

City of Canby

Planning and Building Department

Sent Via Email

Allen Manuel amanuel@canby.com

DATE: October 24, 2017

RE: Notice of Decision/Final Order for ZC 17-02/CUP 17-15/SUB 17-04 S Ivy Park Subivision

The Canby Planning Commission hereby provides notice that a decision to deny **ZC 17-02/CUP 17-15/SUB 17-04 S Ivy Park Subivision** has been rendered. The enclosed Findings, Conclusions and Final Order is your notice of the official action of the City of Canby Planning Commission.

According to Section 16.89.50 (I) of the Canby Municipal Code, this decision may be appealed to the City Council within ten (10) days of the date this notice was mailed. To do so, you must file an application for appeal with the Planning Director. If no appeal is taken within the specified period, and if no appeal is initiated by action of the City Council, the decision of the Planning Commission shall be final.

The application for appeal shall clearly state the nature of the decision being appealed and the reasons why the appellant is aggrieved. A \$1,920 fee must be enclosed with your appeal application.

If you have any further questions or concerns, please contact the Planning office at 503-266-7001.

Sincerely,

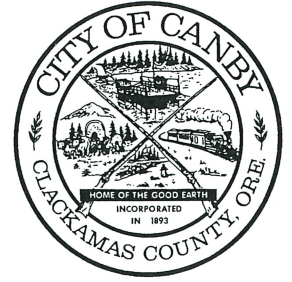
A handwritten signature in cursive script that reads "Bryan C. Brown".

Bryan C. Brown
Planning Director

Attachment: Signed Final Findings

CERTIFICATE OF MAILING

This Notice of Decision was postmarked and placed in the mail and/or emailed on October 24, 2017 and sent to all parties with standing.
Bryan Brown, Planning Director



**BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY**

**A REQUEST FOR A MAP AMENDMENT)
FROM LOW DENSITY RESIDENTIAL TO)
RESIDENTIAL-COMMERCIAL; A CONDITIONAL)
USE PERMIT AND SUBDIVISION)**

**FINDINGS, CONCLUSION & FINAL ORDER
ZC 17-02/CUP 17-05/SUB 17-04**

NATURE OF APPLICATION

The applicant is seeking a Map Amendment to change the zoning of three existing tax lots (41E04AB6300/07100/07200) totaling 1.31 acres located at 533, 553 & 583 S Ivy Street from low density residential zoning district (R-1) to the residential-commercial (C-R) zoning district; to receive approval of a Conditional Use Permit to allow the construction of two single-family dwelling structures having common wall construction (4-total units each on its own lot); and, the S Ivy Park 12 lot subdivision consisting of the four single-family common wall unit lots, 2 lots with existing homes to be retained, and 6 new single-family lots with a common private 20' wide driveway and utility easement to provide access to SW 6th Avenue.

HEARINGS

The Planning Commission held a public hearing and considered these applications at its meeting of October 9, 2017.

CRITERIA AND STANDARDS

Map Amendment

In judging whether or not the Zoning Map should be amended, the Planning Commission recommendation and City Council final decision shall consider Section 16.54.040 of the Canby Municipal Code which states the applicable review criteria when reviewing an amendment to the zoning map to be the following:

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 therefore, 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;
- 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.

(Section 16.54.060)

- A. In acting on an application for a zone change, the Planning Commission may recommend and the City Council may impose conditions to be met by the proponents of the change before the proposed change takes effect. Such conditions shall be limited to improvements or physical changes to the property which are directly related to the health, safety or general welfare of those in the area. Further, such conditions shall be limited to improvements which clearly relate to and benefit the area of the proposed zoned change.

- B. The city will not use the imposition of improvement conditions as a means of preventing planned development, and will consider the potential impact of the costs or required improvements on needed housing. The Planning Commission and City Council will assure that the required improvements will not reduce housing densities below those anticipated in the Comprehensive Plan.

