

ORDINANCE NO. 694

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF CANBY (APPLICATION OF CITY OF CANBY RE: MARVIN L. & MARY LOU DACK PROPERTY; R-2 (MEDIUM DENSITY RESIDENTIAL) TO R-2/PUD (MEDIUM DENSITY RESIDENTIAL/PLANNED UNIT DEVELOPMENT) ZONE).

WHEREAS, an application was filed with the Canby City Recorder on November 20, 1980, by the City Council for the purpose of changing the classification of the zone in which the following described property is located from an R-2 (Medium Density Residential) to an R-2/PUD (Medium Density Residential/Planned Unit Development) zone. No application fee is required pursuant to Section 33 of Ordinance No. 659 (the City's Zoning Ordinance). Following is a description of the real property located in the City of Canby, County of Clackamas, State of Oregon, to-wit:

Tax Lots 800, 900, 1000, and 1001 in Section 4C and Tax Lot 1000 in Section 4B in Township 4 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon; and

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 notice, as required by Section 34(A) of the City's Zoning Ordinance No. 659, by publication in the Canby Herald on November 26 and December 3, 1980; and the newspaper's affidavit of publication 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., December 10, 1980, 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 recommendation of the Planning Commission at a public meeting/hearing which was duly and legally

called and held on January 21, 1981, after proper notice thereof was first given in the manner and for the time required in Section 34(A) of said Zoning Ordinance; and said notice of said hearing before the Canby City Council was published in the Canby Herald on January 7, and January 14, 1981. 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, no objections and no remonstrances. After due deliberation and consideration of 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 December 10, 1980, as the FINDINGS of the City Council, and determined that the requested zone change should be approved for the following reasons:

- 1) It conforms with the adopted City Plan.
- 2) There is a public need.
- 3) The change will serve the public need better than a similar change for other available property.
- 4) The health, safety and general welfare of the residents of the area will be preserved and protected.
- 5) There is compliance with the Statewide Planning Goals.

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

- A) Section 8 of the City Zoning Ordinance (No. 659, as amended) includes the following statement:

"The Planned Unit Development Overlay Zone is intended to be applied only to those specific properties which, because of unique characteristics, such as size, shape and location of the parcel are most suitable for development as Planned Unit Developments."

Given the history of past development in the vicinity of the subject property and the nature of development proposed for the site, it is apparent that the use of the PUD Overlay zone meets the intent of the ordinance quoted above. The record clearly indicates that it was the intent of the Planning Commission to require that the site be developed to PUD standards at the time the zoning of the site was changed from R-1 to R-2 in 1978.

B) Conformance with the adopted City Plan and the plans of other agencies:

The adopted City Plan (Ordinance No. 608, enacted in November 1976) includes a Land Use Map which designates the subject property for "Medium density" residential development. R-2/PUD zoning conforms with this designation. Implementation measure L-2 of the Plan encourages the use of planned unit developments to assure appropriate design of new residential areas. Implementation measure N-23 also encourages PUD type developments. The adopted City Plan contains no language which would indicate anything other than support for the use of R-2/PUD zoning for the subject property.

C) Public need for the zone change:

Public need for the proposed change is supported by the location of the site. Being adjacent to a public high school, an area of industrial zoning, a developed residential neighborhood of single family dwellings, and a steeply sloping embankment leading to a flood plain, the design of the development which ultimately occurs is critical. The PUD Overlay zone is the only tool available to the City for a design review of a site such as this.

D) Whether the change will serve the public need better than a similar change for other available property:

The unique characteristics of the subject property, including the fact that it is the only site in the neighborhood which is zoned for multiple family residential development, warrant the PUD Overlay designation of the site. There are no comparable properties in the area which might be more appropriately rezoned instead of this site.

E) Preservation and protection of the health, safety, and general welfare of the residents of the area:

The PUD Overlay system provides the City with a procedure for reviewing the design of any development proposed at the site. Such a review will ensure that the preservation and protection of the health, safety, and general welfare of the residents of the area are given adequate consideration. No such review is possible without the adoption of this overlay zoning.

F) Compliance with the Statewide Planning Goals:

Most of the Statewide Planning Goals are not applicable to the

proposed change of zoning from R-2 to R-2/PUD. Goals 1 and 2 are addressed through standard City processes. Goals 3 and 4 are not applicable because the property has been, and will continue to be zoned for urban development. Goals 5, 6, and 7 are addressed in a positive manner by this proposal because open space and aesthetic qualities will be preserved through a planned unit development of the site and any hazards associated with steep slopes can be mitigated. Goal 8 is addressed in a positive manner because any planned unit development proposed for the site can be expected to provide some on-site recreation facilities, thereby reducing the demand for public recreation facilities. Goal 9 is not applicable because this zone change is not expected to result in any particular economic impacts. Goals 10, 11, 12 and 13 are addressed in a positive manner because the PUD review process will provide an opportunity for consideration of the impacts of any proposed design on housing, public facilities and service, transportation, and energy conservation. Goal 14 is not applicable. A finding of "compliance with the Statewide Planning Goals" is both reasonable and appropriate for this zone change.

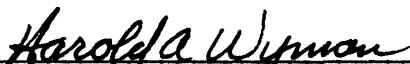
Now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: The zone boundaries of the R-2/PUD (Medium Density Residential/Planned Unit Development) district shall now include the hereinabove described property and upon the passage of this ordinance said property shall thereupon be classified as R-2/PUD (Medium Density Residential/Planned Unit Development) and not as R-2 (Medium 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 accordance with the dictates of Section 1 of this Ordinance.

Submitted to the council and read the first time at a regular meeting of the council on the 21st day of January, 1981; ordered posted for a period of two full calendar weeks as provided by the City Charter and scheduled for second reading at a meeting of the City Council on the 18 day of February, 1981, 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, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on the
18th day of February, 1981, by the following vote: YEAS 5 NAYS 0


Robert A. Swayze, Mayor

ATTEST:


Harold A. Wyman, City Recorder