

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
February 21, 2018**

**PRESIDING:** Mayor Brian Hodson.

**COUNCIL PRESENT:** Tyler Smith, Greg Parker, Traci Hensley, Tim Dale, Tracie Heidt, and Sarah Spoon.

**STAFF PRESENT:** Rick Robinson, City Administrator; Joseph Lindsay, City Attorney; Bryan Brown, Planning Director; Irene Green, Library Director; and Kim Scheafer, City Recorder.

**OTHERS PRESENT:** Michael Robinson, Rick Givens, Viki Carlin, Carol Caudle, Eric & Jo Recht, Daniel Webb, Joyce Ares, Marty Moretty, Tom & Julie Rushton, Lois Brooks, Ken Dennis, Bob McCall, Judy Zettergren, Joseph Meyer, Eleazar Peña, Andrew Jarmer, Patti McArpin, Suzy Stutes, Margaret Stratton, Bruce Turner, Regina Taylor, Lois Brooks, Damon & Cynthia Liles, Christinia Gutierrez, Michelle Askew, Jason Taylor, and James Boyle.

**CALL TO ORDER:** Mayor Hodson called the Regular Meeting to order at 7:30 p.m. in the Council Chambers followed by opening ceremonies.

Canby Friends of the Library Presentation – Joyce Ares, Canby Friends of the Library, said the Friends provided funding for the programs that were done at the Library. She explained how much the Friends had agreed to contribute last fiscal year and this fiscal year and reviewed the programs that the Friends had paid for. At the annual meeting they approved the request from the Librarian for next year's budget. They asked her to come back with more programs for teens. They had received a grant and purchased \$5,000 worth of books.

Lois Brooks, Canby Friends of the Library, presented a check to Mayor Hodson for \$8,765.50.

**COMMUNICATIONS:** Rick Robinson, City Administrator, said they were working closely with CTV5 to address problems with filming the City Council and Planning Commission meetings. New equipment was purchased and the issue would be resolved soon.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Tom Rushton, Canby resident, commented on the notice to land owners regarding the Stafford annexation application. The notice the applicant had sent out for a neighborhood meeting had not been mailed to the residents of Hope Village. The City required that individual property owners within 500 feet were to receive notices and this was not done.

Mayor Hodson asked the City Attorney how the City verified proper notice was given to residents.

Joe Lindsay, City Attorney, said he had spoken with the Planning Director on this issue. Hope Village was a unique situation where units did not have individual addresses. Notices were done in several ways. There were mailed notices, physical signs placed on the site, and the notices were also published. They were working on rectifying this issue for the next annexation application.

Mr. Rushton clarified there were unit addresses that were put after the address for Hope Village.

Mayor Hodson thought there should be future discussion on whether or not 500 feet was enough.

**MAYOR'S BUSINESS:** Mayor Hodson had done an evening presentation on the State of the City Address. The Parks and Recreation Advisory Board wanted to expand their membership from seven to nine. A joint work session would be held with the Parks & Recreation Advisory Board on April 18. They were looking to the Council as to what they wanted to have dialogue about. The Iwo Jima flag raising was last Saturday.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Smith said the Canby Fire District held a special meeting to discuss possibly sending to voters a multi-million dollar bond for a new fire station outside of the City limits, EMT improvements, and equipment acquisition.

Councilor Hensley said the Traffic Safety Commission was forming a subcommittee to discuss four-way stops. She thanked everyone at the VFW for the Iwo Jima flag raising. She attended the teen meeting at the library to listen to some of their ideas. The teens weighed in on the lighting, seating, and technology. Canby turned 125 on February 15.

Councilor Dale had been out of town for his daughter's basketball playoff games. The Canby Fire Department had a tragic accident they had to deal with last week. He thanked Bob Maxwell for his six years on the Canby Utility Board. Canby Utility was not supporting House Bill 4001, the carbon cap and trade bill, as customers could be financially penalized for an increase in Canby Utility's electric consumption as customers switched from carbon based to electric based power.

Councilor Heidt attended the Friends of the Library annual meeting. They were putting a lot of effort on teens. The adult reading program was going on. She attended the Circle of Elected Women's meeting. Canby Area Transit was holding a meeting tomorrow night regarding a new bus schedule that would increase service hours. The Knights of Columbus from St. Patrick's Church had a crab feed that raised a lot of money for the community. She also attended the Iwo Jima flag raising.

Councilor Spoon thanked the Mayor for doing an evening State of the City Address. The crab feed was fantastic. Sparks of Hope Super Hero day would be on March 3. There would be a parade at 1:00 p.m.

