

ORDINANCE NO. 876

**AN ORDINANCE VACATING A PORTION OF THE
SOUTH ELM STREET EXTENSION RIGHT-OF-WAY**

WHEREAS, the City presently owns the rights-of-way for the South Elm Street Extension; and

WHEREAS, the South Elm Street extension right-of-way is not currently being used for public conveyance, and

WHEREAS, the Village on the Lochs, Ltd. has requested, in writing, that a portion of the right-of-way be vacated in order to assist with the construction of the access drive to the approved Village on the Lochs development; and

WHEREAS, the proper notice of public hearing was published four consecutive times in the Canby Herald newspaper, and notices were also posted on the subject property for 28 days; and

WHEREAS, a public hearing was conducted by the City Council on April 15, 1992, at which time all interested citizens were encouraged to appear and present testimony on the proposed right-of-way vacation; and

WHEREAS, after conducting the public hearing as scheduled, the City Council found:

1. That the consent of the owners of the requisite area, according to ORS 271, has been obtained; and
2. that the public interest will not be prejudiced by the proposed vacation in that the right-of-way is not currently serving the public and that by owning a portion of the right-of-way, the Village on the Lochs, Ltd. will be able to utilize the land for access purposes to the Village on the Lochs development; and
3. that the vacation will not substantially affect the value or appropriate development of adjoining property and, hence, no damages are payable, and
4. that proper notice of the public hearing was given, as required in ORS 271.

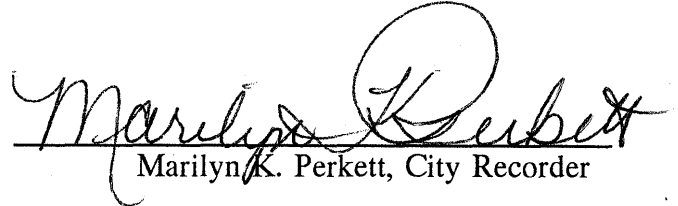
NOW THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The portion of the South Elm Street extension right-of-way bounded by properties owned by Rodney and Carol Beck, Dwayne and Nola Lingle, and DAC Income Realty Fund, shall be vacated and said vacation shall be effective on the adoption of this Ordinance, thirty (30) days after second and final reading, as provided in the City Charter. Said portion of right-of-way is shown on Attachment "A" as part of this Ordinance.

Section 2. The title to the vacated portion of right-of-way shall attach to the land bordering on the vacated portion of right-of-way described in this Ordinance and shown on Attachment "A" and provided in ORS 271.140.

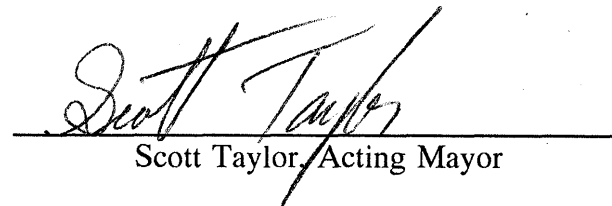
Section 3. Upon the final reading and enactment of this Ordinance, the City Recorder shall prepare and file certified copies of this Ordinance with the Clackamas County Clerk, Assessor, and Surveyor, as provided in ORS 271.150. The recording costs shall be borne by Village on the Lochs, Ltd.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 15, 1992, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, May 6, 1992, commencing at the hour of 7:30 p.m., in the Council Meeting Chambers at 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 May, 1992, by the following vote:

YEAS 6 NAYS 0


Scott Taylor, Acting Mayor

ATTEST:

