in Section 16.04.700 as follows: "Rear Yard" means a yard lying to the rear of the principal building on the lot and generally opposite the lot front."

Does the Planning Commission see any way to interpret the Code to permit construction as proposed?

**Memo - PC  
Interpretation  
February 13, 1991**

The homeowner could be permitted to build the single-story portion. However, Section 16.08.010 does not seem to permit the two-story portion to be built without the twenty foot yard being provided.

A similar problem exists if a person has a two-story home with a twenty foot rear yard and he wants to build a single-story addition and provide only the fifteen foot rear yard for the addition.

One-story "accessory" structures have traditionally been allowed to be built in the yards provided they are at least 60 feet from the street and have at least 3 feet around them.

Corner lot rear yards are 5 feet less than other lots.

- M E M O -

**TO: Planning Commission**

**FROM: Robert G. Hoffman**

**RE: Authority of the Planning Director to Request Information**

**DATE: February 1, 1991**

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Attached are a few areas where the Planning and Development Ordinance authorizes the **Commission** to request certain types of information which it feels is necessary. I am hereby requesting your authorization to request the information from the applicant at the time the application is submitted **in the name of the Commission, where I believe it is needed** to enable the Commission to carry out its responsibilities. By so doing, the Commission will receive the information earlier in the review process.

I have not always been successful in obtaining the information under the current procedures.

## **Hazard Overlay Zone**

### **16.40.040 Special conditions relating to Fish and Wildlife Protection**

1. Fish and Wildlife Resources and Open Space Resources (to determine if impact of development is significant).
2. Grading Plans
3. Tree Cutting Plans
4. Proposals to stabilize slopes and enhance Wildlife Habitat areas.

## **Conditional Uses**

### **16.50.020 Application for Conditional Use**

5. Other drawings or material essential to an understanding of the proposed use and its relationship to the surrounding properties.

### **16.50.040 Placing Conditions on a Permit**

6. Time of Activity
7. Environmental effects such as noise, vibration, air pollution, glare and odor.
8. Location and intensity of lighting and shielding.
9. Existing trees, vegetation, water, resources, wildlife habitat or other significant areas.

## **Nonconforming Uses and Structures**

### **16.52.040 Expansion of Nonconforming Structure or Change of Use - Application Required**

10. Other drawings or additional information essential to an understanding of the historic use of the site or proposed use and its relationship to the surrounding properties.

### **16.52.040 Authorization to Grant or Deny Expansion of Nonconforming Structure or Change of Nonconforming Use**

11. Traffic (including volume and type); noise; days and hours of operation; physical appearance; other environmental considerations (dust, vibration, glare, etc.); type and size of equipment used, etc.

## **Subdivisions**

### **16.62.10 Filing Procedures**

- 12. C. Sketch of a preliminary layout for streets and lots in the non-subdivided portion (where proposed plat is only part of tract owned or controlled).
- 13. D.5j Signed affidavit from a qualified professional engineer or engineering geologist, certifying that no property damage or hazards will result from erosion attributable to such grading or other site preparation.
- 14. L.5. Improvements in Areas of Flood or Slope Hazard  
Impacts on fish, wildlife and open space resources.

### **16.66.010 Submittal of Tentative Plat**

- 15. Dedication of land and easements to carry out the intent of the Comprehensive Plan and Title 16.

## **Condominium and Planned Unit Development Regulations**

### **16.76.020 General Requirements**

- 16.J. Such other pertinent information in order to make necessary findings on the site approval.

### **16.76.030 Standards and Criteria (for Condo Conversions)**

- 17.K. Vacancy rates of multiple family rental units throughout the City at the time of application.

## **Mobile Home Subdivisions**

### **16.80.030 Special Conditions**

- 18. Special conditions on the perimeter of the development to assure that they are aesthetically pleasing, such as: larger lots, pitched roofs, composition shingle roofing or shake roofing, double-wide construction, or similar such requirement to assure compatibility.