Conditional Use Permit

In judging whether or not a Conditional Use Permit application shall be approved, the Planning Commission determines whether criteria from the Code are met, or can be met by observance of conditions, in accordance with Chapter 16.50 of the Canby Municipal Code which states the applicable review criteria when reviewing a Conditional Use Permit to include the following:

In judging whether or not conditional use permit shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city;
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features;
- C. All required public facilities and services exist to adequately meet the needs of the proposed development;
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

Subdivision

Applications for a subdivision shall be evaluated based upon the standards and criteria of Section 16.62.020, the subdivision design standards in 16.64, and other applicable requirements of the Land Development and Planning Ordinance contained in 16.08 General Provisions, 16.10 Off-street Parking and Access, 16.24 C-R Residential/Commercial Zone and applicable development standards of 16.18 R 1.5 Medium Density Residential Zone and 16.20 High Density Residential Zone, 16.46 Access Limitations on Project Density.

FINDINGS AND REASONS

The Staff Report was presented, upon which staff recommended approval of all three applications along with applied Conditions of Approval in order to ensure that the proposed development will meet all required City of Canby Land Development and Planning Ordinance approval criteria based on receipt of revised drawings after the initial publication of the staff report and prior to the hearing which: 1) reduced the number of lots allowed below the minimum lot size from 3 to the permitted one to comply with the 10% lot allowance, and 2) review of a revised drawing adding a proposed ADA compliant 5' wide interior sidewalk to each home site as required by access standards.

After holding said public hearing and considering the October 9, 2017 dated staff report and acceptance of written and oral testimony, the Planning Commission closed the public hearing, deliberated and **made the following additional findings beyond those contained in the staff report to arrive at and support their recommendation and decision to deny the three applications before them as indicated below:**

- 1) With respect to the Map Amendment, the Planning Commission relied on the final description statement within the Special Area of Concern "Area C" that indicates "There is no reason to attempt to hasten this transition process (the transition to C-R zoning that has begun in the area) because residential uses can eventually be converted to mixed residential/commercial use."
- 2) The Planning Commission found the proposed tentative development plan density to be excessive as a result of a combination of inappropriate assumptions utilized in the application of the overall lot size averaging for compliance with the minimum average lot size allowed along with allowing the roadway easement area to be included in the lot area calculations. It was argued by citizen written and oral testimony that the townhome lots should not be excluded from the overall average lot size calculation and that road easement area is not appropriate to be included when calculating the minimum lot size allowed. The developer testified at the meeting that excluding the easement area from the lots would likely eliminate 3 lots. Including the single-family with common wall lots as part of the average lot size would further decrease the amount of lot lots otherwise allowed on the site.
- 3) It was not adequately demonstrated that the increased traffic onto SW 6th Avenue would not be detrimental to the area and cause undue congestion and safety hazard at the S Ivy Street intersection as a full traffic study looking at existing traffic volumes and delay at the intersection caused by school bus traffic was not performed, merely a rezone TPR analysis and traffic generation analysis.
- 4) The private roadway easement's required "no parking" designation in conjunction with the number of lots proposed would result in a functional parking inadequacy even though the minimum code standard is met that could lead to emergency access issues when visitor's or residents ignore the "no parking signs" and park along the narrow 20' wide access easement. It was noted that visitors were not likely to park along SW 6th Avenue but would violate the no parking signs. Multiple homes with a visitor at one time would easily exhaust the available 4 visitor or overflow parking spaces provided. The likely parking problem would result in too great of a risk for safety and emergency access to the homes; therefore contributing to a loss in the quality of life for the residents of the development and the nearby area.
- 5) The Conditional Use Permit was deemed inappropriate as it contributed extra density, which increased the resulting functional parking problem that could result in risk for emergency access for the residents and were not deemed as compatible as the outright permitted uses within the

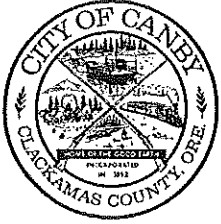
proposed C-R zone.

RECOMMENDATION

IT IS RECOMMENDED BY THE PLANNING COMMISSION of the City of Canby that the Canby City Council deny **ZC 17-02**.