**CONSENT AGENDA: \*\*Councilor Dale moved to adopt the minutes of the February 7, 2018 City Council Regular Meeting; annual liquor license renewals; appointment of Ken Dennis to the Bike & Pedestrian Committee for a term to expire on June 30, 2019; appointment of Todd Aune to the Transit Advisory Committee for a term to expire on March 31, 2019; appointment of Arlene Dana to the Transit Advisory Committee starting on April 1, 2018 for a term to end on March 31, 2021; and the reappointment of Matt Olsen to the Transit Advisory Committee for a term to end on March 31, 2021. Motion was seconded by Councilor Hensley and passed 6-0.**

**PUBLIC HEARING:** APP 17-03 Appeal of Planning Commission Decision for application SUG 17-06 – Redwood Landing Subdivision by ICON Construction & Development, LLC located at 1440, 1548, 1612, 1650 & 1758 N Redwood Street) – Mayor Hodson read the public hearing statement.

#### **Conflict of Interest**

Councilor Smith – No conflict, plan to participate.

Councilor Parker – No conflict, plan to participate.

Councilor Hensley – No conflict, plan to participate.

Councilor Dale – No financial conflict, plan to participate. One of the appellants was his insurance agent.

Councilor Heidt – No conflict, plan to participate.

Councilor Spoon – No conflict, plan to participate. She was working with one of the appellants to get insurance.

Mayor Hodson – No conflict, plan to participate. One of the appellants was his insurance agent.

### **Ex Parte Contact**

Councilor Smith – No contact. Several years ago he helped staff with the bidding process for the Development Concept Plan for this area.

Councilor Parker – No contact.

Councilor Hensley – No contact.

Councilor Dale – No contact.

Councilor Heidt – Drove by the site.

Councilor Spoon – Regularly drove by the site.

Mayor Hodson – No contact.

**STAFF REPORT:** Bryan Brown, Planning Director, said a letter had been received late today from Sheila and William Burnam. The Planning Commission approved this subdivision application on December 11. It was in the N Redwood Concept Plan area that was adopted in 2015. The Concept Plan had a lot of flexibility built into it. There were some items that were in the land development ordinance and any proposed subdivision had to be reviewed against the criteria. The appeal of this application was made before the deadline on December 22 and the final appeal statement was submitted on February 9. In the statement there were three issues the appeal was based on. He showed a map of the entire Concept Plan area, what had been annexed, and proposed subdivision area. There was a creek on the property, and it had been in the City's plan to procure parkland around the stream to protect the area and for stormwater control. He then showed the preliminary plat and how the lots were configured. He also showed the shadow plat for the area that was not going to be developed yet. The developer was not under obligation to provide the greatest amount of remuneration for future development of adjacent properties. There was a criterion to assure that the adjacent property could be developed in a reasonable manner. The way this subdivision was designed it did not hinder future development. The adjacent property owners had hired their own engineer to design a layout for their property and how it would tie into the proposed subdivision. In the end, that was adopted and satisfied the street and lot layouts would work. However one of the concerns was the amount of density transfer and the size of the lots in the proposed subdivision. The underlying zoning was R-1 and the normal lot size in R-1 was 7,000 to 10,000 square feet. In this subdivision, there were lots considerable below 7,000 square feet, but it was allowed and was what had been worked out to make the property owners whole that were dedicating a great deal of their property to the proposed park area. This allowed for 17 lots to be smaller and to be clustered away from the creek area. He thought it was clear in the documentation that lot sizes would be reduced if the density transfer was used. He then showed the properties that were included in the appeal and the streets that would serve them. It included local streets, and one that connected with NE 18<sup>th</sup> Avenue that had to be retained in any proposed subdivision design. The appellant issues included: the planned extension of N Sycamore Street to the north, transfer of density allowed by the Concept Plan, and perceived lack of low impact development stormwater management solutions.

Councilor Spoon asked about the transfer of density.

Mr. Brown explained they were being given the ability to transfer development rights for the number of lots they could have otherwise built on developable land that the City was requiring them to dedicate as park land.

Councilor Spoon asked about the density allowed by the Concept Plan.

Mr. Lindsay said the Concept Plan was an agreed upon plan that overlaid onto the properties for parks that were envisioned and for the streets and utilities. The Concept Plan was an existing policy, and the Council could decide to change the policy.

Mayor Hodson opened the public hearing at 8:37 p.m.

**Applicant:** Michael Robinson, Attorney, spoke on behalf of the applicant, Icon Construction. The items in the code and the Concept Plan were what the Council had to judge the application by and if the Council wanted to make changes it had to be done later on. He thought allowing lot size averaging and density transfer was mandatory per the Concept Plan and Zoning Ordinance. As long as the park land was being dedicated, these were allowed as they wouldn't be able to achieve a transfer of density if the lot sizes were maintained.

