

ORDINANCE NO. 643

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY
(Application of Martin L. Clark and Alvin M. Cibula -
River View Industrial Park).

WHEREAS, an application was filed with the City of Canby Recorder by Martin L. Clark and Alvin M. Cibula on the hereinafter described property, for the purpose of changing the classification of the zone in which the real property is located from R-1 (Low Density Residential) to M-1 (Light Industrial). The application fee as required by Section 31 of Ordinance No. 583 (the city's zoning ordinance) has been paid. The following is a description of the real property for which the zone change was requested, to-wit:

A parcel of land situated in the S.E. 1/4, Section 32, T. 3 S., R. 1 E., W. M., and the N.E. 1/4, Section 5. T. 4 S., R. 1 E., W. M., Clackamas County, Oregon, being more particularly described as follows:

Beginning at an aluminum disc marking the northwest corner of the Lucius A. Seely D. L. C. No. 48; thence along the north line of that tract of land conveyed to Barrett Lonnie McMaugh by deed conveyed in Book 407, page 346, Clackamas County Deed Records No. 88° 53'06" W., 56.00 feet; thence leaving said McMaugh line N. 08°10' 03" W., 435.40 feet to a 5/8-inch iron rod with yellow cap stamped "Compass Corp."; thence N. 03°34'54" W., 276.09 feet to a 5/8-inch iron rod with yellow cap stamped "Compass Corp." on the south line of that parcel of land conveyed to the City of Canby by deed recorded in Book 220, page 33, Clackamas County Deed Records; thence along the southerly line of said City of Canby tract and the easterly extension thereof N. 88°00'00" E., 221.77 feet to the most southeasterly corner of that parcel of land conveyed to the Canby Utility Board by deed recorded under Fee No. 77-14613, Clackamas County Deed Records; thence along the easterly line of the said Canby Utility Board tract N. 26°30'00" W., 452.41 feet; thence along the southeasterly line of the said Canby Utility Board N. 64° 08' E., 154.41 feet to the most southerly corner of that parcel of land conveyed to Warren E. Mueller, et ux, by deed recorded in Book 477, page 240, Clackamas County

Deed Records; thence continuing N. 64°08' E., along the southerly line of said Mueller tract a distance of 205.00 feet to the southeast corner of said Mueller tract; thence along the west line of a 20-foot wide parcel of land described in Book 381 page 136, Clackamas County Deed Records S. 26°30'00" E., 1214.61 feet to the most southerly corner thereof; thence along the southerly line of that parcel of land conveyed to Richard H. Capron and Mary D. Capron by deed recorded under Fee no. 73-21868, Clackamas County Deed Records S. 64°08' 00" W., 833.55 feet to the most southerly thereof; thence North 173.60 feet to the point of beginning, containing 16.7 acres more or less.

WHEREAS, the Planning Commission, scheduled and held a public hearing on the zone change application of Martin L. Clark and Alvin M. Cibula on Wednesday, April 26, 1978 and notice of the time, place and purpose of said hearing was duly and regularly given by written notices mailed by the City Recorder to all owners of property within lines parallel to and 200 feet from the exterior boundaries of the property involved as required by Section 32(1)(b) of the City Zoning Ordinance No. 583 and also (though not required), by publication in the Canby Herald on April 19th and 26th, 1978; and a record of the property owners to whom notices were mailed and the newspaper's affidavit of publication of the notice is on file in the City Recorder's records and file of this zone change matter; and

WHEREAS, the Canby City Planning Commission, at the time and place of the public hearing on such matter, i.e. April 26, 1978, heard and considered testimony regarding the proposed zone change and, upon conclusion of the public hearing, by motion duly made, seconded and carried, recommended to the Canby City Council that the proposed zone change be allowed so as to zone said parcel as M-1 (Light Industrial) and