**Special Housing Projects for the Elderly or Handicapped**

**16.82.040                    Modification of Standards**

19.    Special conditions deemed necessary to minimize any adverse impacts of a higher density on surroundings.

**Street Alignments (Regulations)**

**16.86.020                    General Provisions**

20.    Anticipated traffic volumes, anticipated truck traffic, bicycle or pedestrian use or other unique conditions.



- M E M O -

**TO:** Planning Commission  
**FROM:** Robert G. Hoffman *RGH*  
**RE:** SUB 90-06 - Willow Creek Estates (Previously Teakwood Estates)  
**DATE:** February 15, 1991

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The City has received a letter dated February 14, 1991 from the applicant, Wayne Scott, requesting reconsideration of the Commission's denial of his application. He is requesting approval of a proposed Phase I **without the wetlands or condo lots** at this time. Mr. Scott agrees to waive the 60 days (and 120 day) limit on the City's review process.

I have met with both the applicant and his attorney immediately following the Commission meeting and later this week. I believe Mr. Scott was not knowledgeable about the 60 day limit or its ramifications, which seriously constrain the Commission's options.

Mr. Scott will comply with all the Commission's requests for additional information in a timely manner.

Upon the advice of the City Attorney, staff has published a notice in the Canby Herald and mailed notices to the adjacent owners, so that the Commission may formally reconsider its denial of the application, if it so chooses. Technically, one of the makers of the original motion to deny would have to move for reconsideration. The public hearing would have to be opened at some point in order to receive further testimony.

If the Commission should choose to reconsider its denial, then the Commission should clarify exactly what additional information it is requesting from the applicant.

# REIF & REIF

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RAYMOND R. REIF  
R. ROGER REIF  
STEVEN SCHWINDT  
MARVIN O. BOLLAND  
OF COUNSEL

February 14, 1991

Canby Planning Commission  
182 North Holly  
Canby, Oregon 97013

Re: Willow Creek Estates, Sub 90-06

Dear Ladies and Gentlemen:

This letter is being written on behalf of Wayne Scott. Mr. Scott has indicated his approval of this letter by his signature below.

We respectfully request reconsideration of the Planning Commission's verbal decision of February 11, 1991. It is our belief that the judgment was premature because of the obstacle presented by the 60-day limitation of Canby Development Ordinance, Section 16.88.020. It is true that Mr. Scott was advised that he could waive the 60-day provision; however, he was not knowledgeable about this particular provision and was consequently not fully aware of the ramifications.

Mr. Scott is willing and hereby offers to waive the provisions of Canby Development Code Ordinance, Section 16.88.020 along with the 120-day provisions of ORS 227.178.

We are requesting approval of Phase I of the project as delineated on the preliminary plat. Phase I will consist of the development of 50 residential lots (numbered 1 through 50) as outlined on the submitted plat. It does not include any development of the wetlands area shown on the "red crossed area" or the development of condominium lots 84 through 87. We believe that one and perhaps two concerns were raised with Phase I.

1. The first concern was emergency access. Mr. Scott proposes and agrees to provide an emergency access easement between Lots 7 and 8. We reserve the right to discuss changing the location of the emergency access, if in developing the remainder of the property a better location can be mutually agreed upon between Mr. Scott and the City.
2. It is believed that one or possibly more of the Commissioners desire additional information on the water run off. The plans are to install a storm sewer system. There will be collecting catch basins in the street. Water is transported through pipes to the existing natural drainage (an unnamed creek which traverses across the property). Sheet two of the submitted preliminary plat indicates the route and discharge points.

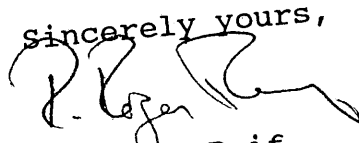
There then remains the issue of the remaining property in which approval has not been granted. We propose to return to you in June of 1991 with the following information:

1. Mr. Scott has previously employed a wetlands expert. She believes that a complete report cannot be made until approximately June of 1991 for the reason that plant life must be observed during the growing season. The report will be made available to the Commission.
2. The remaining development will be in conformance with the expert's recommendations. At this time they are not known; consequently, we will be submitting at that time information addressing the Commissioner's concerns on the development of Lots 84 through 87. It is not until the report is received and reviewed by the applicant and his agents that we can respond to the inquiries.
3. We interpret the Planning Commission remarks of February 11th to require a "traffic analysis study". We understand the Commission to request a study of the impact on "Teakwood Drive". If our understanding is not correct, please advise. The report will be made available to the Commission.

