

ORDINANCE NO. 813

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY,
COUNTY OF CLACKAMAS, OREGON; AND DECLARING AN EMERGENCY.

PURPOSE - To amend the zoning map for the purpose of recording an approved application by Herman Hellhake to change from R-1, Low Density Residential, to C-2, Highway Commercial, the zoning of a portion of Tax Lot 800, Section 33DA, T3S, R1E.

WHEREAS, an application was filed with the City Planner on January 21, 1988, by Herman Hellhake on the hereinafter described property, for the purpose of changing the zoning classification from R-1, Low Density Residential, to C-2, Highway Commercial. The required application fee was paid. The property consists of approximately 4.15 acres and is described as Tax Lot 800, S33DA, T3S, R1E, of the Willamette Meridian, Clackamas County, Oregon; and

WHEREAS, the Planning Commission scheduled and held a public hearing on this zone change on February 9, 1988. Notice of the time, place and purpose of said hearing was duly given by written notices mailed by the Planning Commission Secretary to all owners of property within lines parallel to and 200 feet from the exterior boundaries of the property involved as required by the Canby Municipal Code. Also, notice of said hearing was made by publication in the Canby Herald on February 3, 1988. A record of the property owners to whom notices were mailed and the newspaper's affidavit of publication of the notice are on file in the records and file of this zone change matter in the City's Public Works Department; and

WHEREAS, the Canby Planning Commission heard and considered public testimony regarding the proposed zone change at the public hearing of February 8, 1988. Upon conclusion of the public hearing, by motion duly made and seconded and carried by a vote of five (5) to zero (0), the Commission recommended approval of the

zone change subject to two conditions; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting held on February 17, 1988, and thoroughly reviewed the record and heard testimony on the record pursuant to the Canby Municipal Code; and

WHEREAS, the Canby City Council voted that the record of the Planning Commission included consideration of rezoning only the northern frontage of the site and after concluding its discussion on this matter and by motion duly made and seconded, voted six (6) to zero (0) to accept the Planning Commission's recommendation subject to modification; and

WHEREAS, the City Council in its motion accepted the findings and conclusions of the Planning Commission, contained in the minutes of the Commission. The findings and conclusions of the City Council are attached hereto as Exhibit "A" to this Ordinance.

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The boundaries of the C-2, Highway Commercial Zone, shall include the northerly ninety (90) feet of the subject property which, upon passage of this Ordinance shall be classified C-2, rather than R-1, Low Density Residential.

Section 2. The zone change as authorized above was made subject to the following conditions which apply only to that portion of the subject property for which the zoning is being changed:

A. The dedication of twenty (20) feet of property along the S. Pine Street frontage for future street widening and utility purposes. Improvements to S. Pine Street shall be constructed at the time of substantial development or redevelopment of the property.

B. A properly signed waiver of the right to remonstrate against future street, sidewalk, or utility improvements is to be recorded for S. Pine Street. The wording for both the dedication and waiver of the right to remonstrate are to meet the requirements of the City Attorney.


Section 3. The Mayor, attested by 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 4. In order to develop the above described parcel immediately, to better promote the safety, health, and welfare of the citizens of Canby, an emergency is hereby declared to exist and this Ordinance shall take effect immediately upon final reading and passage by the Canby City Council.

SUBMITTED to the Council and read the first time at a regular meeting thereof on the 2nd day of March, 1988; ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on the 16th day of March, 1988, commencing after the hour of 7:30 o'clock p.m., at the Council's regular meeting chambers at the Canby City Hall, in Canby, Oregon.


Marilyn K. Perkett, City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 16th day of March, 1988; by the following vote: YEAS 6 NAYS


William F. Pulver, Mayor

ATTEST:

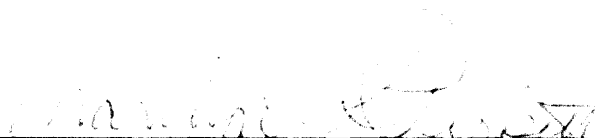

Marilyn K. Perkett, City Recorder

EXHIBIT "A"

Based upon the record of the public hearing of the Planning Commission held February 8, 1988, and the arguments on that record heard by the City Council on February 17, 1988, the Canby City Council hereby adopts the following:

CONCLUSIONS AND FINDINGS OF FACT

Proposed zone change from R-1 to C-2, Tax Lot 800, Section 33DA, T3S, R1E.

1. This application was filed by the property owner, Mr. Herman Hellhake, on January 21, 1988.
2. A Public Hearing on this matter was conducted by the Planning Commission on February 8, 1988, after public notices were properly posted as required by law.
3. The City Council conducted its review of the Planning Commission record and heard arguments on that record at a public meeting on February 17, 1988. Based upon that review the City Council voted to accept the findings of the Planning Commission subject to a modification that would limit the area of the zone change to the northernmost ninety (90) feet of the subject property.
4. Evidence submitted to the Planning Commission and City Council indicated that all necessary public facilities and services are available, or would be made available as a result of conditions imposed on the zone change to serve this site.
5. This change conforms with the requirements of the Comprehensive Plan as specifically addressed in the following:
 - A. Policy #5 of the Land Use Element The Land Use Map designates this site for Highway Commercial development.
 - B. Policy # 6 of the Land Use Element The map of "Areas of Special Concern" includes this site and makes special note of the importance of S. Pine Street adjoining it. The conditions of approval for the zone change will help to assure conformance with this Plan requirement.
 - C. Policy # 2 of the Transportation Element lists S. Pine Street among the most important streets for improvement as the City grows.

- D. Policy # 1 of the Public Facilities & Services Element requires the City to limit development to those locations where facilities and services are adequate. This condition of approval for this zone change will help to assure this.

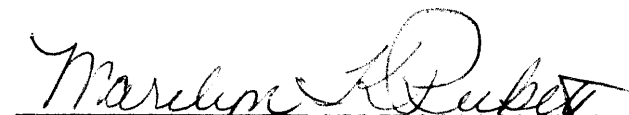
CONCLUSION:

This application meets the required criteria for a zone change delineated in Section 16.54.040 of the Canby Municipal Code.

March 2, 1988



William F. Pulver, Mayor



Marilyn K. Perkett, City Recorder