

**CANBY CITY COUNCIL
WORKSHOP
August 4, 2004**

Present: Mayor Melody Thompson, Councilors Walt Daniels, Georgia Newton, Wayne Oliver, Pat Johnson, Randy Carson, and Teresa Blackwell, City Administrator Mark Adcock, Community Development and Planning Director John Williams, Library and Parks Director Beth Saul, Project Planner Matilda Deas, and City Recorder Kim Scheafer.

Mayor Thompson called the session to order at 6:30 p.m. A light dinner was served.

The Council met in the City Hall Conference Room to discuss a Community Survey. Project Planner Matilda Deas presented the survey and how information will be gathered. Information obtained will give feedback about how citizens feel about services in the City and concerns they may have. The Community Planning Workshop (CPW) would be responsible for sending out the survey and compiling data.

[Recorder's Note: The audio recording system failed during the Council Workshop and an exact record is unavailable]

Mayor Thompson adjourned the session at 7:20 p.m.

**CANBY CITY COUNCIL
REGULAR SESSION
August 4, 2004**

Mayor Melody Thompson presiding. Council members present: Walt Daniels, Georgia Newton, Pat Johnson, Wayne Oliver, Randy Carson, and Teresa Blackwell.

Also present: City Administrator Mark Adcock, City Attorney John Kelley, Community Development and Planning Director John Williams, Library & Parks Director Beth Saul, Associate Planner Darren Nichols, City Recorder Pro Tem Kim Scheafer, Office Specialist Joyce Peters, Donald Perman, Edward Sullivan, Allen Manuel, Glennette Danforth, Lila & Curtis Gottman, FEMA Hazard Mitigation Branch Chief Bruce Nipe, Terri Poet, Ken Murphy, Dennis Sigrist, Bev Doolittle, Randy Helbling, Dena Clark, RJ Larios, Patrick & Tamatha Phillips, Keith Galitz, Jon Austin, Terry Tolls, Allen Patterson, Patricia Fisher, Nancy Kliever-Carnahan, Pam Keil, Ben Schonberger, Bob & Anne Jones, Charles Burden, Tom Kinnee, Jan Reed, Judith Gray, Pat Sisul, Craig Lewelling, Dennis Larios, Michael Vissers, Mark Webber, Ron Yarbrough, Gary Giannini, Ben Harrell, Jeff Stuhr, and David Howell.

Mayor Thompson called the regular session to order at 7:32 p.m., followed by the opening ceremonies. Mayor Thompson recessed at 7:34 p.m. for an Urban Renewal Agency Meeting. Mayor Thompson reconvened the session at 7:38 p.m.

CITIZEN INPUT ON NON-AGENDA ITEMS: Lila Gottman, 10381 S Mulino Road, Canby Chairman of the General Canby Day Committee presented Tom Kinnear from Miller's Homestead Restaurant with a certificate thanking them for being a button basket host.

Bev Doolittle, Director of Canby Chamber of Commerce gave the Council an update on the tourism plan. The Chamber had received a grant for \$10,000 from the Tourism Development Council to put together a nursery tour guide for this year. By spring they hope to have a calendar that lists the events all the nurseries have.

CONSENT AGENDA: **Councilor Carson moved to adopt the Minutes of the Workshop, Regular Meeting, and Executive Session of July 21, 2004; Accounts Payable of \$213,024.19; a liquor license application for T & M Market; and reappointments to the Library Board of Kriss Carpenter and Mike Boonstra. Motion was seconded by Councilor Blackwell and passed 6-0.

PUBLIC HEARINGS:

Temporary Hardship Permit (Hall) – City Administrator Mark Adcock said that the City requires people residing for any length of time in a temporary dwelling in a low density residential zone, to obtain from the Council a permit.

STAFF REPORT: Associate Planner Darren Nichols said they had just received a letter from the applicant's doctor indicating that her condition would probably be an on-going condition that he estimated for 10 years. There was a request for a call history at the site and that activity was minimal.

Mayor Thompson opened the public hearing at 7:48 p.m.

PUBLIC TESTIMONY

APPLICANT: Tamatha & Patrick Phillips, 591 N Ivy, Canby said that they were representing Mike and Ella Hall who were Ms. Phillips' parents. Ms. Phillips said both of her parents had failing health and Ms. Hall had been diagnosed with several acute illnesses and is not able to be left unattended. Ms. Phillips said her mother did not necessarily need 24 hour care, but should not be home alone for her safety.

Ms. Phillips said her parents had asked them to move onto the property to assist her father as he was going through some health issues as well. Councilor Daniels asked if she was aware of a permit process. Ms. Phillips said no. They were originally going to be there for a short amount of time, but when they got there, they had to take care of some serious issues. At that point, the physician said she could not take care of herself.

OPPONENTS: Bob Jones, 139 NW 6th Avenue, Canby said that he had lived next door to the property since 1986. Mr. Jones said the RV had been on the property since June 2003. To grant a further extension would make something temporary indeed permanent. If 24 hour care was needed, other options should be explored. He did not know if the care being given was

necessarily the best care. Mr. Jones said he had been bitten twice by dogs on the property. The dogs have not been muzzled and had attacked other members of the neighborhood. Poor decision making was being made instead of proper care. He said that he had built a fence following City Codes and he asked that the City Council follow City Codes as well. If they are going to grant the temporary stay for the RV, it was already passed temporary and he did not feel an extension should be granted.