In addition, the Planning Commission determined that **CUP 17-05/SUB 17-04** is found to be inappropriate and harmful to the quality of life within the surrounding neighborhood and does not satisfactorily contain enough functional and necessary elements to assure a “good plan” that is a proper fit for the area as reflected in the additional findings.

Therefore, IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that **CUP 17-05/SUB 17-04** be denied.



City of Canby

**PUBLIC HEARING NOTICE &
REQUEST FOR COMMENTS FORM**
City File No.: **APP 17-01**
Project Name: **APPEAL OF PLANNING
COMMISSION DECISION FOR SOUTH IVY PARK
SUBDIVISION, ALLEN MANUEL**
PUBLIC HEARING DATE: MONDAY 12/6/17

The City received an Appeal application (APP 17-01) from Allen Manuel appealing the Planning Commission's denial of S Ivy Park Zone Change/Subdivision/Conditional Use Permit applications (ZC 17-02/SUB 17-04/CUP 17-05). The applicable criteria for appeals are stated in Chapter 16.89.050(I) and (J) of the *Canby Land Development and Planning Ordinance*. The purpose of this **Notice is to invite you to comment on the Appeal of the Planning Commission decision. The Canby City Council will hold a Public Hearing on this Appeal application at 7:30 PM December 6, 2017 in the City Council Chambers at 222 NE 2nd Ave.**



Location: 533, 553, & 583 S Ivy St (Outlined in red on map at left).

Tax Lots: 41E04AB7100, 7200, 6300

Lot Size and Zoning: 1.31 acres, R-1 Low Density Residential

Owners: Allen Manuel Living Trust

Applicant: Allen Manuel

Representative: Seth King, Attorney

Application Type: Conditional Use Permit, Zoning Map Amendment, and Subdivision (Type III)

City File Number: ZC 17-02/SUB 17-04/ CUP 17-05

Contact: Bryan Brown, brownb@canbyoregon.gov or 503-266-0702.

Comments due – If you would like your comments to be incorporated into the City's Staff Report, please return the Comment Form by Monday, Nov. 27, 2017.

What is the Decision Process? The City Council will make a decision after the Public Hearing. The Public Hearing will be limited to issues already raised in the previous hearing on these applications. No new issues will be allowed unless the City Council chooses to do so.

Where can I send my comments? Written and oral comments can be submitted up to the time of the Public Hearing and may also be delivered in person during the Public Hearing. Prior to the Public Hearing comments may be mailed to the Canby Planning Department, P O Box 930, Canby, OR 97013; delivered in person to 222 NE 2nd Ave; or emailed to PublicComments@canbyoregon.gov.

How can I review the documents and staff report? Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report and applicant's statement of reasons for appeal will be available for inspection starting Tuesday, Nov. 28, 2017, and can be viewed on the City's website: www.canbyoregon.gov. Copies are available at \$0.25 per page or can be emailed to you upon request.

Applicable Canby Municipal Code Chapters to original applications:

Comprehensive Plan, Goals & Policies; Statewide Planning Goals; Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-Street Parking and Loading
- 16.18 R-1 Low Density Residential Zone
- 16.24 C-R Residential Commercial Zone
- 16.43 Outdoor Lighting Standards
- 16.46 Access Standards
- 16.50 Conditional Uses
- 16.54 Amendments to Zoning Map
- 16.62 Subdivisions – Applications
- 16.64 Subdivisions – Design Standards
- 16.88 General Standards & Procedures
- 16.89 Application & Review Procedures
- 16.120 Parks, Open Space & Recreation Land General Provisions

Please Note: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue.

CITY OF CANBY - COMMENT FORM

If you are unable to attend the Public Hearing, you may submit written comments on this form or in a letter. Please send comments to the City of Canby Planning Department:

By mail: Planning Department, PO Box 930, Canby, OR 97013

In person: Planning Department at 222 NE 2nd Ave, 2nd floor

E-mail: PublicComments@canby.com

Written comments to be included in Council packet are due by Monday, November 27, 2017.