Rick Givens, Planning Consultant, explained how they had created a proposal after studying the Concept Plan to meet all of the criteria. Adjacent property owners had wanted some changes made, and the layout was redesigned to match what they wanted to do including matching the streets while still conforming to the Concept Plan. All along they had used the Concept Plan as their guide. Regarding the stormwater issue, they had used a process that did manage the impact to stormwater in a responsible way. All of the lots would have infiltration systems. The stormwater would go in a tract to the park that would have a detention and treatment facility in it before it was released to the creek. It was exactly what the City's code encouraged. They had done everything they could to address the concerns about downstream impacts.

Mr. Michael Robinson said this application was about compliance with the Concept Plan. The Planning Commission found that the application satisfied not only the applicable Canby Zoning Ordinance criteria, it also implemented the Concept Plan. He had submitted two letters, one dated February 3 and one dated February 20 detailing the arguments he would make that night. The first appeal issue had to do with the potential extension of N Sycamore Street. The operative language was whether the extension would unduly hinder the use or development of adjacent properties. The extension implemented the Concept Plan, which tried to achieve the continuation of the streets in a logical and efficient pattern. A lot of times there was no choice about how roads were extended due to state standards. He did not think the extension of the street would unduly hinder adjacent properties, however it might not be as profitable as was often the case in land development. The second issue in the appeal was density transfer. The applicants followed the requirements in the Concept Plan and relevant provisions in the City Code by dedicating the 6.45 acres of park. The code permitted the reduction of lot sizes when there was density transfer.

Councilor Smith asked about partitioning the lots instead of doing a subdivision.

Mr. Michael Robinson would have to look into the requirements. The appellants were arguing that by extending the street it precluded a greater economic return to those property owners. He did not think that was the standard.

Mr. Michael Robinson said the third issue in the appeal was lack of low impact development. This standard was not mandatory. They were required to do what the City's design requirements were for stormwater. The last issue raised by the appellants was whether two Comprehensive Plan policies were applicable. These were not mandatory approval standards and did not detract from the decision made by the Planning Commission. There was a question about whether the Planning Commission erred in the way that they applied the facts and the law. He did not think there had been an error. He thought the

Commission did a good job of listening to the testimony and looking at how the approval criteria were addressed. The applicant had worked hard to meet all of the requirements and had worked with neighbors to adjust the plan. Not everyone would be pleased with the outcome in a development like this, but the application had followed the Concept Plan. He asked that the Council affirm the Planning Commission's decision of approval.

Councilor Spoon asked how many homes were not being built that could have been built due to the dedication of the park land.

Mr. Givens referred to the proposed subdivision layout and explained how the lots had been calculated. They had come up with 17.7 units that could be transferred.

Councilor Spoon asked if there would be designated parking that would encourage or allow for public use, not just neighborhood use, of the park.

Mr. Givens referred to the ultimate plan for the area that envisioned a linear nature park with trails as opposed to an active park that would require a lot of parking. The plan did not call for a parking lot and there was on street parking along the park as well.

Councilor Spoon asked how much in SDCs was waived based on the amount of park land that was dedicated.

Mr. Brown said that had not been calculated yet.

Councilor Spoon asked what triggered the allowance for a density transfer.

Mr. Michael Robinson answered it was intended for park land dedication. He explained where in the Concept Plan it showed how the public would access the park.

Councilor Spoon asked where the trails would be located since it was extremely difficult to build on the land.

Mr. Givens showed where the trails and a conceptual bridge were proposed to go.

Councilor Dale clarified the areas that were deemed as developable that were part of the density transfer calculation. The developer would also get SDC credits for this area. He thought it would contribute to higher density.

Mr. Givens said they would get Park SDC credits.

Mr. Robinson said there would not be higher density, it was the same number of units that they could have. Under the code they were allowed smaller lots, but there were not more dwelling units per acre.

Mr. Givens said this was allowed in other areas of the City to preserve natural features.

Councilor Dale thought there were more units through the density transfer than there would be otherwise.

Mr. Michael Robinson quoted from the staff report which said the total number of lots was no greater than the proposed number across the developable park area, but the density was allowed to be maximized by reducing the minimum lot size to as low as 5,000 square feet. They were able to get more units in the net developable area, but not more than they were entitled across the entire area.

Councilor Spoon thought there was a conflict between the code and the Concept Plan for the density transfer.

Mr. Michael Robinson clarified if there was a conflict between a code provision and a Concept Plan, the code said the Concept Plan prevailed.

Councilor Spoon asked if it was an HOA owned and operated park, there would be no park dedication and there would be no allowance for density transfer and SDC credits.