Mayor Thompson asked if Mr. Jones had reported the dog bite to the Police or Animal Control. Mr. Jones said the Animal Control Board said they were not taking those kinds of calls anymore because of budget cuts.

Patricia Fisher, 564 N Ivy Street, Canby said she lived across the street from the house in question. Before the motor home was moved in, Mrs. Hall had asked them if they would mind if the motor home moved in and stayed for a short while until they could financially get on their feet. They said OK for a short time, but it was now a year later. At that time, there was no medical reason given. She felt they were deceived into giving them consent to move the motor home in. Ms. Fisher asked who monitored the 24 hour care. She said it could not be happening when the husband and daughter are working and the daughter's husband sits rocking in a chair in the yard, playing basketball, or using his exercise equipment, all of which are on the other side of the house. She asked if the time limit is up for review with a new letter from the doctor, or does it just go on forever. She had seen Mrs. Hall driving a car three or four times during the last month or two.

John Austin, 142 NW 5th, Canby, said that he lived down the alley from the house in question and had three concerns. The dogs had gotten out of their pen and had attempted to bite his daughter. He called Animal Control and they visited the house. If it was just a motor home in storage it would be great, but they had a living room on the side of their motor home. They had chairs, a tent area, and weights. It is a living area and not a yard like it should be. There was trash piled in the back of the motor home that was covered with tarps and he felt it was lowering his property value. He was not willing to lose money on his house when he goes to sell it because of someone's trash.

Mayor Thompson closed the public hearing at 7:58 p.m.

DISCUSSION: Mayor Thompson asked what was defined as temporary. Mr. Nichols said according to the Land Development Planning Ordinance, that it was what the Council determined during the public process. The Code gives permission for the Council to request periodic review of the condition through the care provider. Mayor Thompson asked if the Council could ask the applicant to provide them with a little more information about what the medical condition was to better assess the problem, given what the residents were telling them. Mr. Nichols said the Health Information Privacy Act prevents the medical provider from giving them that information if they request. His understanding was that if the applicant was willing to release that information, the medical provider could provide that to the Council.

Councilor Carson asked if there was room on the lot for a small mobile home. Mr. Nichols said it was close with the motor home. A singlewide trailer could possibly fit, but it would be tight.

Mayor Thompson asked about the standard response for dog bites. Mr. Adcock said the standard response was that the police officers do respond. City Attorney Kelley said the police could not cite because the City had given that authority up with an Intergovernmental Agreement with Clackamas County. Clackamas County Dog Control is in charge of all the activities within the City of Canby. When he is contacted, he tells them to contact the Animal Control Office in Clackamas County. The City had repealed their Ordinance and adopted Clackamas County's Ordinance. Mr. Adcock said if there was a public safety hazard, the police would respond.

Councilor Carson said that Animal Control is supposed to look into at least the dog bite part of it. Mayor Thompson wanted to let citizens know if they were not getting a response from Animal Control and dogs were biting and chasing their family, they should let the City know.

Councilor Daniels said that the dog issue could happen anywhere in the City. Since he had been on Council, there were two occasions where people came in and requested a permit. This one bothered him as the RV was on the site for a year, and when contacted by the police because of the dogs, it became a medical issue. He also wondered how 24 hour care was provided when they were not in the building.

Councilor Johnson asked what would happen if they denied the application. Mr. Kelley said they would be in violation and the Code Enforcement Officer would be visiting them. Mayor Thompson said it concerned her that there might be a medical condition that they were not aware of. Mr. Kelley said he did not think they had any liability for that issue.

Councilor Carson asked if there were problems with domestic disturbances and lot debris. Could they could write in a condition making sure that it is cleaned up and there are no problems. Mr. Kelley said they could attach conditions if they decided to approve it. Councilor Carson asked if they could for domestic disturbances also. Mr. Kelley said no. Mayor Thompson said the neighbors would seek remedy the way that they currently are, which is through the police.

Councilor Oliver said he had known the Halls for many years and he was not aware of the illness. Without knowing what the illness was, or the ramifications, he would like to see a 30 day permit with the hope that they would bring some medical history so they could have a better idea.

Councilor Daniels said they were talking about short term and trying to define that and then they get a letter from her doctors stating this could be up to 10 years. He did not consider this short term. Mayor Thompson said maybe if this was a large lot, well fenced and buffered it might be different for a longer period of time.

Councilor Blackwell said she did not have any problem with suggesting that they find a place to park their RV. She had a tendency to go with the neighbors on this issue as they carried a lot of weight in this decision process. She wanted to be sensitive to the fact that if the woman needs care, then the family should be able to figure out how to do that, while living in accordance with the ordinances in this town and being congenial towards their neighbors.

Councilor Johnson said when he first saw this application he was pretty much in favor of it. After digging a little deeper, seeing the police reports, hearing from the neighbors, and taking a drive by the site, he had some concerns. Instead of trying to work with neighbors, the opposite had been going on and that troubled him.

