



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

**A REQUEST FOR A SUBDIVISION)
AT 3500 N MAPLE STREET)**

**FINDINGS, CONCLUSION & FINAL ORDER
SUB 17-05
THE SEVEN ACRES SUBDIVISION**

NATURE OF THE APPLICATION

The Applicant has sought approval for a Subdivision (SUB 17-05) dividing A 6.84 acre property into a 22 lot subdivision for single-family detached homes located at 3500 N Maple Street described as Tax Map/Lot 31E2102602, Clackamas County, Oregon. The property is zoned Low Density Residential (R-1) as represented on the official zoning map reference by the Land Development & Planning Ordinance, Chapter 16 of the Canby Municipal Code (CMC).

HEARINGS

The Planning Commission considered application SUB 17-05 at a duly noticed initial evidentiary public hearing held on October 23, 2017 during which the Planning Commission by a 7/0 vote approved **SUB 17-05 Seven Acre Subdivision submitted by Canby Development LLC**. These findings are entered to document the specifics of approval.

CRITERIA AND STANDARDS

In judging whether or not a Subdivision application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated and titled Revised for the October 23, 2017 Planning Commission Meeting and presented along with the applicant's submitted application materials at the October 23, 2017 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

The Staff Report was presented, and written and oral testimony was received at the public hearing. Staff recommended approval of the Subdivision application and applied Conditions of Approval in order to ensure that the proposed development will meet all required *City of Canby Land Development and Planning Ordinance* approval criteria.

After accepting public testimony, the Planning Commission closed the public hearing and in deliberation and by vote made the following additional findings beyond those contained in the staff report to arrive at their decision and support their recommended Conditions of Approval and the exact wording thereof:

- The Commission acknowledged the following items that were submitted to the record at the meeting: A letter from neighborhood resident Mr. Michael D. McNichols with numerous attachments that was emailed to Commissions for review the day of the meeting; an email with written comments from neighborhood resident Mike Brown; a signed letter from neighborhood residents Arthur & Virginia Hall; a copy of the recorded plat for Country Club Estates Annex No. 3 that indicates that the temporary N Maple Street cul-se-sac was to be vacated in the event of future street extension; an email from applicant including statements from City public works lead Jerry Nelzen indicating that no sewer backups in the area served by the pump station have occurred since the installation of the new pump station and that it is designed to handle everything in the current Urban Growth Boundary, including the proposed subdivision; a memorandum dated 10.23.17 from Todd Mobley, PE commissioned by the applicant indicating new updated traffic volume counts at two locations on N Maple Street to demonstrate the streets level of traffic and ability to accommodate the traffic expected and how the proposed pedestrian pathway will provide a safe an appropriate improvement for this area; a power-point presentation handout from the applicant proposing a new preferred voluntary option to amending the proposed N Maple Street widening and pedestrian safety improvements indicated in Condition #9 of the staff report to include widening the street to 28' with a separated 5' wide asphalt pathway for pedestrians from approximately 23rd Avenue north to the north property boundary of Tax Lot 31E 28A 00900 and 34' in width with a designated 4' wide pedestrian pathway on the west edge along the frontage of Tax Lot 31E21 00300.