Mr. Givens said it would allow for density transfer, but not SDC credits.

**Appellant:** Daniel Webb represented the appellants Linda Thomas, Andrew Jarmer, Ryan and Kerrie Oliver, and Eric and Josephine Recht. The appellants did not think the Planning Commission correctly interpreted the requirements, did not observe the precepts of good planning, and did not adequately consider all of the information pertinent to the case. He discussed the future extension of N Sycamore Street and showed an aerial photograph of what it would look like. One of the criteria was that the overall design and arrangement of the lots should be functional and should adequately provide building sites, utility easements, and access facilities without unduly hindering the use of the development. He had submitted written comments to and had testified before the Planning Commission about his concerns regarding the road. He had also voiced concerns about the road when the Concept Plan was being developed, and was told many times that this was just a concept plan and not set in stone. It could be used as a guide and could be adjusted to what best fit individual property owners or developers. The current configuration of the road would cause extremely harmful financial damage to the properties within its path. It would eliminate the development of Ms. Thomas's property west of Willow Creek. The effect on Mr. Jarmer's property was the road would be close to his home and the only potential development of his property would be one lot directly behind his house. The effect on the Oliver's property would be a new street passing through what little area they had between their home and south property line and would involve moving or tearing down their house. The Berggren property to the north would possibly have access, but only by the extension of a cul-de-sac. They had employed an engineer to draw an alternate street plan and he showed a map of how the new design would allow more development and would provide a continuation into the cul-de-sac and a connection to the park area. They had also calculated the cost to be around \$772,000 for the road. The lots were about a \$500,000 to \$600,000 in value and they would be in the hole by about \$300,000 if they were to build the street. These figures did not take into account the half street improvement required for the Oliver's' property. He thought the current proposal would unduly hinder the development of the adjacent properties. The appellants recognized that the applicant followed the Concept Plan which outlined a future street extension to N 18<sup>th</sup> Avenue. The applicant had argued that the appellant did not demonstrate that the Planning Commission erred in their findings and that the adjacent properties could be developed. The appellants were not saying they would not be able to develop the properties, but the future development would be hindered. The applicant went on to say that the financial impacts did not rise to the finding of unduly hindering. The applicant also said every property owner must assume public street dedication and impact. The alternate street plan demonstrated the acknowledgement of the need for public street dedication and impact such as the cost of street improvements and infrastructure at the time of development. The costs involved to extend N Sycamore clearly proved the location of the street directly

impacted the adjacent properties. The appellants thought they should be afforded the same flexibility of future development of their properties as other owners within the Concept Plan. The appellants believed the current outline of the street extension did not afford any benefit to the City. The result of the extension would most likely stop any development to the north in the foreseeable future. That would cause the trail and access along the new park to stop at the end of Sycamore as it would be cost prohibitive to develop the properties. The alternate would create a cul-de-sac and would connect to the park trails. Regarding the density transfer issue, the density transfer was allowed for subdivisions that dedicated park land beyond what was required in the code. A 20% density bonus was allowed, but they could not exceed 120% of the density standards for the underlying zone. He asked if staff had calculated the density transfer numbers.

Mr. Brown clarified the developer did the calculations, and staff had verified them.

Mr. Webb stated several areas of the development had been identified as buildable land, however land that was not accessible or surrounded by wetlands or steep slopes was not buildable and not eligible for transfer. The land east of Willow Creek and adjacent to Tracks A and B should not be included in the density transfer calculations as they were isolated and not accessible until some future point in time when Teakwood Street was extended to serve these areas. He was strongly opposed to this plan.

Councilor Heidt asked what street would become the collector if it was not Sycamore. There were not too many reasons that cul-de-sacs were allowed.

Mr. Webb said 17<sup>th</sup> would become the collector. The Concept Plan showed one cul-de-sac, and the alternate plan added one more.

Mr. Brown said the Concept Plan was clear about discouraging the use of cul-de-sacs unless it was the only way to provide access to an isolated piece of property. There was only one proposed in the Plan, and he did not think the second one proposed would meet the criteria.

Councilor Heidt asked if 17<sup>th</sup> would have to be redesigned to become the collector.

Mr. Brown replied said it would not be a collector, but a neighborhood route. It might need to be redesigned if 17<sup>th</sup> ended at Sycamore as it would cut out the overall looping effect.