REBUTTAL: Mr. Phillips said he had issues with what all three neighbors had said. The RV had been on the property one year this month. They were not aware of the necessity of a permit until Mr. Nichols had mailed them a letter stating they needed one. In regard to Mr. Jones at 139 Ivy regarding the verbal and physical abuse, he did not know what he was talking about. The dog bite he was referring to was the Hall's dog. Mr. Phillips handed out a printout he had gotten from the County regarding his dogs. The only dog bite that he knew of was from the Hall's dog before they were living there. As for 564 N Ivy, he thought this was supposed to be about getting a permit for them to live in an RV. It was not so much care that she needs, but more of a 24 hour watch so if something happens to her they can get her help. Mr. Phillips handed out pictures to the Council of surrounding structures, as well as two pictures of Mr. Austin's backyard. He said Mr. Austin's backyard was no better than what they had. He was not aware of any police reports and the only time he had seen an officer was when Mr. Nichols sent one to speak to them about not being there. They had called the police for other problems in the neighborhood. He felt they were being slighted because of the letters. Mayor Thompson asked how many dogs there were. Mr. Phillips said there were three. Mayor Thompson said one of the criteria in the permit asks if there is an impact to the neighbors.

Councilor Carson asked if the RV was hooked up to City water and sewer. Mr. Phillips said they dump it whenever it gets full and it was not plumbed in. Councilor Carson asked how many people were living in the motor home. Mr. Phillips said two but they were currently living a tent. The house has one bedroom with a bonus room up top that his kids were in.

Councilor Newton said the additional information that they would be asking for would be the release of the medical information. Councilor Carson said if they had that it might make a difference, but with living in a tent and going into the winter with the amount of the dogs there, he was having a hard a time. He would be willing to go with a 60 day temporary, but not give a permanent one for ten years.

Councilor Newton said this was an emotional and tough decision they should give the applicants an opportunity to bring some more information if they would like to, and make a decision at the next meeting.

Mayor Thompson reopened the public hearing at 8:21 p.m. and continued it until August 18, 2004 at 7:30 p.m.

COMMUNICATIONS: FEMA Presentation of Grant Award to City and Canby Telephone Association - Terri Poet, Clackamas County Emergency Management Coordinator, introduced Bruce Nipe, FEMA Hazard Mitigation Branch Chief. Mr. Nipe said that Canby Telephone had been awarded a Pre-Disaster Mitigation Competitive Program Grant of \$229,275 to help cover the cost of applying both structural and non-structural upgrades to Canby Telephone switching and dial tone equipment.

Ken Murphy, Director of Emergency Management for the State of Oregon thanked the City of Canby for making efforts before disaster strikes in protecting their infrastructure.

Dennis Sigrist, Office of Emergency Management thanked Christine Warren at Canby Telephone and Cindy at Clackamas County Emergency Management. He said that Canby Utility had applied for and been awarded a Hazard Mitigation Grant Program grant to underground some power lines along Highway 99E.

PUBLIC HEARINGS:

CPA 04-02/ZC 04-03 Perman –

Mayor Thompson read the public hearing format.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate.
Councilor Newton - No conflict, plan to participate.
Councilor Oliver - No conflict, plan to participate.
Councilor Johnson - No conflict, plan to participate.
Mayor Thompson - No conflict, plan to participate.
Councilor Carson - No conflict, plan to participate.
Councilor Blackwell - No conflict, plan to participate.

EX PARTE CONTACT:

Councilor Daniels – Reviewed the site.
Councilor Newton – Seen the site, had a woman stop her in the store to give her opinion. She did not know who she was. She told the woman that she could not listen.
Councilor Oliver – Had a conversation with Dr. Perman before the Planning Commission Meeting and he generally told me what the plan was.
Councilor Johnson – No conflict.
Mayor Thompson – Had a conversation with Dr. Perman about another matter when Dr. Perman mentioned that he would be having this application before the Planning Commission, at which time we discussed that I would be hearing the matter and would not be able to discuss it.
Councilor Carson – Driven by the site.
Councilor Blackwell – Driven by the site.

STAFF REPORT: Community Development and Planning Director John Williams went through the criteria and explained what the Planning Commission discussed. The properties are surrounded by M1 light industrial property on two sides. Across the Logging Road path is heavy industrial zoning located in the Pioneer Industrial Park. On the north side of the properties is commercial manufacturing zoning. The request is to change the zoning and the Comprehensive Plan designation from light industrial to commercial manufacturing. In the request was a proposal to record two development restrictions that were intended to counter some of the concerns that the industrial property owners might have. The applicant proposed that if the

zoning was changed that the uses be limited to business and professional offices including medical, dental and other similar healthcare uses. The other proposal was that the owners and occupants of the buildings constructed would agree not to complain about noise, traffic or other legal aspects of the surrounding manufacturing operations.

The Planning Commission had recommended denial 6-0. The Planning Commission found that the Comprehensive Plan Amendment and Zone Change were not warranted. A letter was in the packet from Don Jones, Doug Pollock, Fred Kahut and Wilson Corcoran discussing what they perceive as the gradual change of this area into more of a commercial park than an industrial park. An e-mail had been received from Shimadzu stating they declined to take sides. A copy of the 1999 Canby Land Needs Study was set out at Council's places. The report concluded that if assumptions regarding redevelopment of underutilized or vacant properties happened, that Canby would be at about a wash for commercial land needs in 20 years. It said if we include some neighborhood commercial nodes in new developments, it should be accommodating.

