

**CANBY CITY COUNCIL
REGULAR MEETING
DECEMBER 7, 1994**

Mayor Scott Taylor presiding. Council members present: Dennis Nolder, Roger Harris, Terry Prince, Cheryl Stark, Shirley Strong and Walt Daniels.

Also present: Administrator Michael Jordan, Assistant to the Administrator Sarah Jo Chaplen, City Recorder Marilyn Perkett, Police Chief Jerry Giger, Librarian Beth Saul, Assistant Planner Jim Wheeler, Ron Tatone, Doug Sprague, Elroy Knutson, Frank Charbonneau, John Middleton, Kris Grosuch, Jeffrey Kleinman, Paul Montecucco, Al & Linda Geddes, Don & Donna Woodruff, Jerry Burns, Nathan Clayton, Lee Blake, Jane Blake, Eldon & Carmel Meyer, Nikki Poppen, Denny Greig, Randi Ganteo, Winston, Bunnell, Gay Kuykendall, Virgil Montecucco, Arthur S. Hill, Tamara Maher, Michael McNichols, Nancy Wilmes, Cam Sivesind and others.

Mayor Taylor called the regular session to order at 7:30 p.m., followed by the flag salute and a moment of silence.

Roll call of the Council showed a quorum to be present.

MINUTES OF PREVIOUS SESSION: **Councilman Prince moved to approve as distributed the minutes of regular session, November 19, 1994. Motion seconded by Councilman Harris.

Councilman Nolder noted that on page one, next to the last paragraph, it should read "four year terms," the word year was omitted.

**Motion to approve the minutes as corrected was approved 6-0.

CITIZEN INPUT ON NON-AGENDA ITEMS: None presented.

PROCLAMATIONS: Toys for Tots - Mayor Taylor proclaimed the week of December 11-17, 1994, as Toys for Tots Week in Canby and urged citizens to participate in the toy drive for the holidays.

Members from the Kiwanis Club gathered toys and food that been brought by the Council and City staff.

National Drunk and Drugged Driving Prevention Month - The month of December, 1994, was proclaimed 3D Prevention Month in Canby. Mayor Taylor urged citizens to become involved and become more aware of driving drunk or drugged issues.

APPEAL: SUB 94-02, Country Club Estates Annex No. 4 - Mayor Taylor asked the Council if they wished to recess to read the two documents submitted by the appellant and respondent. The consensus was to continue.

Attorney Kelley stated that one of the attorney's was objecting to the admissibility of one of the documents, however, he had not had time to review the document. Mr. Kelley reminded the Council that no new evidence was allowed, only argument on the record.

Jeff Kleinman, Attorney for the appellants, said he wasn't sure there was an objection.

Kris Gorsuch, Attorney for the applicant, said their brief was a response to the appellants

letter of appeal. The new brief submitted by the appellant includes arguments based on the Transportation Plan that was not adopted or part of the record. Mr. Gorsuch objected to arguments based on the Transportation Plan. He said they were told they couldn't refer to that plan.

Jim Wheeler, Assistant Planner, stated that the Transportation Plan was in draft form during the process of the application and at no point was it referred to or incorporated into the record. Mr. Wheeler said a reference was made to the road condition of N. Maple.

Mr. Kleinman said, in their opinion, the City may take official notice of its own documents and he doesn't consider that to be evidence.

Attorney Kelley asked if criteria in the Transportation Plan was used to strengthen the argument of the appellants. Mr. Kleinman said that was correct.

Mr. Gorsuch stated that State Law says that the application is to be judged by criteria in-place when the application is filed and new criteria cannot be applied. He said there were parts of the Transportation Plan that the applicant would like to address, however, they were following the rules.

Mr. Kleinman interjected that it is not a matter of criteria, he said the inventory materials in the plan are their main interest which doesn't establish future criteria.

Mayor Taylor asked for a twenty minute recess to review the two briefs submitted by the appellant and respondent. He stated that new briefs filed at the last minute, and after listening to many hours of tape and reviewing reams of documents, was not something he supported.

Mayor Taylor recessed the regular session at 7:45 p.m. The regular meeting was reconvened at 8:12 p.m.

Mayor Taylor reviewed the process for the public hearing on this appeal.

Mr. Taylor asked how many people wished to testify on the subject, other than the appellant and the respondent. No one expressed a desire to testify.

Mayor Taylor asked the hearing body if anyone had a conflict of interest regarding the hearing matter:

Daniels - None, will participate.
Strong - None, will participate.
Stark - None, will participate.
Prince - None, will participate.
Harris - None, will participate.
Nolder - None, will participate.
Taylor - None, will participate if necessary.