**Proponents of Appeal:** Vicki Carlin, Canby resident, said her concerns were in regard to the Willow Creek Estates. Her home backed to the Willow Creek wetlands. She wanted to know what studies had been done in regard to the impact of water run-off in the already flooding wetlands north of the proposed development up to Territorial Road. She moved to this location in 2010 and at that time Willow Creek ran through the area as a defined creek. It was not visible from her property, the wetland was a haven for wildlife, and it served as a buffer between her home and the homes west of the wetlands. Today there was no defined free flowing creek north of the 19<sup>th</sup> Avenue Park. Willow Creek had branched out and eroded its banks to create a year round swamp in the wetland area. There was constant standing and rancid water just behind the homes on Teakwood Street. Wildlife no longer visited the area and there was mosquito infestation and a foul smell from the standing water. The Public Works and Parks Departments were receptive to her calls when flooding occurred and came out and removed the beaver dams. They had yet to recreate a free flowing creek and eliminate the flooding. She asked if any consideration had been given to recreating a defined creek and providing flow to alleviate and prevent flooding.

Jo Recht, Canby resident, had lived in her home for 27 years. She was not opposed to development and had participated in all of the Concept Plan meetings. She was generally pleased with the spirit of the Concept Plan. When the Concept Plan was brought forward, she thought Icon used a technicality that resulted in turning the majority of the low density land into medium density. The planning process did not communicate the possibility of this happening and it was stated at the Planning Commission hearing that staff had not expected this outcome. If it had all along been the City's intention to have all of the east side of N Redwood result in high and medium density residential with a mere token of low density residential, citizens did not have the opportunity to be part of that discussion. Unlike the issues of water run-off, traffic management, and the condition of Redwood, density transfer was an issue that changed the character of the neighborhood and could never be revisited. She was seeking an outcome similar to the Postlewait Estates. The Icon proposal would result in medium density in nearly all of the east side unlike the low density just across the street. She did not like to see the public engagement process turned into a game of gotcha between citizens and the City. She did not think the Planning Department fully informed the public of the outcome. There was not unanimous approval from the Planning Commission as the Chair had voted against the application.

Carol Caudle, Canby resident, lived on Teakwood Street. This new development would have access onto Teakwood. There was a lot of traffic and speeding on this road. She begged the Council to require low density to keep the cars at a minimum on Teakwood.

Bob McCall, Canby resident, lived in Postlewait Estates. He asked if the new development would have an HOA.

Mayor Hodson said that had not been determined.

Mr. McCall said both Postlewait and Willow Creek Estates had HOAs. This new development would be sandwiched between these two nice neighborhoods. Going from a low to medium density without an HOA could be a problem. He encouraged the Council to impose an HOA for this subdivision.

Mayor Hodson asked about the beaver removal on Willow Creek.

Mr. Rick Robinson said the State Trapper was called when there was a problem to have the beavers removed. Public Works and Parks employees broke up the beaver dams when called. It was an ongoing issue. Native plants were being planted in the area and non-native ones were being removed in an effort to improve the waterway.

Mayor Hodson asked that the issues on Teakwood be brought to the Traffic Safety Commission. He asked about the Council's ability to require an HOA.

Mr. Lindsey said it was up to the developer.

**Opponents of Appeal:** None.

**Applicant's Rebuttal:** Mr. Michael Robinson said the code said cul-de-sacs were only allowed when environmental or topographical constraints, existing development patterns, or compliance with other standards in the code precluded street extensions. It could not exceed 400 feet. The appellant's alternate plan did not comply with the code. The code also mandated the street connectivity that was in the current Concept Plan. It specifically stated that one loop road would be built connecting 18<sup>th</sup> Avenue with 12<sup>th</sup> Avenue. It may be the Concept Plan was different from what people thought, but it was an

adopted document that applicants were required to follow. There was no contrary substantial evidence in the record as to what was developable in the flood plain area. The reality was the codes had to be followed and this was what was adopted. The code could be changed, but not for this application.

Mr. Givens said the appellant's plan did not conform to the Concept Plan and he thought it would be a bad situation for the property owners and would be less efficient for the area.

Councilor Smith referred to code section 16.64.010, subdivision design standards, and noted on many of the roads there would be a stub for future extensions. He asked how the stubs on the streets met applicable transportation standards when there was no turnaround or cul-de-sac.

Mr. Michael Robinson answered cul-de-sacs were permanent dead end streets, while stubs were temporary dead end streets until the streets were extended. The code stated developers had to stub to the unplatted boundary acreage.

Mr. Givens said if a street was more than 150 feet long it was required to have a fire truck turnaround and there were hammerhead turnarounds on those streets.

Mayor Hodson asked about what conversations were had with the families that were not ready to build at this time.

Mr. Givens said there was no contact from them. There was no requirement for them to develop their property as proposed in the shadow plat.

Mayor Hodson asked how much park land was envisioned in the Concept Plan.

