

ORDINANCE NO. 801

AN ORDINANCE VACATING A PORTION OF SOUTH BIRCH STREET
BETWEEN HIGHWAY 99 E AND SOUTHWEST SECOND AVENUE

WHEREAS, South Birch Street is a dedicated public street;
and

WHEREAS, the Canby Planning Commission conducted a public hearing on December 8, 1986, to consider the application of Betty Schroeder and Marilyn Hahn for the partition of property described as Tax Lot 6100, 3-1E-33CC; and

WHEREAS, in the course of investigating the Schroeder-Hahn application, City staff determined that a commercial building on the subject property actually encroaches approximately seven feet into the adjoining street right-of-way; and

WHEREAS, City staff determined that it would be in the best interests of both the City and the owners of property adjoining South Birch Street to eventually vacate ten feet of right-of-way along each side of the street, thereby reducing the right-of-way width from eighty (80) to sixty (60) feet; and

WHEREAS, the Planning Commission made its approval of the Schroeder-Hahn partition contingent upon the approval of this vacation by the City Council; and

WHEREAS, the City Council voted to initiate this vacation on its own motion at a meeting held December 17, 1986; and

WHEREAS, the proper notice of public hearing was published four consecutive times in the Canby Herald Newspaper and notices were also posted on the subject property for 28 days; and

WHEREAS, a public hearing was conducted by the City Council on February 4, 1987, at which time all interested citizens were encouraged to appear and present testimony on the proposed street vacation; and

WHEREAS, after conducting the public hearing as scheduled, the City Council found:

- 1) That the eighty (80) foot right-of-way width of this portion of South Birch Street exceeds the needs of the City for a roadway to serve this area; and
- 2) That the approval of this street vacation will provide the dual benefits of allowing space for the construction of a sidewalk in an area with considerable pedestrian traffic

and eliminating the encroachment of a privately owned building into a street right-of-way; and

3) That the public interest will not be prejudiced by the proposed vacation; and

4) That the vacation will not substantially affect the value or appropriate development of adjoining properties and, hence, no damages are payable; and

5) That proper notice of the public hearing was given as required in ORS 271.

NOW THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. A portion of the street right-of-way of the street known as South Birch Street in Canby, Oregon, shall be vacated and said vacation shall be effective on the adoption of this Ordinance thirty days after second and final reading or provided by the Canby City Charter. Said portion of street right-of-way is described as follows, to wit:

The easterly ten (10) feet of South Birch Street, between State Highway 99 E and Southwest Second Avenue, located in Section 33CC, Township 3 South, Range 1 East of the Willamette Meridian in Canby, Clackamas County, Oregon. Said strip of land being apparently 164 feet in length.

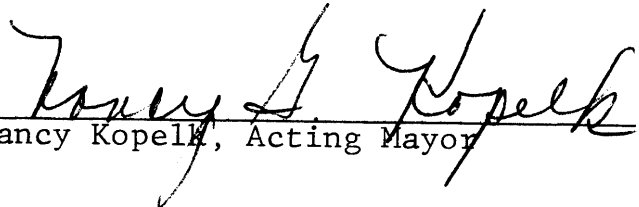
Section 2. The title to the street area vacated shall attach to the land bordering on the above described property as provided in ORS 271.140.

Section 3. Upon the final reading and enactment of this Ordinance the City Recorder shall prepare and file certified copies of this Ordinance with the Clackamas County Clerk, Assessor, and Surveyor as provided in ORS 271.150.

Passed by the Canby City Council on first reading at a Regular Meeting thereof, on Wednesday, April 15, 1987; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the City Charter and to come before the City Council for final reading and action at a Regular Meeting thereof on Wednesday, November 4, 1987, in the City Council Chamber of City Hall.


Marilyn K. Perkett, City Recorder

PASSED on final reading at a Regular Meeting of the Canby City Council this 4th day of November, 1987, by the following vote:
YEAS 6 NAYS 0


Nancy Kopelk, Acting Mayor

ATTEST:


Marilyn K. Perkett, City Recorder