WHEREAS, The Canby City Council considered the matter and the recommendations of the Planning Commission at a public hearing which was duly and legally called and held on June 7, 1978, after proper notice thereof was first given in the manner and for the time required by Section 32(3) of said Zoning Ordinance; and notice of said hearing before the Canby City Council was also published in the Canby Herald on Wednesday, May 31 and June 7, 1978. Proof of the notice is on file in the office of the Canby City Recorder in the Canby City Hall and is a part of the records and file of this matter; and

WHEREAS, proponents were heard regarding the proposed zone change and there were no opponents at said hearing, and after further consideration of the matter and due deliberation on the report and recommendation of the City Planning Commission, and having reviewed the applicants' statements of justifications as filed with the Planning Commission the City Council determined that there should be no mandatory requirement for development of the property as a planned unit subdivision under the provisions of Section 29(1) of the City's Subdivision Ordinance No. 443 as recommended by the Planning Commission. Therefore, the Canby City Council, by motion duly made, seconded and carried, determined as follows:

- A. The proposed zone change is in accordance with the existing zoning ordinance and interim general plan.
- B. There is a public need for the change.
- C. The public need is better served by the proposed zone change on the subject property rather than on other property.

- D. The change will preserve and protect the health, safety and general welfare of the residents in the area.
- E. The proposed changes are in conformance with the Land Conservation and Development Commission (LCDC) goals and guidelines.

The Canby City Council made the aforesaid findings based upon the following facts:

1. The zone change request will bring the zoning designation into conformance with the interim general plan.
2. The zone change carries out the growth plan goals of the interim general plan in that the proposed development will:
 - a. Be most economical for taxpayers and residents of the City.
 - b. Provide a balanced, self-sufficient economy which provides employment for a substantial number of local residents.
 - c. Be a primary source of goods and services for residents.
 - d. Be located to provide for a balanced community.
3. The proposed River View Industrial Park would create 50-125 new jobs and therefore expand the City's job base. The expanded job base will assist the City in continuing as a primary source of goods and services for both residents of the City and surrounding rural areas.
4. The property is currently assessed at less than \$45,000. The zone change would increase the assessed value to approximately \$270,000 and would therefore increase the taxable value for revenue purposes. To deny the zone change would frustrate the interim general plan and would be inconsistent with the LCDC Goal No. 9 (Economy of the State) of improving the economy of the region.
5. The City of Canby has experienced rapid single family and multifamily growth; and it is necessary to have more taxable property in order to provide adequate public services.
6. The property is surrounded almost exclusively by industrial uses. To allow residential development would violate

the objectives of the neighborhoods and housing part of the interim general plan which provides: "To separate industry, to limit industry and to separate heavy commercial and residential areas."

7. There is no other rail-served property actively marketed in the Canby area. It is desirable to have industrial development near an existing railroad, which is consistent with the intent of LCDC Goal No. 12, Transportation.
8. There is only 30 acres or less of other available industrial property. 30 acres or less is insufficient for the economic welfare of the city.
9. The designation of the property as industrial meets LCDC Goal No. 11 (Public Facilities and Services) in that the property is served or can easily be served at the developer's expense by public services including sewer, water, electricity and natural gas.
10. The designation of the property as industrial meets LCDC Goal No. 14, (Urbanization) in that the property is urbanizable and would provide an efficient transition to urban land use which is also consistent with the CRAG framework plan and map.
11. The proposed zone change request complies with LCDC Goal No. 6 (Air, Water and Land Resources Quality) in that the M-1 zone prohibits an industrial use "which will result in the dissemination of dust, smoke, fumes, odors and other atmospheric pollutants beyond the property in which the use is conducted."
12. The proposal also complies with Goal No. 7 (Areas Subject to Natural Disasters and Hazards) in that the applicants have not applied for a zone change on the property which is located within the flood plain.
13. The agricultural goal, LCDC Goal No. 3 does not apply because the property is within the corporate city limits and is urban. Utilization of vacant land for industrial development in an area of industrial uses helps preserve agricultural lands outside the city limits.
14. The property is located near streets which can adequately serve additional truck traffic generated by the development of the land; now, therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: The zone boundaries of the M-1 (Light Industrial) district shall now include the hereinabove described area and

upon the adoption of this ordinance said property shall thereupon be classified as M-1 (Light Industrial) and not as an R-1 (Low Density Residential) zone.

Section 2: The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate changes on the City's zoning map in compliance with the dictates of Section 1 of this Ordinance.

Section 3: 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 Canby City Council.

Submitted to the Council and read the first time at a regular meeting thereof on Wednesday, September 6, 1978; ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof to be held on Wednesday, October 4, 1978, at the hour of 8:00 o'clock p.m., at the Council meeting chambers at the Canby City Hall in Canby, Oregon.

Robert E. Rapp
Robert E. Rapp - Mayor

ATTEST:

Nancy S. Boggs
Nancy S. Boggs - CITY RECORDER

Passed on final reading of the Canby City Council at a regular meeting thereof held on the 4th day of October, 1978 by the following vote: Yeas 4. Nays 0.

Robert E. Rapp
Robert E. Rapp - MAYOR

ATTEST:


Nancy S. Boggs - CITY RECORDER

O'DONNELL, RHOADES & GERBER

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CANBY OFFICE
181 N. GRANT, SUITE 202
CANBY, OREGON 97013
(503) 266-1149
PLEASE REPLY TO
PORTLAND OFFICE

September 12, 1978

The Honorable Robert E. Rapp
Canby City Hall
Canby, Oregon 97013

Re: Clark-Cibula Zone Change

Dear Mayor Rapp:

This letter will confirm the oral statement that my clients authorized me to make to you and the City Council at the first reading of the ordinance for the zone change.

My clients will obtain approval from the Planning Commission for any industrial use that requires a substantial volume of liquid to be discharged into the municipal sewer system.

I would appreciate your distributing a copy of this letter to the City Council.

Sincerely,



Mark P. O'Donnell
MOD:sw

cc: Mr. Martin Clark
Mr. Alvin Cibula

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PLEASE REPLY TO
PORTLAND OFFICE

September 14, 1978

RECEIVED

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BETTIS AND REIF

Mr. Wade P. Bettis
Attorney at Law
160 N. W. 3rd Avenue
Canby, Oregon 97013

Re: Annexation of Crestview Subdivision

Dear Wade:

I have received your letter of September 8, 1978 as well as the resolution regarding the annexation. I have also discussed with Don Carlson the application. Don has also stated to me that the Boundary Review Commission will not consider the consent of the landowners on the west side of Juniper and the east side of Locust necessary; nor do they count as a voter for any remonstrance election.

I informed Don that it is my opinion that the above owners retain some legal interest in the property dedicated for public way for the two streets. On the other hand, I want to move forward and I am resubmitting the Petition under ORS 199.490(1)(c). If any legal challenges arise, and I feel the challengers will seek judicial relief, I am going to withdraw the Petition and resubmit it under the triple majority as originally intended.

At the City Council hearing of September 6, 1978, the City Council and I made a gentleman's agreement that if the inclusion of the property owners adjacent to Locust and Juniper Streets required their consent (or vote), then we would delete the west side of Juniper and the east side of Locust from the annexation.

Conclusion No. 2 at page 2 of the resolution is not exactly correct. No need exists to change the conclusion as this letter will suffice for the gentleman's agreement that was made.

It may be that I am being overly cautious; however, I think it is important that you, I and the City of Canby understand that this option is available to my clients.

Mr. Wade P. Bettis
September 14, 1978
Page Two

Please call me if you have any questions and thank you for your complimentary letter. As I have stated publicly, I enjoy working with you.

Sincerely,



Mark P. O'Donnell
MOD:sw

cc: Mr. Martin Clark