

ORDINANCE NO. 817

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 David Anderson, acting as agent for Joseph and Shirley Regan, to change from R-1, Low Density Residential, to R-1.5, Intermediate Density Residential, a portion of Tax Lot 600, Section 4A, T4S, R1E.

WHEREAS, an application was filed with the City Planner on February 22, 1988, by David Anderson, requesting the rezoning of the entirety of Tax Lots 600 and 700, Section 4A, T4S, R1E, consisting of approximately 40 acres; and

WHEREAS, the subject property consists of primarily undeveloped ground with only one existing dwelling unit and appurtenances; and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on March 14, 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 newspaper on March 9, 1988. The newspaper's affidavit of publication of the notice is on file in the records and file of this zone change matter in the City's Public Works Department; and

WHEREAS, the Planning Commission also considered and tentatively approved a residential subdivision on the most northerly 8.5 acres of this property. Said subdivision approval was made contingent upon the enactment of this zone change by the City Council; and

WHEREAS, the Canby Planning Commission heard and considered public testimony regarding the proposed zone change at the public hearing of March 14, 1988. At the conclusion of the public testimony the Planning Commission voted to recommend that the City Council rezone only the most northerly 8.5 acres of the site, to coincide with the area of the first phase of the proposed subdivision development; and

WHEREAS, the Planning Commission voted five (5) to zero (0), with one abstention, to recommend that the City Council approve this zone change of the 8.5 acre area, subject to three conditions; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting held on April 6, 1988, and thoroughly reviewed the record and heard arguments 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, vote four to two, 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.1.5, Intermediate Density Residential Zone, shall include the subject property as designated in Exhibit "B" attached, 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 S.E. Township 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 S.E. Township Road. The wording for both the dedication and waiver of the right to remonstrate are to meet the requirements of the City Attorney.

C. Curbs and sidewalks to City standards are to be constructed along S.E. Township Road.

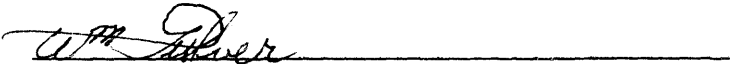
Section 3. The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate change on the City's zoning map in accordance with the dictates of Section 1 of this Ordinance.

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 6th day of April, 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 20th 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 20th day of April, 1988, by the following vote: YEAS 6 NAYS 0


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 the public hearing held March 14, 1988, the Planning Commission hereby adopts the following findings of fact and conclusions\.

PROPOSED ZONE CHANGE FROM R-1 TO R-1.5, TAX LOTS 600 AND 700, SECTION 4A, T4S, R1E.

1. This application was filed by David Anderson as agent for Joseph and Shirley Regan, who are listed on the application as contract purchasers from Amato Brothers Enterprises. This application and a concurrent application for a tentative subdivision plat approval were filed on February 22, 1988.

2. A public hearing on the requested zone change was conducted by the Planning Commission on March 14, 1988, after notices were mailed and posted as required by law. Copies of the notices and a list of property owners to whom those notices were mailed are on file in the City's Public Works Department.

3. The Planning Commission considered the zone change application in light of the following standards and criteria, as specified in 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."

4. In reviewing the contents of the City's Comprehensive Plan and considering the adequacy of available public facilities and services, the Planning Commission determined the following:

A. The Land Use Map of the Comprehensive Plan designates the subject property for high and medium density development. The proposed zoning of R-1.5 (Intermediate Density Residential) conforms with this designation.

B. The map of "areas of special concern" in the Comprehensive Plan designates the property for special consideration because of the need for street and sewer improvements in the area. The Commission determined that, based upon the information now available, the sewer line capacity is adequate to serve the northernmost 8.5 acres of the site and the proposed conditions of

approval will adequately assure that other needed public facilities and services will be provided concurrently with development.

C. Comprehensive Plan policies of both the Land Use and the Housing Element support an increase in residential densities. This zone change helps to accomplish such an increase by allowing smaller lots and more intense development than would be permitted under the existing base zone.

D. Both local school districts and the Northwest Natural Gas Company were notified about the proposed development. No written comments were returned by any of these organizations.

E. The Environmental Concerns Element of the Comprehensive Plan allows for the continuation of agricultural operations within the City's urban growth boundary. This zone change will not limit the owners' ability to farm the property.

F. Southeast Township Road and S. Ivy Street are both listed as streets needing improvement in the City's Draft Capital Improvement Plan. The Planning Commission accepted the staff's statement that further development of this site, beyond the initial 8.5 acres, should be precluded until a direct access is provided between the subject property and S. Ivy Street.

G. Curb and sidewalk improvements along S.E. Township Road are to be made conditions of the proposed zone change. A waiver of the right to remonstrate against the formation of a local improvement district for further street improvements is also proposed as a condition of approval.

H. A preliminary pre-construction conference was held with the developers and representatives of various service providing organizations on March 1, 1988. This enabled those organizations to finalize their recommendations to the Planning Commission.

I. Possible solar design and conservation measures have been discussed with the developers. It has been noted that the size, shape, topography and existing patterns of development in the area all support the use of solar designs.

CONCLUSION

This application meets the criteria for a zone change delineated in Section 16.54.040 of the Canby Municipal Code, provided that it is limited to the northernmost 8.5 acres and provided that the recommended conditions of approval are attached.


Virginia Shirley, Secretary


Fred Kahut, Chairman

"EXHIBIT B"



500 0.91 Ac. 339 357	63' 401 0.32 Ac. 375	72.25' 400 0.21 Ac. 385	86.42' 300 0.63 Ac. 385	91.00' 200 0.46 Ac. 415	182.84' 100 0.50 Ac. 431
-------------------------------	----------------------------------	----------------------------------	----------------------------------	----------------------------------	-----------------------------------

600
37.18 Ac.

8.5 ACRE
AREA
→

LOT

40.78'

P.S.
6095

86-02

700
4.72 Ac.

(70)
15.00 Ac.

NO. 170

3
CANCELLED TL'S
800
900
1000
500E1

SEE MAP 4 IE 3