It is Mr. Scott's intentions to respond to all reasonable requests. We are unaware of additional requests for information; however, if we are mistaken please advise so that we can respond prior to June 1st.

Your consideration and favorable response is respectfully requested.

sincerely yours,

  
R. Roger Reif

ROG/sam

  
A. Wayne Scott

**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF CANBY**

**DRAFT**

**A REQUEST FOR APPROVAL TO ) FINDINGS, CONCLUSIONS & ORDER  
CONSTRUCT A SINGLE FAMILY ) SUB 90-06  
RESIDENTIAL SUBDIVISION ) (Willow Creek Estates)  
WITH A PUD OVERLAY )**

**NATURE OF APPLICATION**

The applicant, Wayne Scott, is requesting approval for a 143-unit Tentative Subdivision Plat/Planned Unit Development for the total site (32 acres). The property is located between Territorial and 99E, east of Redwood. Eighty-three units are proposed as single family units and 60 are proposed as condominiums, with 5.6 acres of greenway. (Tax Lot 500 of Tax Map 3-1E-27DB and Tax Lots [easterly portions] 700 and 900 of Tax Map 3-1E-27C and Tax Lot 800 of Tax Map 3-1E-27C.)

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its meetings of January 14, 1991 and February 11, 1991.

**CRITERIA AND STANDARDS**

This is a quasi-judicial land use application.

Applications for a subdivision shall be evaluated based upon the following standards and criteria:

- i. Conformance with the text and applicable maps of the Comprehensive Plan.
- ii. Conformance with other applicable requirements of the land development and planning ordinance.

- iii. The overall design and arrangement of lots shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.

#### 16.40.018 - Subdivisions, Partitions and Lot Line Adjustments

In approving applications for subdivisions, land partitions and lot line adjustments in "H" Overlay Zones, it must be found that the proposed development will:

- A. Be consistent with the need to minimize flood damage, based upon accurate base flood elevations data;
- B. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- C. Have adequate drainage to reduce exposure to flood damage.

#### 16.76.030 - Standards and Criteria

Additional to the standards and criteria listed in Divisions III and IV, which are applicable to Planned Unit Development, the following standards and criteria shall apply:

- A. The site approval, as acted upon by the Commission, shall be binding upon the developer and variations from the plan shall be subject to approval by the Commission.
- B. All land within the Planned Unit Development may be subject to contractual agreements with the City and to recorded covenants providing for compliance with the City's requirements.

- C. The development of the property, in the manner proposed, will be in keeping with the requirements of this title, other than those provisions allowing for special treatment of PUD's.
- D. The plan for the proposed development shall present a unified and organized arrangement of buildings and service facilities.
- E. The development must be designed so that the land areas and buildings around the perimeter of the project do not conflict with the adjoining properties. The Commission may establish special conditions for the perimeter of the development to minimize or mitigate potential conflicts.
- F. Each Planned Unit Development shall be a complete development considering all previous requirements. The Commission may, in addition, require the inclusion of facilities such as special curbs, sidewalks, street lights, storm drainage, sanitary sewers, underground power and telephone lines, landscaping and adequate easements for utilities.
- G. Land which is not intended for physical development, such as buildings or street uses, may be required to remain in open space usage perpetually. Maintenance of such open space areas shall remain the responsibility of the individual owner or owners' association, in a manner outlined in the by-laws of such association.
- H. The manner in which any open space or park and recreational area are to be maintained shall be presented along with the preliminary copy of the proposed owners' association by-laws, and contractual agreements shall be submitted with the preliminary subdivision. In the case of an individual owner, the Commission may impose special requirements to assure long-term maintenance.