Mayor Taylor next asked the hearing body if they had any ex parte contact with anyone. He also asked each member if they had any specific ex parte contact with any Planning Commission member regarding the matter.

Daniels - No contact with Planning Commission or anyone else.

Strong - No contact with anyone or Planning members.

Prince - No Contact with anyone or Planning members.

Harris - Received a letter from someone regarding the width of Maple Street. He wrote and thanked that person for the letter.

Neither one of the attorney's had any questions of Mr. Harris.

Mr. Harris also spoke to Mike McNichols asking if the Commission approved the application and if it would be appealed, no other opinions were discussed.

Mr. Gorsuch and Mr. Kleinman had no questions.

Mr. Harris said he attended a party and talked to Roger Reif about the issue, however, Mr. Reif said he could not discuss the issue because he represented people involved.

Mr. Gorsuch and Mr. Kleinman had no questions.

Nolder - No contact with any of the Planning Commission, he had heard conversations about the development but no specifics.

No questions were asked by the two attorneys.

Stark - Discussed the issue with her husband and talked with Linda Peacock about the traffic in area.

No questions were asked.

Taylor - Talked with a citizen who had heard the Council had directed the Commission to make a decision on the issue. Mr. Taylor said he told the citizen that was not true and discussed the process and ability to appeal. Mr. Taylor said he had numerous conversation with the Chair of the Commission and had discussed the issue regarding the Council giving instructions. Also, he had a brief conversation with the Peacock's regarding the width of the road and he then explained that in some point in time the other half of the road would be developed.

No questions were asked of the Mayor.

STAFF - Jim Wheeler, Assistant City Planner, reminded the Council that this original application was denied by the Planning Commission on June 13, 1994 and was appealed to the City Council on July 20, 1994, at which time it was remanded back to the Commission. The Commission was asked to remove the issue about schools and capacity, which had been resolved. Also, the Commission was asked to review all other applicable criteria for denial or approval. A revised plat was submitted by the applicant on August 5th, from 26 to 25 lots which was done to meet solar ordinance requirements. The Planning Commission reconsidered the application on September 12, 1994, with 13 items discussed that are listed in Mr. Wheeler's November 17, 1994 memo to the Council. The applicant also made a change to construct a stormwater drain line along the southern boundary with "t's" for neighboring properties to tie into to alleviate high water in the area. The Commission approved the application on September 26th, and on November 4th the decision was appealed to the City Council.

Mr. Wheeler reminded the Council that they had to make a decision based upon 16.88.140 if they overturn a Planning Commission decision.

APPELLANT - Jeff Kleinman, 1207 SW 6th Avenue, Portland, represented the appellants, Nathan Clayton, Linda & Al Geddes, Gary Kuykendall, John Gunter, Ethel Bordman, Doug Poppen, Dana Tyler, Jane & Lee Blake, Mike McNichols, Chuck Michaels, Dick Sattler, Art Marshal, Dixon Andrews and their group which is the Friends of NE Maple. He asked to reserve ten minutes for rebuttal.

Mr. Kleinman entered into the record a memorandum dated December 7th, delivered tonight, concerning traffic issues.

Attorney Kelley cautioned the Council that any material in that document, or Mr. Gorsuch's document, that is new evidence was to be disregarded.

Mr. Kleinman reiterated that in regards to the portion of his document dealing with the street inventory and the Transportation Plan, there is a letter dated September 26th from Z-Tech Engineers which refers to the inventory and classifies N. Maple from the Country Club entry to the cul de sack (on 34th) as poor to very poor with a small section as fair. Also, on the July 20th hearing, Mike McNichols referred to the transportation study, saying there were major discrepancies between that study and the applicants study.

Mr. Kleinman stated that his clients were not opposed to growth. The problem in this matter is that N. Maple is a half street and with parking on one side it becomes a one-lane street. He added that the proposed subdivision would double the traffic for about 1/4 to 1/3 mile on N. Maple.

He referred to the Land Use Element Policy #3, which requires that Canby discourage any development which will overburden any public facilities or services. He said, "N. Maple can't take it." He said that 150 feet on the west side of N. Maple has been reserved for the UGB for future expansion and development, however, that has not taken place.

Transportation Policy # 1, requires that the City improve the City to accommodate growth.

Transportation Policy #6, requests that all new development provide adequate access for emergency vehicles and for the safety and convenience of the general public. He stated there was a great deal of testimony that there would be a threat of safety to the public from this project.