Mr. Brown answered there was 8-9 acres designated as park land in the Concept Plan and the majority of it was being dedicated through this subdivision. Mr. Givens clarified it was envisioned that 9.5 acres be dedicated as park and it was not clear if it was only that amount or if that was the minimum number.

Mayor Hodson said there was concern about parking for the park, which the City would have to build if needed. He clarified that the road widths would be the full 34 feet wide.

Councilor Spoon asked if it was feasible to split the parcel lines for the street locations.

Mr. Givens said the streets had been positioned to make a logical pattern when the streets were expanded. It was in the best interest of all the property owners to position them this way.

Mr. Michael Robinson thought the Council was limited on an appeal to the issues that were raised at the Planning Commission hearing.

Mr. Lindsay said he would never advise the Council not to look at what the code said and interpret it the best they could at a hearing.

Mr. Michael Robinson said it was late in the game to ask them to go back and analyze something that could have been raised two months ago.

Mr. Smith said it was the applicant's job to prove that they met all of the approval criteria at every stage.

Mr. Michael Robinson said if this was an issue that someone believed they had failed to meet, it should have been raised before tonight.

Councilor Spoon thought the splitting of the parcels related to the impact of the financial capability of the neighboring properties and how developable or non-developable it made them.

Mr. Rick Robinson said it also related to the overall design and arrangement of the lots and how they were functionally and adequately providing building sites, utilities, and access facilities without unduly hindering the use or development of adjacent properties. He thought it was one of the issues raised by the appellants.

Mr. Michael Robinson did not think it was a valid argument as the appellants had not stated that they were unduly hindered because the streets did not split the parcel lines.

Mayor Hodson closed the public hearing at 10:26 p.m.

Councilor Heidt asked if the neighbors were invited to the yearlong process for the Concept Plan.

Mr. Brown said the appellants were on the stakeholder list and participated throughout the process. The materials handed out at that time clearly stated that density transfer would result in smaller lots. The proposed street did not have to be exactly as shown in the Concept Plan, but it did have to comply with the plan to have a neighborhood route.

Councilor Spoon said because the lot sizes had changed, the location of the streets had changed as well. The streets did split the parcels.

Mr. Brown said this was an area that was not proposed to be platted right now and still had the flexibility for adjustments to be made other than it would connect with 18<sup>th</sup> Avenue. The Concept Plan stated where feasible the boundary lines of parcels should be used for roads, but it was not a requirement.

Mr. Lindsey confirmed there was still flexibility for where the road could go on the appellants' properties and where it would connect with 18<sup>th</sup>.

Councilor Spoon said her concern was it was not consistent with the Concept Plan. The roads did not split the parcel lines to the detriment of the land owners.

Councilor Heidt had been involved in the process of creating the Concept Plan. People had put in hours discussing the best layout that would be the greatest good for the greatest number of people. It was not ideal for some of the property owners and that was where they were stuck as people were developing at different times.

Councilor Spoon thought the roads could split the parcel lines, but some lots would have to be removed to do it.

Mayor Hodson said what they were looking at was the map and development proposed. Councilor Spoon said they were addressing the appeal and the appeal specifically called out this issue.

Councilor Smith thought it was the Council's job to look at all of the approval criteria, code, and laws that applied and make a decision based on all of that. He thought conditions should be imposed on the turnarounds. There should not be eleven stubbed streets with this many houses for what could be a long period of time. The road easements for the turnarounds should not be included in the lot size averaging. Two months ago they had denied an application based on their use of road easements in the lot size averaging. There needed to be turnarounds on all the streets for safety and they should not be used in the lot size averaging. He agreed with Councilor Spoon that it was feasible for the roads to split the parcel lines.

Councilor Heidt said she didn't have a problem with the turnarounds as she thought there would be more development in the near future. The applicant had provided fire truck turnarounds where required. She also did not have a problem with the way the easements were used in the lot size averaging.

Councilor Spoon was concerned about giving SDC credits when a developer dedicated park land. It became the City's responsibility and the developer benefitted from being able to get a density transfer and receive SDC credits for doing that. The way it was written required the City to accept the dedication of park land.

Mr. Lindsey said the park dedication was one of the objectives of the Concept Plan. The applicant was following the Plan and they could not change the rules after an application was submitted.

Mr. Rick Robinson said an option would be to accept less park land than was proposed to be dedicated.

Mr. Lindsay said a valuation of the property for the SDC credits had not been done and they did not know how much in SDC credits the applicant would receive.

Councilor Spoon was not opposed to taking some of the park land, but she did not think all of it was necessary. They could take less and use the Park SDCs to help fund parks. She did not like taking large park land, not receiving SDCs, and continuing to have undeveloped parks. She was concerned that they would continue to receive park land, but not the SDCs needed to develop the parks.