Written and oral comments can be submitted up to the time of the Public Hearing and may also be delivered in person during the Public Hearing on Wednesday, December 6, 2017

Application: Appeal of Planning Commission's Denial of Allen Manuel's S Ivy Park applications - Zone Change, Subdivision, Conditional Use Permit (ZC 17-02/SUB 17-04/ CUP 17-05).

COMMENTS:

Please - do not allow a Zone change at all.

Thank you

CITIZEN NAME: Terri / Charlie / Ankus

ADDRESS 540 S. Holly st Canby OR 97013

EMAIL: _____ DATE: 11/27/17

AGENCY COMMENTS:

Please check one box and fill in your Name/Agency/Date below:

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available
- No Comments

Please submit comments by email to:

PublicComments@canbyoregon.gov

Thank You!

NAME: _____ AGENCY: _____

DATE: _____

RESOLUTION NO. 1280

A RESOLUTION ACCEPTING DONATION OF LAND REFERRED TO AS THE MOLALLA FOREST ROAD FROM NANCY L. TRAVERSO (ISLAND PARK CO.) FOR PARK PURPOSES AND DIRECTING THE CITY ADMINISTRATOR TO TAKE OTHER STEPS AS MAY BE REQUIRED TO COMPLETE THE DONATION

WHEREAS, Nancy L. Traverso (Island Park Co.) wishes to donate to the City of Canby certain real property commonly referred to as the Molalla Forest Road, located in and near the City of Canby under certain terms and conditions as set forth in the Contribution Agreement; and

WHEREAS, City desires to Accept the Donation of land for the purposes of creating a pedestrian and bike path for public use; and

WHEREAS, time is of the essence in finalizing the Contribution Agreement and executing the Statutory Bargain and Sale Deed.

NOW THEREFORE IT IS HEREBY RESOLVED, by the City Council of the City of Canby, as follows:

1. Accepts the Donation of land as generally set forth in the Draft Statutory Bargain and Sale Deed described in Exhibit A.
2. Approves the form and general content in the Contribution Agreement described in Exhibit B.
3. Directs the City Administrator to make non-substantive changes to the draft Contribution Agreement and Draft Statutory Bargain and Sale Deed as necessary to finalize the donation of land as set forth herein.
4. Directs the City Administrator to sign the Contribution Agreement, Statutory Bargain and Sale Deed, and other documents required to complete the acceptance of the donation of land as set forth herein.

This Resolution shall take effect on December 6, 2017.

ADOPTED this 6th day of December 2017 by the Canby City Council.

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

Exhibit "A"

After Recording, Return To:

ISLAND PARK CO.
Attn: Nancy Traverso
24370 S Highway 99E
Canby, Oregon 97013

**Until A Change Is Requested,
Send All Tax Statements To:**

Same as above

Space above reserved for recorder

STATUTORY BARGAIN AND SALE DEED

ISLAND PARK CO., an Oregon corporation ("**Grantor**"), conveys to the CITY OF CANBY, a municipal corporation and political subdivision of the State of Oregon ("**Grantee**"), the real property located in Clackamas County, Oregon, described on the attached **Exhibit A** (the "**Property**").

SUBJECT TO the matters listed on attached **Exhibit B**.

The true consideration for this conveyance is consideration other than money or other value given or promised.

Grantee acknowledges that the Property is being transferred without any express or implied representations or warranties and in its "as is, where is" condition. Grantee assumes all environmental liabilities with respect to the Property.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF

NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this ___ day of _____, 2017.

GRANTOR:

ISLAND PARK CO.
an Oregon corporation

Nancy L. Traverso, President

STATE OF OREGON)
)ss.
County of _____)

The foregoing instrument is acknowledged before me this ___ day of _____, 2017, by Nancy L. Traverso as President of Island Park Co., an Oregon corporation.