He referred to Municipal Code 16.56.010:

"It is hoped that these regulations and procedures will encourage the well-planned division of land while preventing land division with high future costs to those who will occupy the land, their neighbors, and the City as a whole."

He said the Planning Commission decision does not recognize the high cost that neighbors have pointed out.

He further quoted:

"To ensure adequate provisions for transportation, including roads, bicycle ways and pedestrian ways which take into consideration anticipated usage, safety factors, and impact on the neighboring area."

He added that this area has not been addressed.

Mr. Kleinman contended that the Transportation Plan is a document the City can take "notice of," and is addressed in pages 3 and 4 of his memo handed out tonight. However, rather than to argue the fact of citing that specific plan, he referred to the inventory, in a separate document, in the applicant's engineers letter which categorized N. Maple as having a very poor pavement condition. He said the inventory shows that N. Maple is the narrowest collector street in the City of Canby, and rated on a scale of 0 - 100, this street is

between 0-10 points out of 100. He added that no conditions were set to improve the street, only to restore it to the original condition.

He pointed out that the City had a traffic analysis by Charbonneau Engineering with statistics regarding the LOS (Level of Service Rating) on Territorial and Maple which he stated was totally irrelevant to the subject. He said the concern should be about the northerly portion of N. Maple, and it "cannot handle that traffic." He further stated that the Charbonneau report stated that N. Maple has no sidewalks and traffic and pedestrian safety is a critical concern, for which he agrees.

Mr. Kleinman pointed out that a City staff report of November 17, 1994, stated that N. Maple is a half-street, only 20 feet wide, and with parking on one side it limits the traffic to one-lane in certain spots.

Mr. Kleinman stated that the increase in traffic would be from 80 to 100% on N. Maple, pedestrians now find one-way traffic must stop to let them by because the street cannot accommodate a parked car, moving traffic and a pedestrian.

Mr. Kleinman noted that on April 11th, Art Marshall did a 20 minute count of at least five (5) cars and 16 pedestrians passing his home at 3270 N. Maple. Also, there was testimony that police do not enforce the speed limits on N. Maple.

He stated that N. Maple is a dead-end and cannot accommodate the additional development. He said there had also been comments regarding whether a variance was required to violate the City requirement that a street cannot be extended beyond 400 feet of a dead-end street from the nearest through street. He said a variance was granted when the original country club was developed and that should extend to this development, his clients reject that scenario.

He stated that the storm and ground water had not been sufficiently addressed. He said many of his clients in the area require sump pumps and the amount of fill will affect the flow of ground water.

Mr. Kleinman said the density and solar issues were not sufficiently addressed.

He further stated that the application was filed before an April 18, 1994 letter was received from the owner of the property authorizing the filing.

Finally, he stated that the Commission Findings state, "The applicant is not responsible for the existing 'poor' conditions of N. Maple Street." He said that the proposed Finding has "nothing to do with anything." He further stated that there is no case law that applies to the proposed Finding which is, if the condition is already poor in an existing situation and the proposed development only make it more "lousy." He stated that this violates all goals and comp planning in Oregon.

Mike McNichols, who came in late, asked if he would be able to speak. He was told he could, however, he was represented by Jeff Kleinman. He withdrew his request to speak.

RESPONDENT - Ron Tatone, representing the applicant, said he would briefly review the application and then present their team of specialist, John Middleton, Civil Engineer; Frank Charbonneau, Traffic Engineer; and Land Use Attorney, Kris Gorsuch.

Mr. Tatone pointed out the location of the triangular piece of property at the north end of the City limits, with Montecucco Farms on the west and Caffel Brothers on the northeast. Both of those property owners approve of the development. He pointed out that there are

only seven (7) single family residences on the south border of the subdivision and they are not affected by the traffic generated by the development.

He pointed out that all utilities and infrastructure within the boundaries of the site meet City standards. In fact, they will complete a loop to enhance water quality and fire protection. The expansion of N. Maple will also provide an alternative emergency access to the neighborhood off of the existing Logging Road. He stated that there is a car every 15 minutes on N. Maple and the level of service will not change when the development is constructed. He noted that the appellant said there were no narrow streets similar to N. Maple. He said that most all people living north of Territorial and east of Locust Street use the I-5 route of Territorial from Holly west to Birch, a designated collector, and it is only a 30 foot right-of-way.

Mr. Kleinman objected to Mr. Tatone's statement about Territorial saying it was not in the record. Mr. Tatone said he mentioned it several times in Planning Commission meetings.

