

ORDINANCE NO. 833

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 Marv Dack, to change from R-1, Low Density Residential, to R-1.5, Intermediate Density Residential/P.U.D., Tax Lots 800, 900, 1000 and 1001, Section 4C, T4S, R1E and Tax Lot 1000, Section 4B, T4S, R1E.

WHEREAS, an application was filed with the City Planner on April 4, 1989, by Marv Dack, requesting the rezoning of the entirety of Tax Lots 800, 900, 1000 and 1001, Section 4C, T4S, R1E, and Tax Lot 1000, Section 4B, T4S, R1E, consisting of approximately 15.8 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 April 24, 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 newspaper on April 14, 1989. 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 Canby Planning Commission heard and considered public testimony regarding the proposed zone change at the public hearing of April 24, 1989. At the conclusion of the public testimony the Planning Commission voted to recommend that the City Council rezone the entire 15.8 acre parcel to R-1.5, Intermediate Density Residential/P.U.D.; and

WHEREAS, the Planning Commission voted four (4) to zero (0), to recommend that the City Council approve this zone change of the 15.8 acres area, subject to nine (9) conditions; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting

held on May 17, 1989, 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 5 to 0, 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 with P.U.D. Overlay, 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:

1. Utility easements are to be provided to the satisfaction of the Canby Utility Board, North Willamette Telecom, and the Canby Telephone Association.
2. A water line is to be looped through the development in the manner specified by the Canby Utility Board, hydrant locations to be as specified by the Fire Marshal.
3. Covenants and by-laws of the homeowner's association are to meet the requirements of the City Attorney to assure that private improvements within the development will not become the responsibility of the City for maintenance.
4. All recommendations of other agencies to be regarded as conditions of approval.
5. Curbs and sidewalks to City standards are to be constructed along S.W. 13th Avenue frontage.
6. An engineering study is to be completed for the area along the bluff, prior to the approval of any building permits for dwelling units. Slope stability and the possible impact of using drywells for storm drainage are to

be addressed.

7. The applicant is to provide the City with a dedication of property to allow for the extension of S.W. 13th Avenue. The form of the dedication is to meet the requirements of the City Attorney.

8. The applicant is to provide the City with a recorded waiver of the right to remonstrate against the formation of a Local Improvement District for the full improvement of S.W. 13th Avenue. The form of the waiver is to meet the requirements of the City Attorney (the City may require the immediate improvement of the road to City standards as a condition of approving any subsequent development of the site).

9. The cost of all facility or utility improvements to the site are to be borne by the developer.

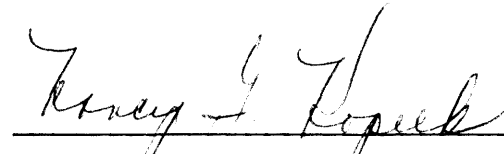
Section 3. The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate change on the City's zoning map in accordance with the dictates of Section 1 of this Ordinance.

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 17th day of May, 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 7th day of June, 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 7th day of June, 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 CONCLUSION

Based upon the record of the Canby Planning Commission established at the public hearing held April 24, 1989, the Planning Commission hereby adopts the following findings of fact and conclusions.

PROPOSED ZONE CHANGE FROM R-1, LOW RESIDENTIAL TO R-1.5, INTERMEDIATE DENSITY RESIDENTIAL/P.U.D., TAX LOTS 800, 900, 1000 AND 1001, SECTION 4C, T4S, R1E AND TAX LOT 1000, SECTION 4B, T4S, R1E.

1. This application was filed by Marv Dack who is listed on the application as the owner. The application and concurrent applications for a Minor Land Petition and Conditional use permit approval were filed on April 4, 1989.

2. A public hearing on the requested zone change was conducted by the Planning Commission on April 24, 1989, 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 the parcel is directly in the path of a major street extension. All upzoning will be conditioned on dedication.

C. Comprehensive Plan policies of both the Land Use and the Housing Elements support an increase in residential densities. This zone change helps to accomplish such an increase by allowing 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. Dedication of right-of-way for the extension of S.W. 13th Avenue is a condition of the Planning Commission recommendation.

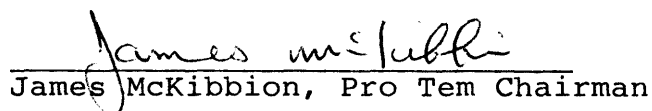
G. Curb and sidewalk improvements along S.W. 13th Avenue are to be made conditions of the proposed zone change. A waiver of the right to remonstrate against the formation of a Local Improvement District for further street improvements is also proposed as a condition of approval.

H. A preliminary pre-construction conference was held with the developers and representatives of various service providing organizations on May 3, 1989. This enabled those organizations to restate their recommendations to the applicant.

CONCLUSION:

This application meets the criteria for a zone change delineated in Section 16.54.040 of the Canby Municipal Code and as delineated in Section 2 of this Ordinance No. 834.


Virginia Shirley, Secretary


James McKibbion, Pro Tem Chairman

86-02

EXHIBIT 3

86-02

EXHIBIT "B"