Notary Public for Oregon
Commission No.: _____
My commission expires: _____

Exhibit A

Legal Description of Property

The following described parcels in Sections 3, 10, 11, 12 and 13 of Township 4 South, Range 1 East of the Willamette Meridian in Clackamas County, Oregon:

Parcel A:

That certain tract of real property as described in that Warranty Deed recorded on October 20, 1943 in Book 315 at Page 196 of Clackamas County Deed Records and further described as follows:

A strip of land of varying width in the Southeast 1/4 of Section 3 in Township 4 South, Range 1 East, Willamette Meridian, described as follows:

Beginning at the Northeast corner of the Northwest 1/4 Southeast 1/4 of said Section 3; thence South 0° 16' West along the East line of said Northwest 1/4 Southeast 1/4 a distance of 153.72 feet to a point; thence South 2° 49' East a distance of 651.00 feet to a point; thence South 3° 36' West a distance of 520.90 feet to a point; thence North 89° 48' West a distance of 4.66 feet to the Southwest corner of the Northwest 1/4 Southeast 1/4; thence South 0° 16' West along the East line of the Southwest 1/4 Southeast 1/4 of said Section 3 a distance of 1323.75 feet to the Southeast corner of said Southwest 1/4 Southeast 1/4; thence North 89° 50' West along the South line of said Southwest 1/4 Southeast 1/4 a distance of 40.00 feet to a point on said South line; thence North 0° 16' East a distance of 1243.78 feet to a point; thence North 2° 45' West a distance of 450.60 feet to a point; thence North 3° 36' East a distance of 150.30 feet to a point; thence North 0° 16' East a distance of 250.00 feet to a point; thence North 2° 27' East a distance of 400.30 feet to a point; thence North 0° 16' East a distance of 153.72 feet to a point on the North line of said Northwest 1/4 Southeast 1/4; thence South 89° 47' East along said North line a distance of 40.00 feet to the point of beginning.

Parcel B:

That certain tract of real property as described in that Warranty Deed recorded on June 16, 1945 in Book 345 at Page 730 of Clackamas County Deed Records and further described as follows:

A strip of land varying in width, in all cases measured at right angles to the following described centerline across the Southeast 1/4 Southeast 1/4 of Section 3 and the Northeast 1/4 Northeast 1/4 of Section 10 in Township 4 South, Range 1 East, Willamette Meridian:

Beginning at a point on curve on the West line of the Southeast 1/4 Southeast 1/4 of said Section 3, which point of beginning is North 0° 16' East a distance of 97.95 feet from the Southwest corner of said Southeast 1/4 Southeast 1/4; thence along the centerline of a strip of land 40 feet in width, being 20 feet on each side of said centerline, following a 15° curve to the left through a central angle of 67° 55' a distance of 329.09 feet; thence South 67° 39' East a distance of 15.47 feet; thence along a 10° curve to the left through a central angle of 8° 04' a distance of 80.67 feet; thence South 75° 43' East a distance of 567.56 feet; thence along a 10° curve to the right through a central angle of 20° 04' a distance of 116.17 feet to a point on said 10° curve, which point terminates said 40 foot strip of land and is the beginning of a strip of land 66 feet in width, being 33 feet on each side of said centerline; thence along said 10° curve a distance of 84.33 feet; thence South 55° 39' East a distance of 351.15 feet to the point of termination on the East boundary line of said Section 10, said termination point being South 0° 00' 30" West a distance of 581.10 feet from the Northeast corner of said Section 10.

Exhibit A

94840989.1 0057439-00003

Parcel C:

That certain tract of real property as described in that Warranty Deed recorded November 8, 1943 in Book 316 at Page 149 of Clackamas County Deed Records and further described as follows:

A strip of land, 66 feet in width, being 33 feet on either side of and measured at right angles to the following described centerline across the West 1/4 Northwest 1/4 of Section 11 of Township 4 South, Range 1 East, Willamette Meridian:

Beginning at a point on the East boundary line of said West 1/4 Northwest 1/4, which point of beginning is North 0° 10' West a distance of 798.59 feet from the Southeast corner of said West 1/4 Northwest 1/4; thence North 44° 50' West a distance of 1129.01 feet; thence along a 5° curve to the left through a central angle of 10° 49' a distance of 216.33 feet; thence North 55° 39' West a distance of 450.10 feet to the point of termination on the West boundary line of said West 1/4 Northwest 1/4, which point of termination is South 0° 00' 30" West a distance of 581.10 feet from the Northwest corner of said Section 11.