Mr. Williams said they had received a fax at 9:00 a.m. that morning from Jeffrey McCollum who is representing Cutsforth Enterprises. Mr. Williams read the letter into the record. They are contemplating building a professional commercial office space on NE 2nd Avenue.

Councilor Carson asked if the area by Fred Meyer in the new industrial park had been taken into consideration for commercial. Mr. Williams said only the areas that were already zoned for commercial. There had been some discussion about zoning more areas to commercial specifically in the area bounded by Hazel Dell, 1st Avenue, and Sequoia.

Mayor Thompson opened the public hearing at 8:48 p.m.

PUBLIC TESTIMONY

APPLICANT: Carrie Richter, of Garvey Schubert Barer, 1211 SW Morrison, Portland said that the property was compatible because of its closeness to commercial manufacturing uses and would not result in any significant loss of industrial land since it is only 2.7 acres. It is an area that may not be suitable for industrial uses. The buildable lands inventory from the Canby Land Needs Study suggested that there might be a shortage of commercial lands available. She said the Comprehensive Plan suggested that commercial should be located on Highway 99E or downtown.

Ben Schonberger, Winterbrook Planning, 310 SW 4th Avenue, Suite 1100, Portland said that the Canby Comprehensive Plan Land Use Element, Policy #1 indicated that Canby should guide the course of growth and development so as to separate conflicting or incompatible uses while grouping compatible uses, and that was the question for the Council to decide. The second piece cited by the Planning Commission is Policy #2 of the Economic Element of the Comprehensive Plan, which says that Canby shall encourage further commercial development and redevelopment at appropriate locations. He asked if this was compatible with surrounding development and if it was an appropriate location at which to put commercial development. The subject property is adjacent to existing heavy commercial zoning. He said there was a wide variety of uses in the area that are both in the industrial zone to the south of the property, and in

the commercial manufacturing zone that is north of the property. The proposed use was both appropriate and compatible. The noise issue was addressed by City Code and the applicant has proposed a deed restriction on the property that would run with the land for all occupants and users that is part of the proposal. As long as the property retains the zoning, occupants agree not to complain about noise, traffic, or other legal aspects of neighboring operations. This parcel has been vacant for 20 years under the existing zoning. The market has not responded to this vacant parcel as a piece of industrial land. The Land Needs Study said there was a huge surplus of industrial land and a very small shortage of commercial land. The proposal is compatible with existing uses in the surrounding area and it is appropriate to promote commercial development there. There was an identified need for this kind of change.

Judith Gray, Kittelson & Associates, 610 SW Alder Street, Portland said that the proposed project would have a slight reduction in the trip generation on a typical weekday and during the p.m. peak hour. There would be a slight increase in the a.m. peak hour. Neither of these numbers was large enough to be of any significant change.

Dr. Donald Perman, 249 NW 3rd Avenue, Canby said he had started this project years ago looking for a place to purchase. HIPA regulations in health care require specificity in buildings. He breaks that law everyday because of how tight his office is. Most of the vacancies downtown were for lease. Around Fred Meyer was an option, but the premier property is also for lease. The Zimmerman family plans no sale of their property and it is strictly for lease. He indicated that there is some property for sale across from Safeway but it butts up against the train track and that Healthcare did not need that type of exposure. The biggest problem was the lack of commercial property for sale. When he began searching for this area, he looked at Canby as a whole. Canby has to grow towards Mulino and Fred Meyer. When he saw this mixed use area, he thought why not make a zone change and allow for a healthcare village to serve the people from this area. It had access from both 13th and Township and Hope Village could access this area without dealing with 99E. Canby has mixed use throughout downtown and in this area.

Jeff Stewart, Holst Architecture, 110 SE 8th Avenue, Portland presented Council with a proposed site layout to break this parcel down into 10 smaller parcels and actually construct 2,000-5,000 sq. ft medical office buildings that would be sold to different practitioners. They laid out an open plan taking advantage of some of the pathways to the north and east. He said the site was near transit and had access to bicycle paths.

Pam Keil, Women's Health Center of Oregon, 1508 Division Street, Oregon City said that they supported this because it addressed their specific interests. The proposed location is at least if not more accessible to their patients than other proposed projects that they know of. She said it provided an environment that allowed them to purchase, be close to other healthcare providers, and it was an acceptable location and price. They were interested in developing a full time presence in the Canby area. To do so, they needed a facility with greater than 1,000 square feet with room for expansion. They wanted to be able to evaluate, purchase, build, own, as well as look at lease options. The street layout and flow in the immediate areas appeared to provide ready and less hectic access than other options. Ms. Keil said they received a letter from CBRD that listed properties that were available. Only one of the properties listed was available for purchase and the rest were for lease.

Allen Patterson, Capacity Commercial Group, 805 SW Broadway, Portland said that he and Terry Tolls had been marketing the 1.9 acres for Harrell Medical as well as other properties on Redwood, and the 225 acre industrial park. The property had been on the market for a year. Most industrial users like a rectangular or square shaped site for trucking access and parking. This site was not suitable for a lot of industrial users. To maximize the building coverage per land, the building needed to be in the back towards the north and would end up with a 25' concrete wall right on the path that would be easily tagged with graffiti, making it visually unattractive. Access for the industrial piece was through the Harrell Medical parking lot, and mixing cars with the truck traffic would be a lot more difficult. He said the site was more suited for the type of use that Dr. Perman was contemplating.