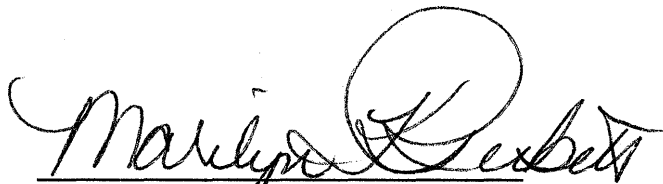

Marilyn K. Perkett
City Recorder

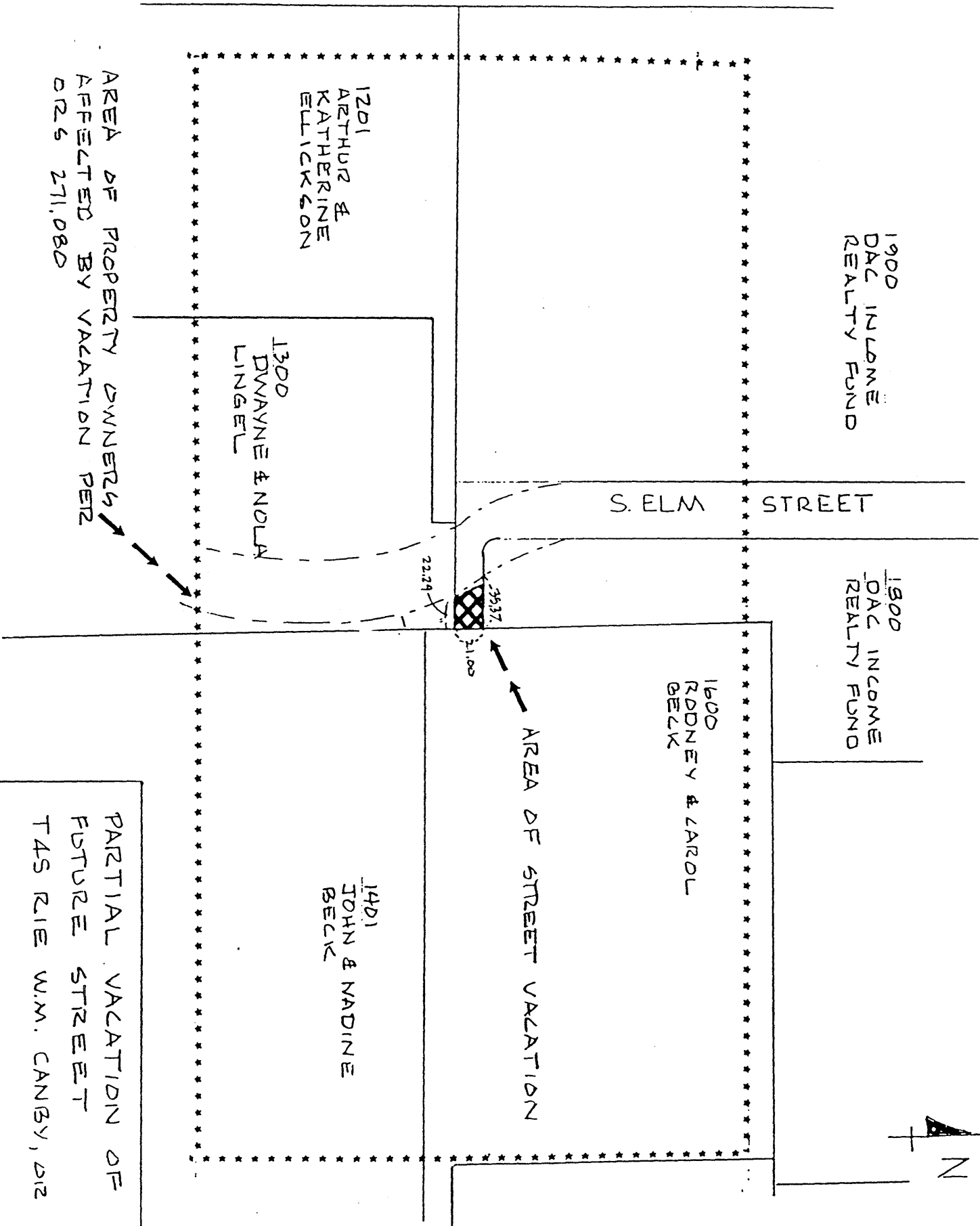
EXHIBIT "A"

A parcel of land being a part of the easterly extension of South Elm Street located in the Southwest one-quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, in the City of Canby, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

Beginning at the Northeast corner of that parcel of land conveyed to Dwayne L. Lingel and Nola A. Lingel and recorded August 25, 1976 by Fee No. 76-29481, Clackamas County Deed records; thence North $89^{\circ} 25' 57''$ West along the northerly line of said Lingel property a distance of 22.24 feet; thence northwesterly along a 15.00 foot radius, non-tangent curve to the right, through a central angle of $23^{\circ} 29' 41''$ an arc distance of 6.15 feet (the long chord of said curve bears North $38^{\circ} 32' 11''$ West a distance of 6.11 feet) to a point of reverse curve; thence along a 202.57 foot radius curve to the left, through a central angle of $05^{\circ} 18' 48''$ an arc distance of 18.78 feet (the long chord of said curve bears North $29^{\circ} 26' 44''$ West a distance of 18.78 feet) to a point on the northerly right-of-way line of the easterly extension of South Elm Street; thence South $89^{\circ} 25' 57''$ East along said northerly right-of-way line a distance of 35.37 feet to the end of said easterly extension; thence South $00^{\circ} 14' 30''$ West along the end of said easterly extension a distance of 21.00 feet to the point of beginning of the parcel of land herein described.

Said parcel of land contains an area of 613 square feet more or less.

ATTACHMENT "A"



AREA OF PROPERTY OWNERS
AFFECTED BY VACATION PER
ORD 271,080

1900
DAC INCOME
REALTY FUND

S. ELM STREET

1900
DAC INCOME
REALTY FUND

1600
RODNEY & CAROL
BECK

AREA OF STREET VACATION

1201
ARTHUR &
KATHERINE
ELLICKSON

1300
DWAYNE & NOLA
LINGEL

35.37
22.24
31.00

1401
JOHN & NADINE
BECK

PARTIAL VACATION OF
FUTURE STREET
TAS RIE W.M. CANBY, D12

SCALE 1"=100' 12-28-91