Mr. Tatone added that 22nd Avenue is narrow and has 20 feet of pavement.

Mayor Taylor interjected that the Council should make a determination about Territorial based on the record they reviewed.

Mr. Tatone reiterated that level of service does not change on N. Maple Street. He added that parking is restricted on the west side of N. Maple.

He stated that the applicant is not creating a condition that is different from what currently exists.

Mr. Tatone said there are 25 lots in the plan, 13 lots have more area than the minimum 7,000 square feet, in fact they go up to over 14,000 square feet. Therefore, he felt the density was not an issue.

He added that all storm water collected on the site is drained off site.

John Middleton, Z-Tech Engineers, would address issues in the appellants Notice of Appeal.

Item D, regarding wetlands - he said the wetlands have been identified by the Army Corp of Engineers and the site is laid out to protect the wetlands. He pointed out that in the Planning Commission conditions, 1-6-10-11-12-23 & 26 and in supplement findings 1-2, they all address items regarding drainage or wetlands. Mr. Middleton stated that the applicant has volunteered to install a storm drain line that neighbors can hook-up to and help alleviate their drainage problems. He added that some may be able to do away with their sump pumps. All other storm drainage will be collected and run off site.

Item E, regarding Maple Street and the pavement condition - he stated that the street is not in the "greatest" condition. He added that it has been identified by the City as a street that may need to have improvements to keep it up to standards, and perhaps SDC's could fund improvement on the road. He noted that this is a lightly traveled road on the outskirts of town. The development will not have a significant impact on N. Maple Street. However, construction traffic will have an impact on the road and a condition has been set to direct construction traffic to the private road.

Mr. Middleton stated that addressing solar access was difficult on the particular site, however, they dropped off one lot, created solar building lines, designated trees to be protected and came up with the solar requirements.

Frank Charbonneau, Traffic Engineer, continued answering some of the issues in the Notice of Appeal.

Item B, Land Use Element Policy No. 3, the appellant says N. Maple Street is not adequate to handle emergency and normal traffic. Mr. Charbonneau said he did a study of the intersection at Territorial and Maple because it is the most critical intersection point of traffic to the development. Therefore, if that area has a good level of service than the rest of N. Maple to the project would have a good level of service. It is level of service "A." He stated that the development will generate 240 trips a day, based on 26 houses, and the project is now 25 houses. Maple Street has excellent site distance, posted speed is 25 MPH, and narrowness of the road actually helps to control and maintain a safer speed.

Emergency access will be enhanced by adding the Logging Road as an alternative access.

Mr. Charbonneau said in the PM peak hour, for existing traffic at the highest volume point at the Territorial/Maple intersection there is an 18 second gap between vehicles. He further said that when the proposed development traffic is added it will reduce the gap only to 16 seconds between vehicles.

Item F, regarding Transportation Element No. 6, this project will make provisions for turn-arounds or cul de sacs and will add the alternative emergency access on the Logging Road. He added that currently parking is allowed on the east side, this could change at any time. He said bike lanes were required on collectors having a volume of 3,000 vehicles per day, after the project traffic is added it will be about 2,300 trips per day.

Mr. Charbonneau noted that the appellant said the traffic will double or have an 80% to 100% increase, and he stated that traffic will not double near Territorial and near the end of Maple at the project site where there will be the last of the houses there would only be about 10 trips per day increase. The capacity of the street is still excessive for the amount of trips that will be on it.

Mr. Charbonneau said there is a concern about pedestrian safety, he said you can never have too much safety in a project. He suggested a sidewalk should be put in the area and parking should be restricted to minimize pedestrian safety concerns.

Kris Grosuch, Attorney from Salem representing the applicants, said he was asking that his memo he submitted earlier be made a part of the record.

He stated that the property has been in the City limits for some time and is designated for residential development. He felt the proposed plan was well designed since it saved the wetlands and had large lot sizes.

He noted that the appellant calls Maple Street a half street, when it has 20 feet of pavement and it is common to have two ten foot travel lanes for residential streets. He added that 150 feet of land on the west side of Maple is included in the UGB for future use when the street is developed further and it would be the responsibility of that owner to develop the street with the additional 150 feet. He stated that the street is adequate to handle the proposed traffic.

Mr. Grosuch said the appellant argued about the density, however, the zone code says the average lot is 7,000 square feet and the average size of a lot in the proposed subdivision is 8,647 square feet.

He added that the appellant has stated that the Comp Plan on wetlands is violated. However, the project clearly protects the wetlands.