- I. The Planning Commission may, and in the case of single story or townhouse structures, shall, require the separation of utilities from one unit to the next.
- J. In reviewing an application for the conversion of existing residential units to condominiums, the Commission shall utilize the general standards as are applied to the new construction of Planned Unit Developments. A proposed conversion which is not found to meet the standards customarily applied to Planned Unit Developments will not be approved.
- K. In reviewing an application for the conversion of existing residential units to condominiums, the Planning Commission shall consider the vacancy rates of multiple-family rental units throughout the City at the time of the application. It is the intent of the City to assure that there is at least one suitable rental unit available and vacant for each unit converted to condominium ownership.

## **CONCLUSION**

The Planning Commission concludes that it did not have sufficient information with which to make findings that the application meets, or can meet, the approval criteria.

## **FINDINGS AND REASONS**

The Planning Commission incorporates the January 4, 1991 staff report and supplemental memos on SUB 90-06 as support for its decision, supplemented by the following:

1. Testimony by the staff and applicant.

2. Commission deliberation which included the following issues:
  - a. The need for a traffic analysis.
  - b. The need for a final wetlands report.
  - c. The need for more information regarding the emergency road across the wetlands and a mitigation report.
  - d. The need for more information regarding runoff water and the impact of runoff water on the wetlands.
  - e. The need for more information regarding the condominium lots.

## **ORDER**

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that SUB 90-06 is denied based on the lack of sufficient information with which to make findings that the application meets, or can meet, the approval criteria.



I CERTIFY THAT THIS ORDER for denial of SUB 90-06 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

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Kurt Schrader, Chairman  
Canby Planning Commission

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Joyce A. Faltus  
Secretary

**ATTEST:**

**ORAL DECISION - February 11, 1991**

AYES: Mihata, Bear, Schrader, Wiegand

NOES: Zieg, Westcott, Fenske

ABSTAIN: None

ABSENT: None

**WRITTEN FINDINGS - February 25, 1991**

AYES:

NOES:

ABSTAIN:

ABSENT:

**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF CANBY**

**DRAFT**

<b>A REQUEST FOR APPROVAL TO</b>	)	<b>FINDINGS, CONCLUSIONS &amp; ORDER</b>
<b>CONSTRUCT A NEW POLE</b>	)	<b>DR 91-01</b>
<b>BUILDING</b>	)	<b>(Canby Union High School)</b>

**NATURE OF APPLICATION**

The applicant is requesting approval to construct a 30' by 60' pole building to store farm equipment for the Canby High School Agriculture Department. The equipment is currently stored outside. The site address is 721 S.W. 4th Avenue (Tax Lot 700 of Tax Map 4-1E-4B).

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its meeting of February 11, 1991.

**CRITERIA AND STANDARDS**

In judging whether or not a Design Review Application shall be approved, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the proposed location and, to approve such use, shall find that the following criteria are either met, can be met by the application of conditions, or are not applicable.

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.

## **CONCLUSION**

The Planning Commission concludes that DR 91-01 complies with all applicable criteria.

## **FINDINGS AND REASONS**

The Planning Commission incorporates the staff report of February 1, 1991 as support for its decision, supplemented by the following:

1. The Commission considered testimony from the applicant regarding the use of, and need for, the proposed building.
2. The Commission discussed the location of the building on the site, as shown on the drawing.
3. The Commission discussed the flooring in the building and agreed the gravel was sufficient.
4. The Commission discussed the security issue and agreed the fencing that existed was sufficient.

**ORDER**

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that DR 91-09 is APPROVED.

I CERTIFY THAT THIS ORDER was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1991.

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Kurt Schrader, Chairman  
Canby Planning Commission

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Secretary

**ATTEST:**

**ORAL DECISION - February 11, 1991**

AYES: Westcott, Bear, Mihata, Zieg, Schrader, Fenske, Wiegand

NOES: None

ABSTAIN: None

ABSENT: None

**WRITTEN FINDINGS - February 25, 1991**

AYES:

NOES:

ABSTAIN:

ABSENT:

