

ORDINANCE NO. 658

AN ORDINANCE AMENDING THE INTERIM DEVELOPMENT PLAN AND
MAP AND AMENDING ZONING MAP OF THE CITY OF CANBY
(APPLICATION OF DONALD J. McINTOSH)

WHEREAS, an application dated February 15, 1979, was filed with the Canby City Recorder on February 16, 1979, by Donald J. McIntosh of 815 South Douglas Street, Canby, Oregon, owner of the hereinafter described property; and the application as filed was for the purpose of amending the City's Interim Development Plan and Map, and also the City's Zoning Map for the purpose of changing the zone classification on one parcel of land from a C-1 (General Commercial) to a C-2 (Highway Commercial) zone and for changing zone on another parcel of land from an R-2 (Medium Density Residential) to a C-2 (Highway Commercial) zone. 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 plan amendments and zone changes were requested, to-wit:

Tax Lots 5700 and 5800 in Section 33CC, Township 3 South, Range 1 East, of the Willamette Meridian, Canby, Clackamas County, State of Oregon, and also described as Lots 1 to 4, inclusive, in Block 6 CANBY ADDITION.

WHEREAS, the City's Interim General Development Plan and plan map were adopted by Ordinance No. 608, enacted November 1, 1976, and designates Lot 4 as "general commercial" and Lots 1 to 3 as "central commercial". The City's Interim Development Plan and plan map are in the process of being revised and updated for adoption

of a comprehensive development plan which would designate all of the subject property for C-2 (Highway Commercial) zone classification; and

WHEREAS, the Canby City Planning Commission before taking final action on said applications and proposed amendments scheduled and held public hearings on the matters on March 14, 1979, and April 11, 1979, and notice of the time, place and purpose of said hearings was duly and regularly given by written notices mailed by the City Recorder's Office 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. Notices of the Planning Commission Meeting/Hearing on March 14, 1979, were mailed March 2, 1979, and similar notices for the Planning Commission Meeting/Hearing on April 11, 1979, were mailed March 30, 1979. Also, notices of the Planning Commission Meeting/Hearing on March 14, 1979, was published in the Canby Herald on March 7, 1979, and on April 4, 1979, for the meeting/hearing on April 11, 1979. A record of the property owners to whom notices were mailed and the newspaper's affidavit of publications of the notices are on file in the records of the City Recorder's file of this matter; and

WHEREAS, the Canby City Planning Commission at the time and place of the public hearings on such matter, i.e., March 14, 1979, and April 11, 1979, heard and considered testimony regarding the proposed plan amendment and zone change, and upon conclusion of the meeting/hearing on April 11, 1979, by motion duly made, seconded

and unanimously adopted, recommended to the Canby City Council that the proposed plan amendment and zone change be approved; and

WHEREAS, the Canby City Council considered the matter and all of the testimony, reports, and recommendations of the Planning Commission at a Council Meeting and public hearing which was duly and legally called and held on May 16, 1979, 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 May 9, 1979, and mailed to adjoining property owners on May 4, 1979. 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 and opponents were given an opportunity to be heard regarding the proposed plan amendment and zone change at the Council Meeting/Hearing and after further consideration of the matters and due deliberation on the testimony of witnesses and the reports and recommendations of the City Planner and Planning Commission, the Canby City Council by motion duly made, seconded and unanimously carried, accepted the FINDINGS of the Planning Commission and determined that the proposed Interim Plan Amendment and Zone Change be approved and for the following reasons:

- A. The plan amendment is in conformity with the City's proposed development plan; and although it is not in strict conformity with the existing zoning ordinance,

it is expected that such ordinance will be amended to conform to the general plan when that is finally approved and adopted.

- B. There is a public need for the change.
- C. The public need is better served by the proposed plan amendment and 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 aforesaid findings of the Planning Commission, which were accepted in toto as the findings of the City Council, were based upon the facts as determined by the Planning Commission and confirmed after hearing and review by the City Council, which FACTS are as follows:

1. The City's industrial park area is to the northwest of the above described property.
2. North Elm Street is the only access in and out of the industrial area.
3. There are many trucks for commercial and industrial business which operate through this area of the City and the area in which the subject property is located; and there is an additional 26 acres of land being developed for industrial use in the same area of the City which will

increase truck traffic in the area.

4. The Southern Pacific Company railroad mainline and spur tracks is immediately adjacent to the subject property and there is already a substantial noise factor involved, making the property less desirable for either multifamily residential development (as part of it is now zoned) or expansion of general commercial use for which the balance of said property is now zoned.
5. There is very little foot traffic in this area.
6. There is very little property available in the City of Canby for businesses in a C-2 zone classification.
7. The proposals are compatible with the transportation and utility systems of the City of Canby.
8. The objections of one adjoining property owner were not supported by the facts and other objections which were made and considered at the Planning Commission Meetings/ Hearings were based solely on possible increased noise factors that might result from highway commercial uses if the zone were changed to C-2; now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: That the Interim Development Plan and map adopted by Ordinance No. 608 is hereby amended to designate all of the property described in the following Section 2 for development of highway commercial uses (or equivalent uses) as now defined by the City's Zoning Ordinance for C-2 (Highway Commercial) zones.

Section 2: The zone boundaries of the C-2 (Highway Commercial

zone) are now changed to include the following described property:

Tax Lots 5700 and 5800 in Section 33CC, Township 3 South, Range 1 East, of the Willamette Meridian, which are also described as Lots 1 to 4, inclusive, in Block 6, CANBY ADDITION, Clackamas County, Oregon;

but subject to the condition that said property shall not be used for a period of five (5) years from the effective date of this Ordinance for any of the following uses:

1. Automobile, motorcycle, or truck sales, service, repair, or storage.
2. Billboards.
3. Drive-in theaters or other drive-in commercial amusement enterprises.
4. Kennels.
5. Lumber yards.
6. Service stations.
7. Tire shops, including incidental tire recapping.
8. Retail fuel oil distribution business.

The foregoing conditions of this zone change were expressly approved by letter agreement to the City Council dated June 1, 1979, by the Sellers and Purchasers of said property.

Section 3: The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate changes in the City's Interim Development Plan and plan map, and on the City's zoning map, in accordance with the dictates of Sections 1 and 2 of this ordinance.

Submitted to the Council and read the first time at a regular meeting thereof on the 6th day of June, 1979; ordered posted for a

period of two (2) full calendar weeks as provided by the City Charter, and scheduled for second reading at a regular meeting of the City Council on the 5th day of July, 1979, commencing at the hour of 7:30 o'clock P.M. at the Council's Meeting Chambers next to the Canby City Hall.

Robt E. Rapp
Robt. E. Rapp, Mayor

ATTEST:

Harold A. Wyman
Harold A. Wyman, City Recorder

Enacted by the Canby City Council at a regular meeting thereof on the 5th day of July, 1979, by the following vote: YEAS 5.

NAYS 0.

Robt E. Rapp
Robt. E. Rapp, Mayor

ATTEST:

Harold A. Wyman
Harold A. Wyman, City Recorder