

ORDINANCE NO. 827

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 Bill Bartlett, DeAnza Development, to change from R-1, Low Density Residential, to R-1.5, Intermediate Density Residential, the zoning of Tax Lots 700 and 1100, Section 4C, T4S, R1E.

WHEREAS, an application was filed with the City Planner on January 23, 1989, by Bill Bartlett, DeAnza Development, for Tax Lots 700 and 1100, Section 4C, T4S, R1E and owned by William T. Stevens; and

WHEREAS, the Stevens property consists of approximately 4.1 acres, which has one existing single family dwelling; and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on February 13, 1989, 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 8, 1989. 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 13, 1989. Upon conclusion of the public hearing, by motion duly made and seconded and carried by a unanimous vote of four (4) to zero (0), the commission recommended approval of the DeAnza zone change subject to two (2) conditions; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting held on March 1, 1989, 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 _____ to _____, 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, 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:


1. Access satisfactory to the Canby Planning Commission must be provided prior to subsequent development.
2. The cost of all facility utility improvements to the site are to be approved by the service provider and borne by the developer.

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 Canby City Council and read the first time at a regular meeting thereof on the 1st day of March, 1989, 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 15th day of March, 1989, 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 15th day of March, 1989, by
the following vote: YEAS 5 NAYS 0


Nancy G. Kopelk, Mayor

ATTEST:


Marilyn K. Perkett, City Recorder

EXHIBIT "A"

**FINDINGS OF FACT
AND
CONCLUSIONS**

Based upon the record established at a public hearing held February 13, 1989, the Planning Commission hereby adopts the following findings of fact and conclusions:

PROPOSED ZONE CHANGE FROM R-1 TO R-1.5, TAX LOTS 700 AND 1100, SECTION 4C, T4S, R1E.

1. This application was filed by Bill Bartlett, DeAnza Development on January 23, 1989.
2. A public hearing was conducted by the Canby Planning Commission on February 13, 1989, after public notices were mailed and posted as required by law.
3. 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 the development to adequately meet the needs of any use of development which would be permitted by the new zoning designation."

4. 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. Conformance with the Comprehensive Plan

The Medium Density Residential designation is described as follows on page 61 of the Plan.

"Generally distinguished by two family, three family or single family dwelling units and accessory units, mobile home subdivisions subject to special criteria and other uses of the sort permitted in areas designated for Low Density

Residential use. City R-1.5 zoning conforms with this category with R-1 an allowable, less intensive, interim zoning."

The proposed rezoning to R-1.5, therefore, conforms with the Medium Density Residential designation. In fact, as long as adequate utilities are available, the proposed zoning is more appropriate than the existing zoning because the Plan indicates that the R-1 zone is an interim district.

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 medium 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.

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.

POLICY #5, IMPLEMENTATION MEASURE 'A' OF THE LAND USE ELEMENT. The Commission determined that the Land Use Map of the Comprehensive Plan designates the subject property for medium density residential development and that the proposed R-1.5 zoning conforms with this designation.

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 the overall adequacy of services and facilities at this location approximately equal to the adequacy of services and facilities at other locations throughout the City. The anticipated increase in density is not expected to have a significant impact on public facilities and services.

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.

B. Availability of Public Services

The subject property is presently served with adequate levels of public services to support development under the proposed R-1.5 zoning district, as discussed below:

Transportation - Access to this parcel is limited. The only public access is off of the end of S.W. 13th Avenue which is not acceptable for anything but continued use as a single

residence. The applicant for this zone change is the owner of the adjacent Elmwood Mobile Home Park and must provide access through the existing mobile home park.

Sanitary Sewer - Sewer collection lines are presently located in the western end of S.W. 13th Avenue and in Elmwood Mobile Home Park which is owned by the applicant of this zone change request. The available capacities in the collection system are adequate to handle this site if developed at R-1.5 densities.

Water Service - There is a 14 inch line in S.W. 13th Avenue and a 10 inch line in S. Elm. Both have adequate pressure and volumes of water to provide water service for development of the site at R-1.5 densities.

Storm Sewer - Storm sewer will be provided with drywells at the time of development of the site.

Fire Protection - Preliminary discussions with Fire Marshal Jack Stark indicate that adequate fire protection services are available for development of the site at R-1.5 densities. Access is adequate, if the site is developed in accordance with City standards. Additional fire hydrants will probably need to be provided at the time of development.

Canby Utility Board - Preliminary discussions with the Canby Utility Board staff indicate that adequate electrical service can be provided to accommodate R-1.5 development.

Historical Note - This four acre parcel is part of an earlier conditionally approved zone change request. It was combined with the Dack property. The deal fell apart with Mr. Dack but Mr. Stevens wanted to continue. Since the previous request was for nearly 20 acres and this request is for four acres, the legal view is that the criteria has significantly changed and the considerations may change significantly, too.

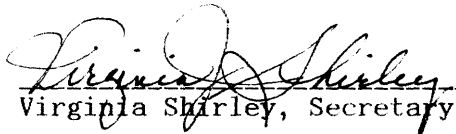
CONCLUSION

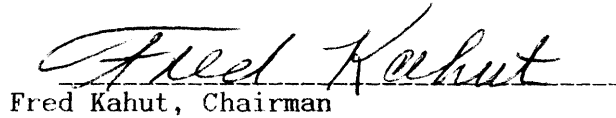
This application meets the criteria for a zone change delineated in Section 16.54.040 of the Canby Municipal Code. The recommended conditions of approval are attached.

1. Access satisfactory to the Canby Planning Commission must be provided prior to subsequent development.

2. The cost of all facility utility improvements to the site are to be approved by the service provider and borne by the developer.

DATED this 23rd of February, 1989


Virginia Shirley, Secretary


Fred Kahut, Chairman