Mr. Gorsuch stated that Mr. Charbonneau's report is the most important piece of evidence discussed. That report shows that the traffic flows on N. Maple are what is expected on a street that size, and the street is adequate to handle the traffic. He added since there is no problem, there was no reason for the Planning Commission to make Findings on the traffic issue.

Mr. Gorsuch commented that the solar issues had been addressed by both staff and Mr. Middleton.

Mr. Gorsuch urged the Council to affirm the Planning Commission's decision saying the proposed subdivision met all necessary planning criteria.

Councilman Daniels asked if the Logging Road emergency access has a locked gate. Mr. Gorsuch said there would be a locked gate and crash barriers would be installed, and it would not allow public vehicle access.

Councilman Prince asked if the drainage hook-up on the south side of the project for the eight houses would be at no cost. Mr. Middleton said the "t's" would be installed but the property owner would have to run a line to it.

Councilman Prince noted that there had been testimony that vehicles must stop for pedestrians if they are near a parked car on Maple Street. Mr. Charbonneau said this depended where the pedestrian is, and by law if they come out into the road drivers are to stop. He added that it is normal to slow down in a vehicle if you are uncomfortable driving by a pedestrian. He said there would be times on Maple that a vehicle would have to stop to pass by a pedestrian near a parked car. Mr. Charbonneau said there is a concern for safety but to provide the best "mix" for traffic, public traffic, emergency vehicles, parked cars and pedestrians would be to factor in a sidewalk addition and perhaps eliminating parking on the east side. He reiterated that the increase in traffic that will be created by the project will not change the conditions that exist today on Maple Street.

Councilman Prince asked if different criteria was used when dealing with a half-street. Mr. Charbonneau said it depends on lane width, and desirable standards in urban areas there are ten and eleven foot travel lanes. In some places he has seen nine foot lanes.

Councilman Prince asked if there is concern for pedestrian traffic. Mr. Charbonneau said there is always concern for pedestrian traffic, but the additional traffic is not going to overload that street and will not hinder pedestrian safety any more than it is now.

REBUTTAL -Jeff Kleinman said the main thing he wanted to address was the capacity of Maple or LOS (level of service) on Maple. He referred to a circumstance in Oregon City when he worked on an appeal and there was a pre-existing level of service at an intersection.

Kris Gorsuch objected to the testimony about evidence that happened in another City, saying it was not appropriate.

Mr. Kleinman said he would withdraw his comments on how ODOT dealt with that issue. However, he stated that he has worked with Mr. Charbonneau on LOS and capacity, he stated that this measures intersections to accommodate traffic. He said the applicants statistics relate to the intersection of Maple and Territorial and should be of no relevance to the discussion or project. He reiterated that north end of N. Maple should be the concern.

He added that the development of this property will bring Canby's street system closer to

the river, thus creating more recreational traffic.

Mr. Kleinman stated that a locked emergency access is not safe. Also, the use of the Logging Road for construction vehicles has not been assured at this time.

He commented that there is no commitment that SDC money would be used for improving Maple Street. Also, improving Maple is on the City's low priority list at this time.

Mr. Kleinman said there are two other accesses to Territorial from Maple, therefore all traffic on Maple is not accounted for in the statistics.

He said an unsafe condition will continue to exist on Maple until a sidewalk is installed and parking on the street eliminated.

Mr. Kleinman pointed out that Municipal Code 16.56.010 provides that there should be no high costs to neighbors; it requires the City "ensure adequate provisions for transportation including roads, bicycle ways and pedestrian ways which take into consideration anticipated usage, safety factors, and impact on neighboring area."

The respondent asked to rebutt, but Attorney Kelley noted that this is not the normal procedure.

DISCUSSION - Councilman Nolder asked if there would be a design to help the drainage of surface water. Mr. Middleton said that was why the storm line was put into the southern portion of the project and neighbors could hook-up to it.

Councilman Daniels asked how much fill would be necessary. Mr. Middleton said his estimates were in cubic yards which he could not remember, but would be less than 5 feet of fill. He noted that the elevations were set at 84 1/2 to 86 feet, with most of the fill at the north end of the project.

Jim Wheeler produced, from the record, a map that showed the areas of fill.

Councilman Prince asked staff if this subdivision of 5.2 lots per developable acre was acceptable. Mr. Wheeler said up to 6.1 was acceptable and the lots could be 7,000 square feet.

Councilman Prince also asked if there were a compatibility problem since current density is 3.2 and proposed density would be 5.2. Mr. Wheeler said there was no standard for compatibility in single family residential zoning.