- The Commission acknowledged and accepted that staff's recommendation for approval included 3 additional conditions of approval that were inadvertently left off of the published staff report and were made a part of the record shortly thereafter and added as an addendum to the posting on the City website and forwarded to the Commission and applicant (they are included in this Final Order).
- The Commission supported requiring rear yard fencing along the farm property by the developer to help alleviate disturbance of the crop production.
- The Commission responded and voiced support for off-site N Maple Street improvements that would not result in additional expense to existing home owner's and that would not eliminate their existing parking along the east side of the street.
- The Commission favored the applicant's preferred N Maple Street improvement option presented at the meeting which was precipitated by assurance that that agreement for 10' of additional roadway easement adjacent to Tax Lot 300 would be forthcoming, and that the applicant's suggestion for providing a separated pedestrian pathway was the best option to encourage pedestrian use and provide the greatest degree of safety and maintain an appropriate look for the area.
- It was understood that with the off-site N Maple Street improvements volunteered and approved, that individual fire sprinkler systems within each home of the subdivision would not be required. Staff explained to the Planning Commission that the fire marshal did not indicate any opposition to the use of the logging road as an alternative backup emergency route as long as 20' free and clear primary emergency access on N Maple Street is provided.
- The Planning Commission accepted the applicants findings as an adequate basis for granting an exception to allow two lots to exceed the 10,000 sf lot averaging maximum size as supportive of demonstration of a "public benefit" in this instance as it helped reduced the total number of lots proposed which was reported to increase the compatibility with the existing lot size and reduced the amount of traffic that would otherwise be generated at buildout on N Maple Street.
- The Commission was satisfied with staff's response that lot frontages of less than the standard 60' in width are standard practice around all cul-de-sacs and eyebrows and that adequate access is maintained to each of the lots as proposed on the eyebrows.

Additionally, the Planning Commission hereby incorporates the applicant's narrative addressing the applicable approval criteria. Where there is a conflict between these findings and the applicable narrative, these findings shall control.

Additionally, the Planning Commission finds that argument and evidence not relevant to the approval criteria although not rejected by the Planning Commission was not required to be considered in the Planning Commission's decision.

Further, the Planning Commission relies on the evidence produced by the City's Traffic Consultant, DKS, and the applicant's Traffic Engineer, Lancaster Engineering, defined that would be conditioned improvements, North Maple Street will function as intended by the relevant approval criteria. Further, the Planning Commission finds that testimony regarding occasional use by farm equipment is not so substantial. The evidence produced by DKS and Lancaster Engineering with the required improvements, North Maple Street will function as required by relevant approval criteria.

Further, the Planning Commission notes that the Canby Fire Marshall did not submit a negative comment about the application. The Planning Commission finds based on substantial evidence in the whole record that there will be sufficient clear access for emergency vehicles on North Maple Street.

Additionally, the Planning Commission finds that the only exception requested in the application is for two lots to be larger than the maximum lot size. The lot width for cul-de-sac lots is not an exception but is allowed subject to approval criteria in the Canby Land Development Ordinance. Finally, the Planning Commission notes that the striping for the pedestrian lane on the proposed 34' wide cross section of North Maple Street is recommended by the City's Traffic Consultant DKS. The Planning Commission has found elsewhere that the proposed cross section of North Maple Street will comply with applicable Canby Land Development Ordinance requirements.

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report which referred to findings contained within the applicant's narrative along with the additional findings concluded at the public hearing and noted herein.; concluding that the residential subdivision application meets, or will meet all applicable approval criteria when combined with the Conditions of Approval reflected in the written Order below.

ORDER

The Planning Commission approved SUB 17-05 pursuant to the conditions of approval presented in Section VII of the staff report (which includes the 3 conditions made part of the record in an addendum) and the following conditions: 1) change condition #9 of the staff report to require the applicant's preferred N Maple Street improvement option consisting of a 28' wide street and a separated 5' asphalt path, the sidewalk (pathway) be built entirely at applicant's expense, no decrease in the existing on-street parking provided, and a fence be required along the farm (Montecucco) property on the west side of the subdivision and a fence be required along the logging road property (east side of the subdivision) and 2) a change to condition #1 to remove the requirement to comply with the City Engineer's recommendations to a) construct a sidewalk on the east side of N. Maple St and b) remove parking. Based on the above approved motion, the Planning Commission concludes that, with the following conditions, the application meets the requirements for Subdivision approval.

Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **SUB 17-02** THE SEVEN ACRE SUBDIVISION is approved, subject to the following conditions:

CONDITIONS OF APPROVAL

General Improvement & Design Conditions:

1. Prior to the start of any public improvement work, the applicant must schedule a pre-construction conference with the city and obtain construction plan sign-off from applicable agencies. City Engineer comments provided in his memorandum dated September 7, 2017, shall be reflected on those plans, except those comments in the September 7, 2017 memorandum related to "planter strips" and removal of parking and construction of a sidewalk on the east side of N. Maple Street shall not be required.
2. The Planning Commission shall make a finding for that a "public benefit" is afforded in allowing an additional two lots to exceed the 10,000 sf maximum lots size when utilizing lot averaging.
3. The Planning Commission shall make a finding that adequate access and building area is provided to approve the six proposed lots (two of which are flag lots by definition) all located on eyebrows (partial cul-de-sac bulb

streets) that may be allowed to not meet the required minimum 60 feet of frontage on a public street.

4. On street parking shall be restricted on the inside edge of NE 35th Place which has a pavement design width of only 28' to comply with minimum fire code accessibility standards.
5. The final construction design plans shall reflect the use of a 4.5' wide planter strip separating the sidewalk from the street curb along both sides of N Maple Court beginning within the subdivision and up to the beginning of the eyebrow (partial cul-se-sac bulb) where it may taper into a curb tight sidewalk. to comply with the City standard practice for new subdivisions since adopting the new 0 to 8' wide standard that was intended to require planter strips but allow flexibility where it was deemed to be suitable to match existing same street standards or protect resources or avoid difficult restrictions or circumstances. The planter strip is waived – allowing a curb tight sidewalk along both sides of NE 35th Place along with an exception to reduce the sidewalk width to 5' adjacent to the Tract D wetlands to assist in its protection. A dual 12' wide PUE & Sidewalk Easement shall be designated on the final plat to allow public use of any sidewalk placed outside of the public rights-of-way.
6. The off-site street widening public improvements volunteered by the applicant and approved by the City for N. Maple Street shall be part of the improvements associated with Phase I of the Seven Acres Subdivision. This is intended to provide improved vehicular and safety improvements before any additional residential traffic from the subdivision is added to this street.
7. Temporary suitable turnarounds may be required at the end of all interior streets that exceed 150' in length as directed by the Canby Fire Department.
8. The applicant shall process an annexation application and a lot line adjustment if deemed necessary based on how the dedication occurs along Tax Lot 31E21 00300 for the 10' of right-of-way easement to be added to the west side of N Maple Street.

9. The applicant must enter in to an Improvement Agreement with the City prior to Final Plat recording. The following improvements and requirements shall be included in the agreement:

A. On N Maple Street from approximately NE 23rd Avenue (at the southern termination of the existing sidewalk on the west side) north to the north property boundary of Tax Lot 31E 28A 00900, the applicant voluntarily agrees to the following regarding the off-site N Maple Street improvements:

1. The applicant proposes to widen N Maple Street to 28' in width with a separated 5' wide asphalt path as shown on the power-point handout presented at the hearing and called out as Typical Section A-A.

B. On N Maple Street along the frontage of Tax Lot 31E21 00300 north to the proposed subdivision, the applicant voluntarily agrees to the following regarding the off-site N Maple Street improvements:

1. The applicant proposes to widen N Maple Street to 34' in width along the frontage of Tax Lot 31E21 00300, as shown on the power-point handout presented at the hearing and called out as Typical Section B-B and per Exhibit 13 – Maple Street ROW Option 2 – Cross Section A-A in the meeting packet material.

C. Prior to final plat recording and in conjunction with approval of the civil construction plans for the subdivision an agreement shall be executed between the City, the owner of Tax Lot 31E21 00300 (Montecucco Rentals, LLC), and the owner of the subject development to specify the reconfiguration of the existing drainage line that currently drains storm water from Tax Lot 31E21 00300 (Montecucco) through the subject development to the existing City storm system. The location and specifications of the proposed system shall be included in this agreement. In the event the parties cannot reach an agreement, the owner of the subject development will leave the Montecucco line in its current condition and location, and will not tie into the private Montecucco line or build lots or tracts over said line, and will implement a satisfactory drainage solution

for the proposed subdivision in accordance with the City of Canby Public Works Design Standards, June 2012.