Terry Tolls, PO Box 80425, Portland said that he also had the property listed that the cheese factory was going on. Heidi Yorkshire, her architect and contractor were on both sites. Industrial really did not work for her on this site because of the access issues given by Mr. Patterson and she opted to go onto the commercial manufacturing site instead, which was almost identical in size.

PROPOSERS: None.

OPPOSERS: Tony Helbling, 227 SE 10th, Canby said that he was on the Planning Commission, President CBRD, and a member of the Chamber of Commerce. He was speaking tonight as a citizen and as a businessman in an industrial park. He said there was great value in what Dr. Perman was proposing with respect to the need in this community. He asked that the Council weigh those items against some other things. He said we had a responsibility to design our community so that it is a great place to work and raise kids. We as a community went to industries and talked to them about coming here and there are several large employers in that industrial park. In the existing industrial parks in Canby, several things had happened. Parks have been emplaced and industrial property had been rezoned for residential property. He explained that those were established industrial parks that we had brought businesses into, making a commitment to those businesses to operate in our industrial parks as industrial parks. The big industrial tenants were not happy with the change and wanted to work unencumbered in their parks. The big industrial tenants would not impact this particular development, and Council needed to weigh the value of an outstanding design on an odd piece of property that does not fit, against the message that would be sent to future businesses that could locate in town. He said if we continue to change what the industrial parks are after we design them, what message does that send to potential future occupants?

Mayor Thompson asked Mr. Helbling about the sense from large industrial users that they do not want to occupy a park that is more flexible in the zoning in the way that Dr. Perman has suggested. Mr. Helbling said when they look for property they look for like-use properties, as it reduces the potential for difficulties in conducting business.

Councilor Johnson said looking at the past track record, they will see that the piece of property has sat vacant for many years. Mr. Helbling said the question is not just this site, but what is the message that we are sending out as a community.

Councilor Johnson said he would like Mr. Helbling to address the size of the lot not being conducive to industrial growth. Mr. Helbling said for a company the size that he works for, no. They would not locate headquarters, but could locate a shop or satellite. Most businesses and companies come to a community as either a large industry or business that moves in, or they are an incubator. He did not know if this property was going to develop as an industrial piece of property. It was his opinion that as the economy improved and, looking at the area as a whole, it was ripe for development. If the decision was based on it being empty now, then that is what it is based on.

Councilor Carson asked Mr. Helbling to address the issue of the property being up against C-M property. Mr. Helbling said the boundary is on the edge of the parking lot of the Redwood commercial development. Council was being asked to move it up against Harrell Medical and the Logging Road. What message would that send long term to everything else?

Lila Gottman, 10381 S Mulino Road, said that Canby is the biggest little town in Oregon. Changes would have to be made everywhere if we were going to be first. It was not always good or bad to make changes, but they are inevitable. This is a good idea that has some good and bad concepts. Are we the leaders, and if so, are we going to stand up and say we are doing things a little different here, or are we afraid to make a change?

REBUTTAL: Mr. Schonberger said he did not specifically know what Comprehensive Plan policy would fit into what message they are sending to other industrial users. There was a diverse mix of uses already in the area.

Dr. Perman said that Trost School, the new middle school, and residential property all encircle the area. There is great access from all the residential property on that side of town, along with both the schools once the middle school is built.

Mayor Thompson closed the public hearing at 9:38 p.m.

DISCUSSION:

Councilor Carson asked about driveway distances between Harrell Medical and access on the corner. Mr. Williams said there are spacing standards and they were looking at the zoning tonight.

Councilor Johnson asked when the AFD on the property would be up. Mr. Williams said it would be up in 10 years.

Councilor Carson said he was in favor. Councilor Daniels said you have to try to find the best use. Councilor Oliver said things change over a period of time, and that it would bring in a lot of good jobs for the City.

Councilor Newton said many people had put in a lot of work and effort into planning what our city is going to be. Those plans need to have some respect when it comes to the businesses that have come here because of those promises. She asked if they were going to get to a point where

people would go out to industrial property that is bordering commercial property and buying up those little chunks of property so that they could put in their next thing and we start eating away at borders. She had never seen such a magnificently put together plan with so much thought. There were not that many doctors accepting patients in this town.

Councilor Blackwell said the plan was excellent and needed in the community, but she had to look at the encroachment issue.

Councilor Johnson said he was partial to Councilor Newton's approach and looking at both sides. This piece has been sitting fallow and there was an AFD on the property. We had put in industrial sites and they have been replaced by commercial sites. We have a local business owner who is going out of his way to try to stay in town.

****Councilor Carson moved to approve CPA 04-02/ZC 04-03 Perman and direct staff to return with written findings supporting this approval as well as an implementing ordinance. Motion was seconded by Councilor Daniels and passed 5-1 with Councilor Blackwell opposed.**

Mayor Thompson recessed at 9:53 p.m. Mayor Thompson reconvened at 10:04 p.m.