Councilman Prince asked what percentage of the houses meet solar access. Jim Wheeler said there is another element including conditions of existing shade, which shows in the second map. Mr. Wheeler said the original plan was with 26 houses and the new map with 25 houses is more detailed in regards to solar. The new plan also has a solar building set-back line, which restricts the placement of the home on the lot to the more northern half for solar energy. Mr. Wheeler added that the solar access has increased by about 50% from the original 18% projection, not including shade reduction. Mr. Prince asked if there was a minimum in subdivisions for solar access. Mr. Wheeler said there is no minimum.

Councilman Prince said it was his understanding that the lowest lot is 84 feet. Mr. Wheeler said that was correct, after the fill is in place, everything to the north will slope to the south drain.

Councilman Prince asked how many of the 250 trees on site would be removed and did that

have anything to do with water retention. Mr. Wheeler said approximately 50% would be removed and the water retention would be minimal, specifically with the refined landscaping. Mr. Prince asked if the proposed drainage system would be adequate to take care of the excess water. Mr. Wheeler said it was his interpretation that the issue was addressed with the drain at the southern outlet of the wetland, and that it is adequate.

Councilman Prince asked which criteria applies in regards to the Transportation Plan. Mr. Wheeler said when the application was submitted in early April, there was no Transportation System Plan in place at that time. However, conditions of the road have always been known, as poor.

Councilman Prince pointed out that we are approving something that is not in good shape to begin with, regarding the road, and doesn't that apply to inadequate services. Mr. Wheeler said the Planning Commission considered it at great length. The Commission felt that to improve the street would be an off-site improvement and not the responsibility of the applicant, and the level of service and volume of traffic would not be impeded by the development of the proposed subdivision.

Councilman Prince asked how this scenario would be different from one when we asked that a sewer line be brought up to a proposed subdivision. Mr. Wheeler said the street is existing and does present service to the property, if there were no street then we would require the street be extended to the site.

Councilman Prince noted that we have testimony that pedestrian safety is an issue of concern, if we allow more traffic on that street aren't we allowing something that is unsafe to continue to occur. Mr. Wheeler reiterated that the Planning Commission felt the level of service and capacity of Maple Street will not create a worse situation than currently exists, thus it will not have an adverse impact on pedestrian traffic or safety. Councilman Prince pointed out that there had been no pedestrian safety study prior to the decision.

Councilman Prince asked if the width of pavement on Maple was between 18 to 20 feet. Mr. Wheeler said that was correct.

Councilman Prince asked if a variance was needed. Mr. Wheeler said for Country Club Estates No. 2 a variance was granted for the extension of N. Maple Street beyond the required 450 foot length, and the approval of Country Club Estates No. 3, was with an extension of the original variance, and therefore this one was continued as well at the end of N. Maple.

****Councilwoman Strong moved to uphold the decision of the Planning Commission and their Findings to approve the Country Club Estates No. 4 subdivision. Motion seconded by Councilman Daniels.**

Councilman Harris noted that several citizens were concerned about issues regarding the development. He stated that additional traffic and congestion is a fact of life, however, there is a "bottle-neck" that is severe on N. Maple. He was concerned about emergency vehicles trying to navigate N. Maple. Mr. Harris felt that if the development were approved, people would want N. Maple widened, and we do not have the right-of-way nor the funding to do so at this time. He added that a bottle-neck traffic condition does not fit the precepts of good planning, number two criteria.

Councilman Harris gave a brief scenario regarding the flood issues and was specific to the 1964 flood when his family lived on Knights Bridge Road. At that time, the authorities said the flood had crested and water was going down and serious problems were over. However, during the night the water did rise rapidly and came into their home, at which

time they were offered to be evacuated. Mr. Harris said the point is that the experts are not always correct in their flood theories, including the 500 year flood scenario and he felt it could happen again.

Councilwoman Stark agreed with many of Councilman Harris' comments, she said it does cause a hardship and expense to existing homes that have to pay to hook into a water line and was an added burden to existing homes.

Councilman Nolder commented that Mr. Tatone has always done a good job in planning a development. However, he expressed concern of safety for the citizens in the area and felt the current road as is does not provide safe travel on N. Maple. He stated that he is against taking parking off of N. Maple and felt until the street is improved we should not develop in that area.

Councilman Prince expressed concern when a development only meets 18% of solar criteria; and the safety for pedestrians with increased activity was a major concern.

Councilman Daniels pointed out other areas in the community that do not have sidewalks and it creates problems, he specifically noted Knights Bridge Road as one site.