Fees/Assurances:

- 10.** All public improvements are normally installed prior to the recordation of the final plat. If the applicant wishes to forgo construction of any portion of the public improvements until after the recordation of the final plat, then the applicant shall provide the City with appropriate performance security (subdivision performance bond or cash escrow) in the amount of 110% of the cost of the remaining public improvements to be installed.
- 11.** If the applicant chooses to provide a subdivision performance bond for some or all of the required public improvements, the applicant shall obtain a certificate from the city engineer that states:
 - a.** The applicant has complied with the requirements for bonding or otherwise assured completion of required public improvements.
 - b.** The total cost or estimate of the total cost for the development of the subdivision shall be accompanied by a final bid estimate of the subdivider's contractor if there is a contractor engaged to perform the work, and the total cost estimate must be approved by the city engineer.
- 12.** The applicant must guarantee or warranty all public improvement work with a 1 year subdivision maintenance bond or other acceptable means of security in accordance with CMC 16.64.070(P).
- 13.** The applicant must pay the city Master Fee authorized engineering plan review fee equal to 0.4% of public improvement costs prior to the construction of public improvements (approval of construction plans) as each phase of development occurs.

Streets, Signage & Striping:

- 14.** The unused portion of the existing cul-de-sac for N. Maple Street which will no longer be necessary shall be vacated and then physically removed.
- 15.** The street improvement plans for N. Maple Street widening and the interior division streets shall conform to the TSP and Public Works standards as indicated by the city engineer.

16. The sidewalk (pedestrian pathway) along N Maple Street shall be built at applicant's expense and there shall be no decrease in existing on-street parking.
17. The applicant shall comply with the three recommended conditions of approval provided by Clackamas County Development Services in their memorandum to the City in review of SUB 17-05 dated October 5, 2017 which include:
 - a. **Prior to final plat approval:** The applicant shall obtain a Development Permit from the Engineering Division for review and approval of Maple Street improvements where Maple Street is under County jurisdiction. The Permit shall be obtained prior to commencement of site work and recording of the subdivision plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or plans acceptable to the Engineering Division, provide a performance guarantee equal to 125% of the estimated cost of the construction, and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit application.
 - b. All require Maple Street improvements, where the street is under County jurisdiction, shall comply with the Clackamas County *Roadway Standards* unless otherwise noted herein.
 - c. The applicant shall design and construct Maple Street widening improvements, along the section of Maple Street under County jurisdiction, in compliance with the structural section requirements of Roadway Standards Drawing C100 for a connector.
18. Drainage along the west side of the N Maple Street widening will be addressed within the construction plans in a manner that minimizes impact on the adjacent farm land while following standards deemed to be acceptable to the City and County engineering staff.
19. The construction plans shall be shared with the adjacent farm property owners for their review and they shall be provided notice by the developer of the scheduled pre-construction approval meeting with the City.

20. A roadway striping plan shall be submitted by the applicant and shall be approved by city engineer and by the Public Works street department prior to the construction of public improvements.
21. A roadway signage plan shall be submitted by the applicant and shall be approved by the city engineer and by the Public Works street department prior to the construction of public improvements.
22. The applicant shall be responsible for installing all required street signage and striping at the time of construction of public improvements, unless other arrangements are agreed to by the City.

Sewer:

23. The applicant shall submit documentation of DEQ approval of the sewer plans to the City Engineer prior to the construction of this public improvement with each phase of development.

Stormwater:

24. Stormwater systems shall be designed in compliance with the Canby Public Works Design Standards as determined by the City Engineer, and in accordance with the agreement for the relocation of the Montecucco's drainage easement and line if an agreement is reached.
25. Drywells proposed within the subdivision shall be approved by DEQ.

Grading/Erosion Control:

26. The applicant shall submit grading and erosion control plans for approval by Canby Public Works in conjunction with construction plan approval prior to the installation of public improvements and start of grading with each phase of development.
27. The applicant shall grade all areas of the site, including the proposed lots, to minimize the amount of soil to be removed or brought in to each lot during home construction.