Annexation 04-02 ManDan –

Mayor Thompson read the public hearing format.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate
Councilor Newton - No conflict, plan to participate.
Councilor Oliver - No conflict, plan to participate.
Councilor Johnson – No conflict, plan to participate.
Mayor Thompson - No conflict, plan to participate.
Councilor Carson - No conflict, plan to participate.
Councilor Blackwell - No conflict, plan to participate.

EX PARTE CONTACT:

Councilor Daniels – No contact, did not visit the site.
Councilor Newton – No contact, driven by the site.
Councilor Oliver – No contact, driven by the site.
Councilor Johnson – No contact, driven by the site.
Mayor Thompson – No contact, driven by the site.
Councilor Carson – No contact, visited the site.
Councilor Blackwell – No contact, driven by the site.
Mayor Thompson opened the public hearing at 10:08 p.m.

STAFF REPORT: Mr. Nichols said the proposal was to annex three tax lots containing a total of 4.8 acres into the City of Canby. If annexation is approved by the voters the City zoning would automatically be amended to a mixture of R2 and R1.5. The parcels sit immediately to the north of an existing residential development called Garden Crossing and this would be an extension of that residential development. This proposal was identical to the one last year.

PUBLIC TESTIMONY

APPLICANT: Allen Manuel, 1612 N Redwood, Canby, said this property was owned by himself and Glennette Danforth. They have a company called ManDan LLC, which manages rental property and does small developments in town. This property is 4.57 acres. It was 4.8 when it was purchased and after surveying is 4.57 acres. In the Comprehensive Plan review process that they went through a year or two ago, the need for more high density was identified and several sites were considered. This is one of the sites that was selected as a potential high density site. There is a very limited supply of unplatted, unplanned, high density zoned property in the City right now. Development of this property would develop more of Redwood Street another 300' to the full width it is developed on the other side of the road with Erica Estates. The location of the property was good for services. The property is half high density and half medium density, so it would be a little different than Garden Crossing. Development would also extend the sound barrier that runs down the railroad track and Highway 99E. This property is not included in the drainage district. It would drain back into Willow Creek and drainage there would be handled very much like Garden Crossing, with underground retention and metering of the storm water off the property. The light on Territorial is scheduled to be put in 2006. He guessed the light would be in before they developed the property.

Councilor Carson asked if he had talked with Mr. Buchanan about adding his 16' in to make a better driveway at a future time. Mr. Manuel said he had not talked with him recently. They had talked with Mr. Buchanan a year ago and offered to provide access through their development in return for his 16'. He was not interested then and he presumed they would talk to him again. It would become problematic if their parcel was annexed and his 16' was not annexed.

PROPOSERS: None.

OPPOSERS: None.

REBUTTAL: None.

Mayor Thompson closed the public hearing at 10:17 p.m.

DISCUSSION: None.

****Councilor Carson moved to approve ANN 04-02, and forward the application to the City of Canby voters for a final decision. Motion was seconded by Councilor Daniels.**

Councilor Carson said this was R1.5 and R2 land and we needed more of that in town to meet obligations. It was B property but almost all the A property was gone in town.

Motion passed 6-0.

Annexation 04-05 Manuel –

Mayor Thompson read the public hearing format.

CONFLICT OF INTEREST:

Councilor Daniels - No conflict, plan to participate
Councilor Newton - No conflict, plan to participate.
Councilor Oliver - No conflict, plan to participate.
Councilor Johnson - No conflict, plan to participate.
Mayor Thompson - No conflict, plan to participate.
Councilor Carson - No conflict, plan to participate.
Councilor Blackwell - No conflict, plan to participate.

EX PARTE CONTACT:

Councilor Daniels – No contact.
Councilor Newton – Driven by the site.
Councilor Oliver – No contact.
Councilor Johnson – No contact.
Mayor Thompson – No contact.
Councilor Carson – Visited the site.
Councilor Blackwell – No contact.

STAFF REPORT: Mr. Nichols said this application was to annex .93 acres into the City of Canby. If annexation was approved, the property would come into the City as R1 low density residential zoning. The Planning Commission voted 5-0 to recommend denial of the application. The land was designated as Priority B for annexation and the Planning Commission did not feel that it presented a compelling reason to consider the property for annexation especially since there was no Comprehensive Master Plan for the area. The supply of platted buildable land, which is a couple months less than the three year supply considered sufficient, does not create a need for this land to be annexed.

Councilor Carson asked if they said there was enough total buildable lands or enough platted lands. Mr. Nichols said it sounded like the totals for high density residential land. Councilor Carson said they must have taken the total.

Mayor Thompson opened the public hearing at 10:28 p.m.

PUBLIC TESTIMONY

APPLICANT: Allen Manuel, 1612 N Redwood, Canby said this was a piece of land was B ground that is surrounded by developed R1 on two sides. It was very difficult to prove that the

proposed four lots are something less than a two-week supply of buildable lots. He had participated in every master planning program there had been for Redwood since 1992. He said there was exactly nothing on paper anywhere that he knew of. It had been 12 years since they had put together the master planning paperwork for Redwood. The development of this parcel would provide sufficient utilization of utilities that are already in the ground. There was a single-family house existing that would be refurbished and saved. As with the other parcel, it was small parcel development in the Comprehensive Plan and was better than large parcels of farm ground. Storm drainage would be handled on site. This site would not part of the drainage district in that area. The traffic light proposed at Territorial is probably more important for this site than for the other site. There is more of a chance of someone exiting from this site. If that is a problem, he would be willing to consider or accept some kind of restriction on development that would wait on that site. The parcel was too small to be of any agricultural use.