Councilman Prince said Knights Bridge at least had full width and pedestrians could walk on the shoulders, whereas, N. Maple has no shoulders.

Mayor Taylor pointed out that we are continuing to struggle with issues that had prior poor planning. He stated that we have allowed N. Maple to keep extending; we also have houses that are currently in place that would be under water in the case of flooding; the width of the road is a concern; sidewalks are not in place; and now we will not allow growth due to prior basic safety planning precepts. We have other developments that we allow to "dump" on to streets of poor quality; the groundwater has been there for a very long time and this initial plan appears to offer some type of added drainage that will help move it off of the site; and finally he said if the concern was about flooding, then lets not leave it zoned as it currently is.

Mr. Daniels commended the Planning Commission for the conditions set upon the development.

****Motion failed by the following vote: Approval, Daniels and Strong; and those against the motion voting no, Prince, Nolder, Harris and Stark.**

****Councilman Prince moved that the decision regarding SUB 94-02 be overturned, the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan or other requirements of law; and the Commission did not observe the precepts of good planning as interpreted by the Council when it did not take into consideration pedestrian safety and this development will exasperate an already unsafe situation. Motion seconded by Councilman Harris. Motion was approved 4-2, with the following voting for approval, Nolder, Harris, Prince and Stark; and voting no were Strong and Daniels.**

Mayor Taylor noted that the Commission decision was overturned and staff will draft Findings for Council approval at the next meeting.

Mayor Taylor called for a short recess at 10:22 p.m., reconvening at 10:29 p.m.

COMMUNICATIONS: None presented.

NEW BUSINESS: Accounts Payable - ****Councilman Daniels moved to approve payment**

of accounts payable in the amount of \$439,388.19. Motion seconded by Councilwoman Strong.

Mr. Daniels reported that \$46,603 was for a new backhoe, \$2,692 for a fence at Locust Park, and \$205,380 to pay 1992 sewer bonds.

****Motion was approved by roll call vote, 6-0.**

Federal Police Grant Program - Chief Giger requested permission to submit an application, with no further obligation to accept the grant, for three (3) police officer positions. Funding can be awarded up to 75% of the salary and benefits for each officer over three years. He stated that at the end of three years the City would be obligated to continue the three positions.

Councilman Daniels asked what would happen if the City did not pick-up the three officers at the end of three years. Mr. Jordan explained that if we received the grant it would be a "contractual" obligation.

Councilman Prince asked if the grant covered uniforms and additional police cars. Chief Giger said it did not.

Mayor Taylor said the proposal interested him since it was a move toward community policing.

The Council gave an unanimous consensus to proceed with the grant application.

Abstract of Votes from November Election - Recorder Perkett reported that Clackamas County Elections had submitted the final tally of votes for the November, 1994 election. She stated that the present Council will continue with their positions, Nolder, Strong and Daniels will have four year terms; Harris and Prince two year terms; and Scott Taylor will have a two year term for Mayor.

****Councilman Nolder moved to accept the abstract of votes for the November 1994 elections as presented by the Clackamas County Elections Department. Motion was seconded by Councilwoman Stark and approved 6-0.**

World War II Commemorative Committee - Recorder Perkett informed the Council that Beth Saul and herself were members of a committee that had organized to make plans for 1995 to have Canby become an official World War II commemorative Community. She stated that Mike Breshears, affiliated with the American Legion and VFW, is the organizer of this committee.

Ms. Perkett explained that to be eligible the City will need to hold three events to fulfill the commitment to become a commemorative community. Plans are for a Memorial Day event, General Canby Day event and a special parade and events in early September to commemorate the World War II veterans.

At this time, the committee is asking for City support and a couple of Council members to become a part of the committee.

Cheryl Stark and Terry Prince volunteered to work with the committee and Mayor Taylor requested that the City Council be kept advised of the groups activities.

ORDINANCES & RESOLUTIONS: None presented.

UNFINISHED BUSINESS: Graffiti Ordinance - Mayor Taylor reported that he had obtained a sam ordinance from Gresham regarding graffiti and asked the Council if they were interested in drafting s document. He said the ordinance made it easier for enforcement and the response time for removal was 24 hours.

The Council instructed staff to review the ordinance and return with appropriate language for the Council to review.

OTHER REPORTS OR ANNOUNCEMENTS: Meetings - Administrator Jordan reminded the Council of the METRO policy committee meeting in Sandy, January 24th.

The Council set January 11, 1995, as the next budget meeting. Councilman Prince asked that a review of the need for patrol cars be placed on the agenda.