Parcel D:

That certain tract of real property as described in that Warranty Deed recorded October 14, 1943 in Book 314 at Page 661 of Clackamas County Deed Records and further described as follows:

A triangular shaped piece of land in the Southeast 1/4 Northwest 1/4 of Section 11 in Township 4 South, Range 1 East, Willamette Meridian, described as follows:

Beginning at a point on the South boundary line of said Southeast 1/4 Northwest 1/4, which point of beginning is North 89° 37' 30" West a distance of 490.60 feet from the Southeast corner of said Southeast 1/4 Northwest 1/4; thence North 89° 37' 30" West a distance of 841.67 feet to the Southwest corner of said Southeast 1/4 Northwest 1/4; thence North 0° 10' West along the West boundary line of said Southeast 1/4 Northwest 1/4 a distance of 845.53 feet; thence South 44° 50' East a distance of 1199.18 feet to the point of beginning.

Parcel E:

That certain tract of real property as described in that Warranty Deed recorded September 27, 1943 in Book 313 at Page 711 of Clackamas County Deed Records and further described as follows:

A strip of land 66 feet in width, being 33 feet on each side of the following described centerline across the Northeast 1/4 Southwest 1/4 of Section 11 in Township 4 South, Range 1 East, Willamette Meridian:

Beginning at a point which is North 89° 35' 30" West a distance of 537.43 feet from the Northeast corner of said Northeast 1/4 Southwest 1/4; thence South 44° 50' East a distance of 766.2 feet to a point which is South 0° 14' 30" East a distance of 540.99 feet from the Northeast corner of said Northeast 1/4 Southwest 1/4.

Parcel F:

That certain tract of real property as described in that Warranty Deed recorded October 8, 1943 in Book 314 at Page 427 of Clackamas County Deed Records and further described as follows:

Beginning at a point which is the Southeast corner of the Northwest 1/4 Southwest 1/4 of Section 11 of Township 4 South, Range 1 East of the Willamette Meridian; thence North 89° 44' 20" West a distance of 1327.75 feet to the Southwest corner of said Northwest 1/4 Southwest 1/4; thence North 0° 14' 30" West a distance of 825.53 feet; thence South 69° 03' East a distance of 1423.60 feet; thence South 0° 08' 30" East a distance of 322.20 feet to the point of beginning.

Exhibit A

94840989.1 0057439-00003

Parcel G:

That certain tract of real property as described in that Bargain and Sale Deed recorded September 30, 1943 in Book 314 at Page 108 of Clackamas County Deed Records and further described as:

Beginning at a point which is the Southwest corner of the Northeast 1/4 Southwest 1/4 of Section 11 in Township 4 South, Range 1 East of the Willamette Meridian; thence North 0° 08' 30" West a distance of 322.20 feet; thence South 69° 45' East a distance of 940.98 feet; thence North 89° 44' 20" West a distance of 881.75 feet to the point of beginning.

Parcel H:

That certain tract of real property as described in that Warranty Deed recorded December 15, 1943 in Book 317 at Page 691 of Clackamas County Deed Records and further described as:

Tract 1:

Beginning at a point on the Section line between Sections 11 and 12 in Township 4 South, Range 1 East of the Willamette Meridian, which point is South 0° 02' 30" East a distance of 202.99 feet from the Northeast corner of the Southeast 1/4 Southeast 1/4 of said Section 11; thence South 0° 02' 30" East a distance of 74.25 feet; thence North 66° 20' West a distance of 697.92 feet; thence South 89° 44' 20" East a distance of 471.81 feet to the West boundary line of the right of way of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company); thence South 39° 27' 30" East along the said West boundary line a distance of 264 feet to the point of beginning.