Final plat conditions:

General Final Plat Conditions:

28. The applicant shall apply for final plat approval at the city and pay any applicable city fees to gain approval of the final subdivision plat. Prior to the recordation of

the final plat at Clackamas County, it must be approved by the city and all other applicable agencies. The city will distribute the final plat to applicable service agencies for comment prior to signing off of the final plat if deemed necessary.

29. All public improvements or submittal of necessary performance security assurance shall be made prior to the signing and release of the final plat for filing of record.
30. The final plat shall conform to the necessary information requirements of CMC 16.68.030, 16.68.040(B), and 16.68.050. The county surveyor shall verify that these standards are met prior to the recordation of the subdivision plat.
31. All “as-builts” of City public improvements installed shall be filed with Canby Public Works within sixty days of the completion of improvements.
32. Clackamas County Surveying reviews **pending subdivision plat documents for Oregon Statutes and county requirements. A subdivision final plat for Phase 1 prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval** within one year of approval of the tentative plat or formally request an extension of up to 6-months with a finding of good cause.
33. The applicant shall record the final plat at Clackamas County within 6 months of the date of the signature of the Planning Director.
34. The applicant shall assure that the city is provided with a copy of the final plat in a timely manner after it is recorded at Clackamas County, including any CC&Rs recorded in conjunction with the final plat.
35. The City shall assign addresses for each newly created subdivision lot and distribute that to the developer, and other agencies that have an interest.

Dedications

36. The applicant shall dedicate by separate instrument any acquired additional ROW secured for the widening of N. Maple Street with or prior to the Phase 1 Final Plat.

Easements

37. A 12 foot utility, and if any portion of a public sidewalk is located on a newly created private lot it shall also include a dual 12’ pedestrian easement, along all of the lot street frontages shall be noted on the final plat. This easement may be combined with other easements and shall be measured from the property

boundary.

38. Sidewalk easements are required along the frontage of the newly created private lots for any portion of the public sidewalk that will lie on private property.

Street Trees

39. A Street Tree Plan shall be submitted with the final plat, and street tree fees paid to the City for their installation prior to release of the final plat for recording. The plat will allow the city to establish street trees per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. The total per tree fee amount is calculated at one tree per 30 linear feet of total street frontage on both sides of all internal streets and the adjacent side of external streets or as determined by an approved Street Tree Plan on a per tree basis. A temporary 12' wide street tree easement in conjunction with the dual 12-foot utility and pedestrian easement (pedestrian easement only where required, as described above) along all of the lot street frontages shall be noted on the final plat to provide the City to the right to plant and maintain the establishment of the trees before they become the responsibility of the property owner for 2 years from occupancy of each home.

Monumentation/Survey Accuracy Conditions

40. The county surveyor and/or city engineer shall verify that the lot, street, and perimeter monumentation shall meet the requirements set forth in Oregon Revised Statutes and conform with the additional survey and monumentation standards of 16.64.070(M)(1-3) prior to recordation of the final plat.

Residential Building Permits Conditions:

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41. Construction of all required public improvements and recordation of the final subdivision plat must be completed prior to the construction of any homes.
 42. The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for each home and satisfy the residential design standards of CMC 16.21.
 43. The homebuilder shall apply for a City of Canby Erosion Control Permit.
 44. All residential construction shall be in accordance with applicable Public Works Design Standards.

- 45.** Individual lot on-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.
- 46.** Clackamas County Building Codes Division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for home construction per contract with the City. The applicable county building permits are required prior to construction of each home.
- 47.** Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet and the maximum residential driveways widths shall be 24 feet with an allowed exception for 28 feet for a home with 3 or more garages and a required separation of 10 feet between driveways on local streets when possible.
- 48.** Sidewalks and planter strips shall be constructed by the homebuilder as shown on the approved tentative plat.
- 49.** All usual system development fees shall be collected with each home within this development except as otherwise indicated within the Park Land Dedication and Improvement Agreement associated with this subdivision.

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