Ms. Chaplen said there would be a visioning meeting January 19th.

The Council meeting on December 21st will have a workshop to bring the Council up to date on the visioning process.

ACTION REVIEW:

1. Draft Findings for the Appeal of SUB 94-02.
2. Apply for FAST Police Officer Grant.
3. Working with World War II Commemorative Committee.
4. Draft a graffiti ordinance to Council review.

****Councilman Prince moved to go into Executive Session under ORS 192.660 (1)(d) regarding labor negotiations, (1)(e) to negotiate real property and (1)(h) consultation with Council regarding pending litigation. Motion seconded by Councilman Nolder and approved 6-0.**

Mayor Taylor recessed the regular session at 10:51 p.m. to go into Executive Session. The regular session was reconvened at 12:12 a.m. and immediately adjourned.

**EXECUTIVE SESSION
DECEMBER 7, 1994**

Present: Mayor Taylor, Councilors Daniels, Strong, Stark, Prince Harris and Nolder, Administrator Jordan, Attorney Kelley, Ms. Chaplen and Cam Sivesend..

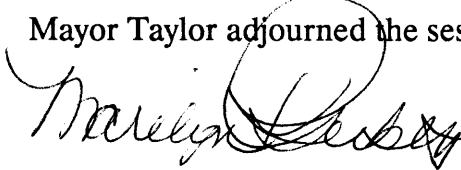
Mayor Taylor called the session to order at 10:58 p.m. in the CUB board room.


ORS 192.660 (1)(e) - The Council discussed the sale of City owned property.

ORS 192.660 (1)(h) - The Council discussed the pending litigation regarding a referendum filed on the City excise tax.

ORS 192.660 (1)(d) - the Council discussed labor negotiations and Measure 8 impacts.

Mayor Taylor adjourned the session at 12.10 a.m.


Marilyn K. Perkett
City Recorder
p.13


Scott Taylor
Mayor

December 7, 1994

WHEREAS, Toys for Tots, originated for the purpose of providing toys for less fortunate children in our community; and

WHEREAS, it is recognized that greater public awareness and involvement is needed to provide and promote joy in each household in this community; and

WHEREAS, the Canby Chapter of Kiwanis, has undertaken the project of collecting and distributing toys to these children, during the time from December 11th through December 17th; and

WHEREAS, The Kiwanis need your help by providing new and like new articles that may be placed in the Christmas bags; and

WHEREAS, drop boxes for these donations may be found at the Canby Public Library, Canby Utility Board, Canby Police Department, Canby Fire Department, North Willamette Telecom, Canby Telephone Association and other Kiwanis barrels distributed throughout the Canby business community.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim the week of December 11 - 17, 1994 as

TOYS FOR TOTS WEEK

and call upon the citizens of this City to observe this time by participating in this toy drive helping to provide the assurance that each child may have a "twinkle in their eye" this Holiday Season.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 7th day of December in the year of our Lord One Thousand Nine Hundred and Ninety-Four.

Scott Taylor

Mayor

NATIONAL DRUNK AND DRUGGED DRIVING (3D) PREVENTION MONTH

WHEREAS, drivers and pedestrians impaired by alcohol and other drugs account for nearly 17,500 highway deaths annually; and

WHEREAS, motor vehicle crashes are the number one cause of death for children, adolescents, and young adults in the United States; and

WHEREAS, alcohol is involved in nearly half of all traffic fatalities; and

WHEREAS, injury and property damage resulting from alcohol-impaired driving cause physical, emotional, and economic hardship for hundreds of thousands of adults and young people; and

WHEREAS, comprehensive community-based strategies to further reduce and prevent impaired driving tragedies are known; and

WHEREAS, health care costs resulting from motor vehicle injuries cost American society over \$14 billion a year; and save \$35,000 in health care costs alone for each serious injury that is prevented; and

WHEREAS, if we take a stand now, we can prevent impaired driving.

NOW, THEREFORE, I, Scott Taylor, Mayor of the City of Canby, Oregon, do hereby proclaim DECEMBER 1994 as

NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

in the City of Canby. I also call upon all citizens, government agencies, public and private institutions, business, and schools in Canby to promote awareness of courses of driver impairment, existing and proposed laws intended to further reduce and prevent impaired driving and opportunities to establish safer and healthier norms regarding the use of alcohol and other drugs for all citizens, particularly young people.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Canby to be affixed this 7th day of December in the year of our Lord One Thousand Nine Hundred and Ninety-Four.

Scott Taylor, Mayor

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