

ORDINANCE NO. 640

AN ORDINANCE VACATING A PORTION OF SOUTH JUNIPER STREET IN THE CITY OF CANBY, CLACKAMAS COUNTY OREGON; AND DECLARING AN EMERGENCY

WHEREAS, South Juniper Street, between Southeast Second Avenue and Southeast First Avenue, in the City of Canby, is a dedicated public street; and

WHEREAS, Hugh Harper, is an owner and person interested in several lots in block 2, LEE'S ADDITION, which are immediately east of and contiguous to said portion of South Juniper Street and filed a Petition with the Canby City Recorder on April 17, 1978 for the vacation of a portion of said street and set forth therein a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation; and

WHEREAS, the Petition for vacation as presented to the City Recorder had appended thereto and as a part thereof, the duly acknowledged consents of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby as defined by ORS 271.080(2); and

WHEREAS, the Petition for vacation as presented to the City Recorder was found to be sufficient and scheduled to come before the City Governing Body at a meeting thereof, on Wednesday, April 19, 1978, and the petitioner was duly notified of that fact; and

WHEREAS, the Canby City Council, as the City's Governing Body, at its meeting on April 19, 1978, considered said Petition and allowed it in whole and fixed Wednesday, June 7, 1978 at 8:00 o'clock p.m. at the Council Chambers at the Canby City Hall at 182 N. Holly Street in Canby, Oregon, as the time and place for a formal hearing upon the Petition; and

WHEREAS, it appears that the notice of the time, place and purpose of the vacation hearing was duly and regularly given in the manner and for the time required by ORS 271.110(1) and (2) and before such notice was published and posted, the City Recorder obtained from the petitioner the sum of Five hundred dollars (\$500.00), which was estimated to be a sufficient amount to pay the City's actual costs of publications, postings and other anticipated expenses including the City's attorney's fees as provided by ORS 271.110(3); and

WHEREAS, the formal and public hearing on the question of such vacation was duly and regularly held at the time and places advertised and no one appeared either in person or otherwise to object to or remonstrate against the Petition and proposed vacation. Although, one of the adjoining property owners, i.e. Lloyd R. Turk, who had signed the CONSENT TO STREET VACATION advised the Council by letter, dated April 4, 1978 that "if the twenty feet is vacated and should cause the loss of public parking on my side of the street, my signature on the Petition will become null and void." During the hearing and consideration of the matter, the Council determined that no public parking would be eliminated by reason of the vacation or future paving of the remaining street area and, therefore concluded that the consent of Mr. Turk would remain a valid consent and the Council further concluded as follows:

1. That portion of South Juniper Street, hereinafter described, is not used or planned for use as a City Street or other public purpose and should be vacated.
2. That the acknowledged written consents of all abutting property owners and of not less than two-thirds in area of the real property affected thereby has

been obtained.

3. Required notice of the Petition for vacation was given.
4. The public interest will not be prejudiced by the proposed vacation.
5. All City liens and all taxes have been paid on the land, hereinafter described, and which is to be vacated.
6. The vacation will not substantially affect the market value of the abutting properties and no damages are payable.
7. The proposed use is consistent with the present use of the adjoining property, the use for the zone in which it is located and the City's interim development plan for the area; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: A portion of the unimproved Street area known as South Juniper Street in Canby, Clackamas County, Oregon, shall be vacated and the vacation thereof shall be effective on the adoption of this Ordinance after second and final reading as provided by the Canby City Charter; and said portion is described as follows, to-wit:

The Easterly twenty (20) feet of South Juniper Street between Southeast Second Avenue and Southeast First Avenue located in Section 33 DC, Township 3 South, Range 1 East of the Willamette Meridian in Canby, Clackamas County, Oregon.

Section 2: That the title to the street area vacated shall attach to the land bordering on such area as provided by ORS 271.140.

Section 3: That upon the final reading and enactment of this Ordinance, the Canby City Recorder shall prepare and file for record with the Clackamas County Recorder, a certified copy of this Ordinance. The City Recorder shall also prepare and file a certified copy of this Ordinance with the Clackamas County

Assessor and the Clackamas County Surveyor as required by the provisions of ORS 271.150.

Section 4: Any ordinance or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 5: It being deemed by the Canby City Council that an emergency exists, this Ordinance shall take effect immediately upon its final reading and passage by the City Council.

Passed by the Canby City Council on first reading at a Regular Meeting thereof, on Wednesday, June 21, 1978; ordered posted in three (3) public and conspicuous places in the City of Canby for a period of two (2) calendar weeks as required by the Canby City Charter; and to come up for final reading and action of the Council at a Regular meeting thereof on Wednesday, the 19th day of July, 1978 at the Council Chambers at the Canby City Hall.

x Robt E Rapp
ROBT. E. RAPP - Mayor

ATTEST:

Harold A. Wyman
HAROLD A. WYMAN - City Recorder

Passed on final reading at a Regular meeting of the Canby City Council this 19th day of July 1978 by the following vote: Yeas 4 Nays 0.

Robt E Rapp
ROBT. E. RAPP - Mayor

ATTEST:

Harold A. Wyman
HAROLD A. WYMAN - City Recorder