Councilor Heidt thought this was pro-environment as it created a buffer between the housing and wetlands and slopes. They wanted to preserve the creek and wetlands as much as possible.

Councilor Dale asked if they could accept less park dedication or no park dedication.

Mr. Lindsay said yes, they had that ability. One of the goals of the Concept Plan was the dedication of 9.5 park acres. That could be changed for the other portion of the area that was yet to be developed and the Council could decide how much they wanted to accept.

Councilor Dale asked what that would do to the density transfer that was being proposed.

Mr. Lindsay said if they wanted to reduce the park land and density transfer for this application, the applicant would have to go back to the Planning Commission with an altered subdivision application.

Mayor Hodson said the total Willow Creek Park in the Concept Plan was 9.5 acres. What was being considered was 6.84 acres.

Mr. Lindsay said not all of the park land was included in the density transfer, only the buildable portion of those acres.

Councilor Hensley said they were getting too deep in the weeds. It was the Council's job to make sure the application brought before the Planning Commission met the criteria and if the Planning Commission made the right decision. The Planning Commission had issues with this application, but approved it because it met the criteria. She thought their focus should be on whether or not the Planning Commission made the correct choice based on the criteria and the application they were presented. It was not their job to change the application that was approved.

Mr. Brown said the Planning Commission could have discussed the park size and potentially changed how much was dedicated on the east side of the creek. However, the Commission thought the application followed the spirit of the Concept Plan in regard to park land.

Councilor Dale said it was the City's obligation to operate in the code at the time the application was submitted. He did not think the spirit of the Concept Plan was being upheld. The code language and park land dedication was being used to achieve a more profitable density than the Concept Plan envisioned. They worked hard on the Concept Plan to have a balance of low and medium density. The code technically allowed what was proposed and the Planning Commission was compelled to abide by it, but that technicality was being used to substantially change the intent of the Concept Plan. For him as a policy maker, he thought he had to uphold the intent of the Concept Plan and the public's faith in the public process that established the Concept Plan. He was in favor of the appeal.

Councilor Heidt said in this case she was more apt to follow the letter of the law. It said in the Concept Plan that 18<sup>th</sup> Avenue shall be a neighborhood loop and to her that trumped other considerations. They had to follow the Concept Plan and she liked the park dedication that was recommended in the Plan. She was not in favor of the appeal.

Councilor Smith said the applicant had not met their burden of proving that they met the requirements. He thought there were too many things that were unproven and he was in favor of the appeal.

Mr. Lindsay said the Council could remand the application back to the Planning Commission to look at the park land and density transfer issue or they could deny the application and the applicant could appeal that decision or submit a new application.

Councilor Spoon could be compelled to send it back to the Planning Commission to review the park boundaries. She did not think what was buildable and not buildable and how much was allowed for density transfer was clear. Otherwise she was in favor of the appeal.

Councilor Dale was in support of a remand as well.

Councilor Parker said they had not used remand as a tool in the eight years he had served on the Council. There were enough questions on this, however, that he was in support of sending it back to the Planning Commission with specific items to address. Some of the issues were going to have to be addressed outside of the venue of a quasi-judicial hearing.

Councilor Smith said they first needed to find out if the applicant would extend the 120 day rule deadline. If it was remanded, he would also like the Planning Commission to look at the lot size averaging based on the turnarounds.

Mr. Michael Robinson said the applicant would not extend the 120 day period.

Mayor Hodson clarified the denial of the application was based on not meeting the spirit of the Concept Plan, feasibility of splitting the parcels with the streets, turnarounds and easements on the lots, lot size averaging, park land dedication, and the applicant had not presented substantial evidence on some of these issues.

**\*\*Councilor Hensley moved to reverse and deny File No. SUB 17-06 Redwood Landing Subdivision located at 1440, 1548, 1612, 1650, and 1758 N Redwood Street including written findings to be brought forth at an upcoming meeting. Motion was seconded by Councilor Dale and passed 5-1 with Councilor Heidt opposed.**

**RESOLUTIONS & ORDINANCES:** Resolution 1281 – Mr. Rick Robinson said this was a required action to have a current Drug and Alcohol Policy for individuals that performed safety sensitive functions.

**\*\*Councilor Smith moved to adopt Resolution 1281, A RESOLUTION ADOPTING A REVISED CITY OF CANBY DRUG & ALCOHOL POLICY FOR USE WITH DOT REGULATED EMPLOYEES AND IDENTIFYING AN EFFECTIVE DATE AND REPEALING RESOLUTION NO. 1212. Motion was seconded by Councilor Hensley and passed 6-0.**

Resolution 1282 – Kim Scheafer, City Recorder, said the State had entered into a public-private partnership with a company to implement the first statewide electronic records management program. The IGA provided for archival consulting, implementation services, and on-going training from the state at no cost. Agencies entered into a contract with Chaves Consulting, Inc. for the use of HPE Records Manager software. There would be ten power users to start for the City.