Councilor Carson asked if Mr. Manuel had talked with property owners regarding the easement. Mr. Manuel said the access is part of the Redwood Meadows subdivision and owned by the Redwood Meadows Homeowners Association. That easement was amended when Redwood Meadows was developed. He was not willing to wait on the master plan because he had seen that go on too long. He was willing to work on anything that would utilize that access much more efficiently for the future. If the master planning could make some headway in two years, he was all for it.

PROPONENTS: None.

OPPONENTS: Daniel Webb, 1864 N Redwood, Canby said he and two property owners had concerns regarding access for further development of the large area of land directly to the east. There was a potential for development of a residential community of approximately 50 homes. It was crucial to the future development of these properties that anything done on this parcel that there be some accommodation for access for these parcels. The 20' strip of land was not wide enough for access. There would need to be some infrastructure considerations made. He felt it was important that the annexation application required that there be a plan. He believed that the City Council must mitigate any negative effects on the small sub-communities and/or neighborhoods. Should the annexation be referred to the voters, they asked that conditions be placed on the approval. Mr. Webb handed out a letter from Andrew Jarmer, 1860 N Redwood, Canby.

Councilor Carson asked if Mr. Webb would be willing to work with Mr. Manuel to trade that 20' for a 40' street through the middle of the property. Mr. Webb said yes, if properly planned. Unless all of the property is annexed at one time it would not work. It would encumber another person's property in order to facilitate this one.

Mayor Thompson read Mr. Jarmer's letter into the record.

REBUTTAL: Mr. Manuel said Mr. Jarmer had purchased the property in competition with him about three months ago while this application was pending. If they had a 50' access to their property, they would have had to pay more for it. They do not want to encumber Mr. Jarmer's property for the property behind it, but they are perfectly happy to encumber Mr. Manuel's

property. In the past, Redwood Meadows was not stopped to accommodate the properties that were in the back. He felt he had abided by the rules and met the criteria.

Mayor Thompson closed the public hearing at 10:58 p.m.

DISCUSSION: None.

****Councilor Daniels moved to approve ANN 04-05 and recommend it be sent to the voters. Motion was seconded by Councilor Oliver.**

Councilor Daniels said Mr. Manuel had followed all of the criteria and should be allowed to develop it.

Councilor Johnson said access was part of the criteria. He did not feel there was a need.

Councilor Oliver asked if anything was being done on the master plan. Mr. Williams said they were going to start working on it.

Motion tied with Councilors Daniels, Oliver and Carson in favor and Councilors Newton, Johnson and Blackwell opposed. Motion failed 3-4 with Mayor Thompson breaking the tie.

****Councilor Johnson moved to deny ANN 04-05. Motion was seconded by Councilor Blackwell. Motion tied with Councilors Newton, Johnson, and Blackwell in favor and Councilors Daniels, Oliver, and Carson opposed. Motion passed 4-3 with Mayor Thompson breaking the tie.**

NEW BUSINESS: None.

UNFINISHED BUSINESS: Findings, Conclusion & Final Order Annexation 04-04 Willow Creek

****Councilor Daniels moved to adopt the Findings, Conclusion & Final Order for ANN 04-04, forwarding the annexation application to Canby voters for a final decision. Motion was seconded by Councilor Carson and passed 5-0 with Councilor Johnson abstaining.**

Findings, Conclusion & Final Order Annexation 04-06 STJ

****Councilor Carson moved to adopt the Findings, Conclusion & Final Order for ANN 04-06, forwarding the annexation application to Canby voters for a final decision. Motion was seconded by Councilor Daniels and passed 5-0 with Councilor Johnson abstaining.**

RESOLUTIONS & ORDINANCES:

Resolution 871 - ****Councilor Daniels moved to adopt Resolution 871, A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE**

A PROPOSED ANNEXATION OF 4.98 ACRES DESCRIBED AS TAX LOTS 2300 AND 3300 OF TAX MAP 3-1E-34 LOCATED ON THE EAST SIDE OF SOUTH WALNUT STREET, BETWEEN SOUTH WALNUT AND SOUTH MULINO ROAD; AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE NOVEMBER 2, 2004 ELECTION. Motion was seconded by Councilor Blackwell and passed 6-0.

Resolution 875 - **Councilor Carson moved to adopt Resolution 875, A RESOLUTION ACCEPTING DEDICATION OF LAND FROM THE ESTATE OF RAY AND IRENE BURDEN, JACQUE PARSONS, AND DONNA AND THOMAS FITZPATRICK FOR RIGHT-OF-WAY PURPOSES. Motion was seconded by Councilor Johnson and passed 6-0.

Ordinance 1151 - **Councilor Daniels moved to approve Ordinance 1151, AN ORDINANCE AMENDING SECTION 13.08.150 OF THE CANBY MUNICIPAL CODE BY ADDING A REQUIREMENT FOR BACKFLOW PREVENTION DEVICES FOR PROPERTIES WHOSE SEWER LINES RUN THE RISK OF BACKFLOWING to come up for second reading on August 18, 2004. Motion was seconded by Councilor Johnson and passed 6-0.

