

ORDINANCE NO. 814

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

PURPOSE: To amend the zoning map for the purpose of recording an approved application by W.L. and O.F. Brown to change from R-1, Low Density Residential, to R-2, Medium Density Residential, the zoning of Tax Lots 1400 and 1500, Section 28DC, T3S, R1E.

WHEREAS, an application was filed with the City Planner on January 4, 1988, by W.L. and O.F. Brown for the property described above. Said property consists of approximately 1.75 acres and is located at the southwest corner of N. Maple Street and N.E. Territorial Road; and

WHEREAS, neighboring property owners Raymond Brown (Tax Lot 1401) and William and Maxine Garmire (Tax Lot 1300) joined with W.L. and O.F. Brown in seeking a zone change for their contiguous properties; and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on February 8, 1988, and continued to February 22, 1988, after public notices were mailed and posted as required by law; and

WHEREAS, a notice of the Planning Commission 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, and February 22, 1988. At the conclusion of the public testimony the Planning Commission decided to consider the requests of Raymond Brown and the Garmires separately from the request of W.L. and O.F. Brown. Raymond Brown withdrew his application. Upon conclusion of the public

hearing, by motion duly made and seconded and carried by a vote of four (4) to two (2), the Commission recommended approval of the zone change subject to three (3) conditions; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting held on March 16, 1988, and thoroughly reviewed the record and heard testimony on the record pursuant to the Canby Municipal Code; and

WHEREAS, the Canby City Council, after concluding its review and discussion on this matter and by motion duly made and seconded, voted four (4) to two (2), to accept the Planning Commission's recommendation; and

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

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

Section 1. The Boundaries of the R-2, Medium Density Residential Zone, shall include the subject property, which is hereby removed from the boundaries of the R-1, Low Density Residential Zone.

Section 2. The zone change as authorized above was made subject to the following conditions:

A. The dedication of ten (10) feet of property along N.E. Territorial Road for future street widening and utility purposes.

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

C. At the time of further development of each of these Tax Lots, curbs and sidewalks to City standards are to be constructed along the street frontage for that Tax Lot.

Section 3. 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 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 16th 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 6th day of April, 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 6th day of April, 1988, by the following vote: YEAS 4 NAYS 2

  
William F. Pulver, Mayor

ATTEST:

  
Marilyn K. Perkett, City Recorder

## EXHIBIT "A"

### FINDINGS OF FACT AND CONCLUSIONS

Based upon the record of the Canby Planning Commission established at public hearings held February 8 and February 22, 1988, the Planning Commission hereby adopts the following findings of fact and conclusions:

PROPOSED ZONE CHANGE FROM R-1 TO R-2, TAX LOTS 1400 AND 1500, SECTION 28DC, T3S, R1E.

1. This application was filed by property owners W.L. and O.F. Brown, acting through their agent, Janice Weeks, on January 4, 1988.
2. Neighboring property owners Raymond Brown (Tax Lot 1401) and William and Maxine Garmin (Tax Lot 1300) joined with W.L. and O.F. Brown in seeking a zone change for their contiguous properties. After consideration of the public testimony the Planning Commission chose to separate the three different ownerships for final consideration.
3. A public hearing was conducted by the Canby Planning Commission on February 8, 1988, and continued to February 22, 1988, after public notices were mailed and posted as required by law.
4. The Planning Commission considered the following standards and criteria, as required by Section 16.54.040 of the Canby Municipal Code:

"In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider:

- A. The Comprehensive Plan of the City, giving special attention to Policy 6 of the Land Use Element and implementation measures therefor, and the plans and policies of the county, state, and local districts in order to preserve functions and local aspects of land conservation and development; and
- B. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation."

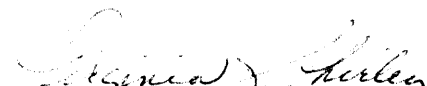
5. In reviewing the contents of the Comprehensive Plan, and the availability of public facilities and services, the majority of the Planning Commission determined the following:
  - A. POLICY # 1, IMPLEMENTATION MEASURE 'H' OF THE LAND USE ELEMENT. The land use map of the City's Comprehensive Plan clearly designates the subject property for high density residential development. The Commission found that this zone change conforms with that designation and will allow for an increase in the density of development without creating an incompatible grouping of uses.
  - B. POLICY # 2, IMPLEMENTATION MEASURE 'A' OF THE LAND USE ELEMENT. The Commission determined that this zone change will help to implement Housing Element policies designed to expand housing opportunities.
  - C. POLICY # 5, IMPLEMENTATION MEASURE 'B' OF THE LAND USE ELEMENT. The Commission determined that the Land Use Map of the Comprehensive Plan designates the subject property for high density residential development and that the proposed R-2 zoning conforms with this designation.
  - D. POLICY # 6, OF THE LAND USE ELEMENT. The Commission verified that the subject property is designated as an "area of special concern" and is listed as "area N" on the map of such areas. The conditions of approval requiring street dedications, curb and sidewalk improvements, and a waiver of the right to remonstrate against future local improvement district formation, address the concerns raised in the special designation for this area.
  - E. POLICY # 1, IMPLEMENTATION MEASURE 'A' OF THE TRANSPORTATION ELEMENT. The Commission noted that both N. Maple Street and N.E. Territorial Road are included on the list of streets needing major upgrading and improvement in the Comprehensive Plan. It was also noted that both streets appear on the priority list for improvements contained in the City's draft Capital Improvement Plan.
  - F. POLICY # 4, IMPLEMENTATION MEASURE 'D' OF THE TRANSPORTATION ELEMENT. The Commission recommended that the zone change be contingent upon sidewalk improvements tied into the development of the site.
  - G. POLICY # 2, OF THE HOUSING ELEMENT. The Commission noted the need for higher density housing and more rental units. The Comprehensive Plan anticipates the conversion of considerable acreage in this way at numerous locations in the City.

- H. POLICY # 3, IMPLEMENTATION MEASURES 'A', 'B'. AND 'C' OF THE HOUSING ELEMENT. The Commission determined that, with the recommended conditions imposed, the necessary public facilities and services will exist for the density of development allowed at the site. The Commission noted that, although street improvements are clearly needed in the area, the overall adequacy of services and facilities at this location are approximately equal to the adequacy of services and facilities at other locations throughout the City. The Commission noted that the maximum build-out for Tax Lots 1400 and 1500 under the R-2 designation would be approximately seventeen (17) more residential units than the maximum build-out with R-1 zoning. This increase in density is not expected to have a significant impact on public facilities and services.
- I. POLICY # 4, OF THE HOUSING ELEMENT. The Commission determined that this zone change will allow for the construction of housing units that may be priced within the affordable range for lower or moderate income persons.

**CONCLUSION**

This application meets the criteria for a zone change delineated in Section 16.54.040 of the Canby Municipal Code, if the recommended conditions of approval are imposed.

February 8 and 22, 1988

  
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Virginia Shirley  
Planning Commission Secretary

  
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Fred Kahut  
Planning Commission Chairman