Tract 2:

That part of the Southeast 1/4 Southeast 1/4 of Section 11 in Township 4 South, Range 1 East of the Willamette Meridian, lying and being East of the right-of-way of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company), consisting of a triangular-shaped piece of land, more particularly described as follows:

Beginning at the Northeast corner of said Southeast 1/4 Southeast 1/4; thence North 89° 44' 20" West a distance of 37.63 feet; thence South 39° 27' 30" East along the East boundary line of said right-of-way to a point which is South 0° 02' 30" East a distance of 47 feet, more or less, from the point of beginning; thence North 0° 02' 30" West a distance of 47 feet, more or less, to the point of beginning.

Parcel I:

That certain tract of real property as described in that Warranty Deed recorded February 18, 1943 in Book 303 at Page 284 of Clackamas County Deed Records and further described as:

All that portion of the following described property lying South and West of the Southern Pacific Company's right-of-way:

Beginning at the Northeast corner of the South 1/4 Southwest 1/4 of Section 12 in Township 4 South, Range 1 East of the Willamette Meridian; thence West 160 rods to the West line of said Section 12; thence South 30 rods; thence East 160 rods to the quarter section line; thence North 30 rods to the place of beginning.

Parcel J:

That certain tract of real property as described in that Warranty Deed recorded August 7, 1945 in Book 349 at Page 232 of Clackamas County Deed Records and further described as:

A tract of land situated in the Southwest 1/4 Southwest 1/4 of Section 12 in Township 4 South, Range 1 East of the Willamette Meridian, being more particularly described as follows:

Exhibit A

94840989.1 0057439-00003

Beginning at a point on the Southwesterly boundary line of the right-of-way of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company), which point of beginning is South 0° 02' 30" East a distance of 495.0 feet, as measured along the West boundary line of said Section 12 and South 89° 57' 30" East a distance of 240.29 feet from the Northwest corner of the Southwest 1/4 Southwest 1/4 of said Section 12; thence South 39° 27' 30" East along the said boundary line of said railroad right-of-way a distance of 110.10 feet; thence South 25° 10' 30" East a distance of 267.99 feet along the Westerly boundary line of a triangular parcel of land conveyed to the Ostrander Railway and Timber Company by the Southern Pacific Company, recorded April 15, 1943 in Book 305 at Page 617, Deed Records; thence North 39° 27' 30" West a distance of 423.77 feet parallel to, and measured 66.0 feet at right angles from, the said railroad right-of-way boundary line; thence South 89° 57' 30" East a distance of 85.67 feet to the point of beginning.

Parcel K:

That certain tract of real property as described in that Bargain and Sale Deed recorded April 15, 1943 in Book 305 at Page 617 of Clackamas County Deed Records and further described as:

Tract 3:

A triangular piece or parcel of land being a portion of the land now or formerly of Herman Miller and Mary J. Miller, his wife, in the Southwest 1/4 Southwest 1/4 of Section 12 in Township 4 South, Range 1 East of the Willamette Meridian, lying Southwesterly of the right-of-way of the Portland, Eugene & Eastern Railway Company, (now Southern Pacific Company) as it existed May 16, 1913, described as follows:

Commencing at the intersection of the South line of said Section 12 with the Southwesterly boundary line of said right-of-way, said point being 50 feet Southwesterly from and measured at right angles to the surveyed and located centerline of said right-of-way, and also North 88° 31' East, 906.8 feet, more or less, from the Southwest corner of said Section 12; thence South 88° 31' West along the South line of said Section 12, a distance of 259.2 feet, more or less, to a point 250 feet Southwesterly from and measured at right angles to said centerline; thence North 26° 42' West along a straight line a distance of 810.2 feet, more or less, to a point in the Southwesterly boundary line of said right-of-way line, said point being 50 feet Southwesterly from and measured at right angles to said centerline, said point also being North 40° 59' West a distance of 950.0 feet from the point of beginning; thence South 40° 59' East along said Southwesterly boundary line a distance of 950.0 feet to the point of beginning.