Ordinance 1152 - **Councilor Carson moved to approve Ordinance 1152, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY RECORDER TO EXECUTE A CONTRACT WITH PARKER NORTHWEST PAVING COMPANY FOR CONSTRUCTION OF SEQUOIA PARKWAY/SE 4TH AVENUE STREET IMPROVEMENTS STAGE III, AND HAZEL DELL WAY EXTENSION STREET IMPROVEMENTS; AND DELARING AN EMERGENCY. Motion was seconded by Councilor Blackwell and passed 6-0 by roll call vote.

MANAGER'S REPORT: Library and Parks Director Beth Saul said the draft resolution would urge the Board of County Commissioners to follow the recommendations of the Libraries for Tomorrow planning process. This was a process that was done by the library network over the past couple of years as they began to realize that funding for libraries in Clackamas had not only been frozen, but beginning to degrade due to the problems with County has with its budget. The results were that they recommended that they go forward to develop a stable funding mechanism that would be dedicated to libraries and that would be the levy they are talking about for November.

CITIZEN INPUT: None.

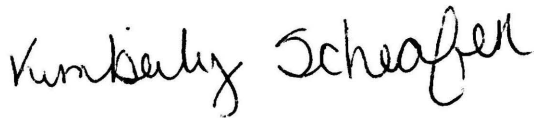
COUNCILOR'S ISSUES: None.

ACTION REVIEW:

1. Approving the consent agenda.

2. Approving CPA 04-02/ZC 04-03 Perman
3. Approving Annexation 04-02.
4. Denied Annexation 04-05.
5. Continued Temporary Hardship Permit (Hall) to August 18, 2004.
6. Approving the Findings, Conclusion & Final Order for Annexation 04-04.
7. Approving the Findings, Conclusion & Final Order for Annexation 04-06.
8. Approving Resolution 871.
9. Approving Resolution 875.
10. Approving Ordinance 1151 to come up for second reading on August 18, 2004.
11. Approving Ordinance 1152 on second reading.

Mayor Thompson adjourned the regular session at 11:14 p.m.



Kimberly Scheafer
City Recorder Pro Tem



Melody Thompson
Mayor

Assisted in Preparation of Minutes – Valerie Kraxberger

To: Canby City Council

Re: Allen Manuel

My name is Andrew Jarmer. I live at 1860 N. Redwood St. with my wife and young family. Unfortunately a personal matter is preventing me from being here today. I have asked my good neighbor Dan to deliver my thoughts.

I have been a resident of Canby since 1967. My wife and I have been raising our family here since 1996. We recently purchased a three acre parcel directly behind the one acre Allen Manuel is petitioning for annexation and development.

When we purchased our home we had expectations of being able to raise our family in a semi-rural setting, close to town. This is the magic of this community. It is the reason why many people work in the Portland metro area, or to the South, find it very desirable to live here.

We were not blind to the idea that there would be growth in this community. This is why, prior to our purchase, I engaged the expertise of a representative of the planning commission. We were told the lands East of Redwood St. were in the five to ten year plan for city growth. We were aware that the land East of North Redwood might have some unrealized value in five to ten years. We concluded that we have time to raise our family in a rural setting and a peaceful, relaxing environment.

I would like the City Council to consider some ideas that go to the core of this issue of Manuel's petition for annexation.

- True Consideration
- Connectivity
- Access
- Reasonable expectation
- Comprehensive planning
- Master planning
- Ethics

Manuel's petition fails on the first 4 of the planning commission's criteria and standards for consideration of development. Criteria #5, 7 and 8, are probably mute, especially criteria #5 as the parcel has frontage on Redwood Street. I believe criteria #6 and 10 also fail.

- (1) Manuel's petition does not give (by its design) true consideration to adjacent properties for connectivity and access to North Redwood Street.
- (2) The much larger parcels East of this single acre, have a reasonable expectation of being included in a comprehensive plan or master plan that at some point in time facilitates access to utilities and roadways.
- (3) If future growth is to come East from Redwood, my neighbors and I who collectively own much more land, potentially face an adverse economic impact if a poorly designed 1 acre parcel dominates access to Redwood.

Allen Manuel will argue that it costs too much to accommodate his neighbors.

“He won’t make enough money”

That’s too bad!

The planning commission and the city council do not have a duty to Allen Manuel to ensure that his ventures are profitable to him.

You All Do Have a Duty,

To myself, my neighbors and the citizens of this city, to do real planning that is comprehensive, fair and equitable to land owners who may not have the access and resources that Manuel enjoys.

I may discuss ethics with Allen Manuel in a different venue at a later date.

In conclusion:

I hope the City Council will give True consideration to the wishes and desires of all of those potentially impacted by this petition, our community and our neighborhood. Please consider the majority view. There are more of us, possessing larger areas, that will be affected by the councils decision.

Without a petition that addresses the issues of connectivity access and comprehensive planning, I encourage the council to adopt the planning commission’s findings to deny.

Respectfully submitted in my absence,
Andrew Jarmer
1860 N. Redwood St.
Canby, OR 97013