

ORDINANCE NO. 697

AN ORDINANCE AMENDING THE ZONE MAP OF THE CITY OF CANBY (APPLICATION OF JUHR & SONS RE: JACK & KENNETH FISHER PROPERTY; R-1 (LOW DENSITY RESIDENTIAL) to R-2/PUD (MEDIUM DENSITY RESIDENTIAL/PLANNED UNIT DEVELOPMENT)

WHEREAS, an application was filed with the Canby City Recorder on January 14, 1981, by Canby West Apartments, Oreg. Ltd. for the purpose of changing the classification of the zone in which the following described property is located from R-1 (Low Density Residential) to an R-2/PUD (Medium Density Residential/Planned Unit Development) zone. The application fee was paid 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:

BEGINNING AT 2" Iron pipe which is west 792.40 feet and south 404.2979 feet from a stone marking the northwest corner of the Philander Lee D.L.C. in section 33, T. 3 S., R. 1 E., of the W. M., hereinafter known as the true point of beginning; thence 0° 21' 30" E. 516.25 feet; thence S 79° 42' E, 35.47 feet; thence S. 7° 19' 23" W, 41.23 feet; thence S. 0° 21' 30" W, 131.81 feet; thence S. 89° 27' 44" E, 349.50 feet; thence S. 2° 28' 28" W, 148.03 feet; thence S. 62° 21' 00" W, 423.58 feet; thence N. 0° 21' 30" E, 9.55 feet; back to the true point of beginning at tract containing 2.26 acres.

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 of the City's Zoning Ordinance No. 659. Furthermore, notice

was published in the Canby Herald on February 4, 1981; 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., February 11, 1981, 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 March 4, 1981, after proper notice thereof was first given in the manner and for the time required in Section 34 of said Zoning Ordinance; and said notice of said hearing before the Canby City Council was published in the Canby Herald on February 25, 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 February 11, 1981, 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."

A proposed rezoning would allow for the logical extension of the existing senior citizens housing project and has long been planned for multiple family housing. By utilizing PUD overlay system, it can be assured that the design of this project will be compatible with the first phase of the development in the surrounding properties.

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

Both the interim general plan and the proposed comprehensive plan had designated this property for multiple

family residential development on their respective land use maps. The PUD Overlay zoning will give developers more flexibility in their design while also giving the Planning Commission more design review authority. Implementation measure L-2 of the adopted City plan (Ordinance No. 608, enacted in November of 1976) encourages the use of planned unit development to assure appropriate design of new residential area. Implementation Measure N-23 also encourages PUD type development.

C) Public need for the zone change:

Public need for the proposed change is supported by the location of the site. It is a logical extension of a present housing development. There is a need for housing of this type for the elderly. There is a waiting list for tenants trying to find housing in the present development.

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

The zone change will allow a logical extension of the present development. There are no other 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-1 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. Goal 8 is addressed in a positive manner because any planned unit development proposed for the site can be expected to provide some recreational 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. Goal 10 (housing) is met because it will provide needed affordable housing for the elderly. Goal 11 (public facilities and services) is met because utilities are readily available to service the property. Goals 12 and 13 (transportation and energy conservation) are met because the zone change is near a proposed arterial, Knights Bridge Rd., and because it is a project for the elderly it is expected to conserve gasoline and transportation costs because the rezoned property is within walking distance of the downtown City commercial zones. A finding of "compliance with the State-wide 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-1 (Low Density Residential) zone.

Section 2: The zone change authorized by Section 1 of this ordinance is subject to the following conditions which the applicant, Canby West Apartments, Oreg. Ltd. agrees is a condition which shall run with the land and is binding upon itself, and its heirs, successors, personal representatives and assigns, to-wit:

- 1) The zone change is to remain valid for a period of one year from the effective date of this

ordinance within which the applicant must apply, and receive approval, for the complete planned unit development. If such Planning Commission approval is not received within the one year period from the effective date of this ordinance, the zoning shall automatically revert to R-1 (Low Density Residential) without the necessity of any special action by the Planning Commission or City Council.

Section 3: A certified copy of this Ordinance when enacted shall be filed by the Canby City Recorder in Clackamas County deed records.

Section 4: If the zoning of the property described herein reverts to an R-1 zone as provided in Section 2 of this Ordinance Canby City Council shall authorize at that time an appropriate statement of that fact to be filed in Clackamas County deed records and a copy of such notice to be mailed or delivered to the owner(s) of said property.

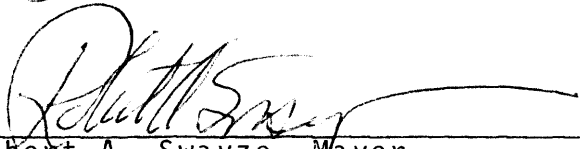
Section 5: The Mayor, attested by the City Recorder is hereby authorized and directed to make the appropriate changes on the City's zoning map in accordance with the dictates of Section 1 of this Ordinance.

Submitted to the Council and read the first time at a regular meeting of the council on the 1st day of April, 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 6th day of May, 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.



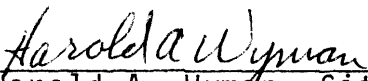
Harold A. Wyman, City Recorder

ENACTED by the Canby City Council at a Regular meeting
thereof on the 6th day of May, 1981, by the following
vote: YEAS 6. NAYS 0



Robert A. Swayze, Mayor

ATTEST:



Harold A. Wyma, City Recorder