

ORDINANCE NO. 672

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF CANBY (Application of Rufus Kraxberger; County R-20 to City R-1 zone)

WHEREAS, an application was filed with the Canby City Recorder on August 15, 1979, by Rufus Kraxberger, contract buyer of the hereinafter described property for the purpose of changing the classification of the zone in which said property is located from Clackamas County zone R-20 (Residential 20,000 square foot lot minimum) to City R-1 (Single Family Residential) zone. The application fee as required by Section 33 of Ordinance No. 659 (the City's Zoning Ordinance) has been paid. The following is a description of the real property consisting of approximately 7.13 acres, located east of N. Locust Street and north of N.E. Territorial Road, in Canby, Clackamas County, Oregon, and described as:

Tax Lot 900, Section 28DC, T3S, R1E, in the City of Canby, Clackamas County, Oregon.

WHEREAS, the Canby City Planning Commission before taking final action on said application and the proposed amendment scheduled and held a public hearing on the matter as required by the City's Zoning Ordinance, and the purpose of said hearing was duly and regularly given by written notices mailed by City staff under direction of the City Recorder on August 31, 1979, to all owners of property within lines parallel to and 200 feet from the exterior boundaries of the property involved as required by Section 34(B) of the City's Zoning Ordinance No. 659 and also (though not required) by publication in the Canby Herald on September 5, 1979; and a record of the property owners to whom notices were mailed and the

newspaper's affidavit of publication are 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., September 12, 1979, heard and considered testimony regarding the proposed zone change and upon conclusion of the public hearing by motion duly made, seconded and unanimously passed, recommended to the Canby City Council that the proposed zone change be approved; and

WHEREAS, the Canby City Council considered the matter and the recommendations of the Planning Commission at a public meeting/hearing which was duly and legally called and held on October 17, 1979, after proper notice thereof was first given in the manner and for the time required by Section 34(B) of said Zoning Ordinance; and said notice of said hearing before the Canby City Council was also published in the Canby Herald on October 10, 1979, and mailed to the adjoining property owners on October 5, 1979. Proofs of said notice are on file in the office of the Canby City Recorder in the Canby City Hall and are 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 zone change at said meeting/hearing but there were no opponents and after further consideration of the matter and due deliberation on the report and recommendations of the City Planning Commission as presented by the City Planner, the Canby City Council by motion duly made, seconded and unanimously carried, accepted the FINDINGS of the Planning Commission at its

meeting on September 12, 1979, as the FINDINGS of the City Council; and determined that the requested zone change be approved for the following reasons:

- (A) There is a public need for the change in order to allow the property to be developed to conventional City single family development standards;
- (B) The public need is best met through this particular change;
- (C) The change conforms with the City's Interim General Plan;
- (D) The change complies with the applicable Statewide Planning Goals (Goal #3 no longer being applicable because of the annexation); and
- (E) The zone change is necessary so the property will conform with city zoning.

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

- (a) Zoning Ordinance No. 659 contemplates zoning amendments.
- (b) The intent of Zoning Ordinance No. 659 is to fully utilize property to its highest and best use.
- (c) The City's interim general plan and interim general plan map adopted by Ordinance No. 608 and enacted November 1, 1976, designates the above described area for low density residential development. The proposed zone change is in complete conformity with and will effectively implement the development plan and map since the use in an R-1 zone creates the lowest possible density requirements for a City residential zone.
- (d) The proposal is compatible with the transportation and utility systems of the City of Canby.
- (e) Although the soil is class 1, an exception to goal 3 (agricultural lands) was taken when the property was included within the City's immediate urban growth boundary; and now that the property has been annexed to the City of Canby, no further consideration of this goal is required.

- (f) The subject property was zoned by Clackamas County prior to the City's annexation for single family residential development (R-20) and when annexed to the City of Canby by final order of the Portland Metropolitan Area Local Government Boundary Commission No. 1433, dated June 28, 1979, retained by law the same zone classification until changed by the City.
- (g) There is a public need as shown in not only the testimony and submittals to the Canby City Planning Commission and Canby City Council, but also in the evidence presented to the PMALGBC during its public hearing for annexation on June 28, 1979.
- (h) The current County zone classification is comparable to the proposed and recommended City zone change for this property; and since the property is and has been for a considerable time designated and planned for single family residential development, the proposed zone change is basically a "housekeeping" measure to provide conformity with the designated land use for the area and the City's Zoning Ordinance;

Now, therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: The zone boundaries of the R-1 (Single Family Residential) district shall now include the hereinabove described property and upon the passage of this ordinance, said property shall thereupon be classified as R-1 (Single Family Residential) and not as a County R-20 (Residential 20,000 square foot lot minimum) 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 accordance with the dictates of Section 1 of this Ordinance.

Section 3: No building or other use permits shall be issued for any development of or construction on the hereinabove described property and no municipal services shall be provided by the City of

Canby until the annexation fee for said property and accrued interest thereon has been paid in full as required by Ordinance No. 579 as amended by Ordinance No. 616, enacted February 2, 1977, and which said annexation fee was determined as to amount by Council Resolution No. CCLXXII (272) adopted August 29, 1979.

Submitted to the Council and read the first time at a regular meeting of the Council on the 16th day of April, 1980; 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 7th day of May, 1980, commencing at the hour of 7:30 o'clock P.M. at the Council's regular meeting place in the Council Chambers next to the Canby City Hall.

Harold A. Wyman
Harold A. Wyman, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on the 7th day of May, 1980, by the following vote: YEAS 6 NAYS 0

Robt. E. Rapp
Robt. E. Rapp, Mayor

ATTEST:

Harold A. Wyman
Harold A. Wyman, City Recorder