**\*\*Councilor Dale moved to adopt Resolution 1282, A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON SECRETARY OF STATE FOR ELECTRONIC RECORDS MANAGEMENT SERVICES. Motion was seconded by Councilor Heidt and passed 6-0.**

Ordinance 1470 – **\*\*Councilor Hensley moved to adopt Ordinance 1470, AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 22.54 ACRES INCLUDING 20.26 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 1500 AND 1600 OF THE SE ¼ OF SEC. 4, T.4S., R.1E., W.M. (TAX MAP 41E04CA); AND 1401 AND 1500 OF THE SE ¼ OF SEC. 4, T.4S., R.1E., W.M. (TAX MAP 41E04C); AND 1400, 1500 AND 1600 OF THE SE ¼ OF SEC. 4, T.4S., R.1E., W.M (TAX MAP 41E04D); AND APPROX. 1.17 ACRES OF ADJACENT S. FIR STREET RIGHT-OF-WAY AND APPROX. 1.11 ACRES OF ADJACENT S IVY STREET RIGHT-OF-WAY AND AMENDING THE EXISTING COUNTY ZONING FROM EXCLUSIVE FARM USE (EFU) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR TAX LOT 1500 OF TAX MAP 41E04C; TO CITY MEDIUM DENSITY RESIDENTIAL (R 1.5) FOR TAX LOT 1401 OF TAX MAP 41E04C AND TAX LOT 1500 AND 1600 OF TAX MAP 41E04CA AND TAX LOT 1600 OF TAX MAP 41E04D; AND TO CITY RESIDENTIAL COMMERCIAL (C-R) FOR TAX LOT 1400 AND 1500 OF TAX MAP 41E04D; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS. Motion was seconded by Councilor Spoon and passed 6-0 by roll call vote.**

**NEW BUSINESS:** Findings, Conclusion & Final Order ANN 17-02/ZC 17-03 –

**\*\*Councilor Hensley moved to adopt the Findings, Conclusion & Final Order for ANN 17-02/ZC 17-03. Motion was seconded by Councilor Spoon and passed 6-0.**

Clackamas County Housing Needs Assessment – Mayor Hodson said the County was looking to see what cities wanted to partner in the housing needs assessment. There was a cost associated with the assessment and Canby's portion would be \$8,367. What they would receive from the study would help with the Comprehensive Plan review in the future. There was a question regarding how much time would be required from City staff.

Councilor Smith asked why they would participate since they were not part of Metro or periodic review.

Mayor Hodson said even though they were not part of Metro, they were still required by the state to do an assessment and review the Comprehensive Plan.

Councilor Heidt thought it was important information if they were going to revise the Comprehensive Plan and make decisions on annexation applications.

Mr. Rick Robinson said from a planning perspective it made sense to get a good indication of the buildable lands inventory and what the housing needs were. He thought it was valuable information. He was working on putting together the funding for the Comprehensive Plan review. It would be about two years before the work could begin and it would take a year to complete it. The Comprehensive Plan had not been reviewed since 1984.

Councilor Parker thought they needed to know what the City's housing needs were and he thought the price was reasonable.

Councilor Spoon said a housing needs analysis would help them determine what the City's zoning and density needs really were. She was in support.

Councilor Dale agreed that if Goal 10 applied to the City and they had the looming issue of UGB evaluation on their horizon, he was in favor of moving forward with the analysis.

Mayor Hodson said there would be some staff time involved, and they would have to figure out what that would look like.

The Council was interested in participating and there was consensus for more information to be brought back.

**ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** Mr. Rick Robinson said on March 3 there would be a Council Retreat Work Session.

**CITIZEN INPUT:** None.

**ACTION REVIEW:**

1. Approved the Consent Agenda.
2. Reversed and denied File No. SUB 17-06 Redwood Landing Subdivision located at 1440, 1548, 1612, 1650, and 1758 N Redwood Street.
3. Adopted Resolution 1281.
4. Adopted Resolution 1282.
5. Adopted Ordinance 1470.
6. Adopted the Findings, Conclusion & Final Order for ANN 17-02/ZC 17-03.

There was no Executive Session.

Mayor Hodson adjourned the Regular Meeting at 11:32 p.m.

Kimberly Scheafer, MMC  
City Recorder

Brian Hodson  
Mayor

Assisted with Preparation of Minutes - Susan Wood