Tract 4:

An irregular tract of land in the North 1/2 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, lying on the Southwesterly side of and adjacent to right-of-way of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company) as it existed May 8, 1913, described as follows:

Beginning on the North line of said Section 13 at a point North 88° 31' East a distance of 906.8 feet, more or less, from the Northwest corner of said Section 13, said point being 50 feet Southwesterly from and measured at right angles to the surveyed and located centerline of said right-of-way; thence South 88° 31' West along the North line of said Section 13, a distance of 314.0 feet, more or less, to the Westerly Bank of the Molalla River; thence upstream on the Westerly and Southerly Bank of said river South 6° 54' East a distance of 377.75 feet; thence South 11° 16' West a distance of 195.75 feet; thence South 29° 57' West a distance of 101.6 feet; thence South 16° 39' West a distance of 115.8 feet; thence South 0° 40' East a distance of 133.4 feet; thence South 35° 04' East a distance of 247.00 feet; thence South 59° 17' East a distance of 246.00 feet; thence South 79° 19' East, a distance of 180.7 feet; thence North 88° 06' East a

Exhibit A

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distance of 154.3 feet; thence North 70° 01' East a distance of 214.0 feet; thence North 52° 21' E a distance of 408.0 feet, more or less, to the Southwesterly line of said right-of-way; thence North 40° 59' West along said right-of-way line and 50 feet from said centerline, a distance of 1244.9 feet, more or less, to the point of beginning.

Parcel L:

That certain tract of real property as described in that Warranty Deed recorded June 14, 1943 in Book 308 at Page 512 of Clackamas County Deed Records and further described as:

A strip of land, 100 feet in width, along and adjoining the West line of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company) right-of-way, extending from the South line of the Northeast 1/4 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, Northwesterly to the Southeast property line of the above described Parcel K Tract 4.

Parcel M:

That certain tract of real property as described in that Warranty Deed recorded August 9, 1943 in Book 311 at Page 354 of Clackamas County Deed Records and further described as:

All that land in the Northeast 1/4 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, lying South of the above described Parcel K Tract 4 and West of the above described Parcel L.

Parcel N:

That certain tract of real property as described in that Warranty Deed recorded September 8, 1943 in Book 313 at Page 73 of Clackamas County Deed Records and further described as:

Tract 5:

A strip of land 66 feet in width along and adjoining the Southwest property line of the Portland, Eugene & Eastern Railway Company (now Southern Pacific Company), and extending across the Southeast 1/4 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian;

Tract 6:

A triangular-shaped tract of land, described as follows:

Beginning at the point of intersection of the Southwest boundary line of the above described Tract 5 with the East boundary line of the Southeast 1/4 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, which point is North a distance of 437.11 feet from the center of said Section 13; thence North 39° 27' 30" West along said Southwest boundary line a distance of 136.1 feet; thence South 24° 52' East a distance of 205.7 feet to the East line of said Southeast 1/4 Northwest 1/4; thence North along said East line a distance of 81.5 feet to the point of beginning.

Parcel O:

That certain tract of real property as described in that Bargain and Sale Deed Recorded in Book 358 at Page 92 of Clackamas County Deed Records and further described as:

A tract of land in Section 13 in Township 4 South, Range 1 East of the Willamette Meridian described as follows:

Beginning at the center of said Section 13; thence East along the East-West centerline of said Section 13 a distance of 66.0 feet; thence North a distance of 191.7 feet; thence East a distance of 219.0 feet to the Southwest boundary line of the right-of-way of the Portland, Eugene and Eastern Railway Company (now Southern Pacific Company); thence North 39° 27' 30" West along said boundary line to the intersection of

Exhibit A

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said boundary line with the North-South centerline of said Section 13; thence South along said North-South centerline a distance of 355.6 feet to the point of beginning.

Parcel P:

That certain tract of real property as described in that Warranty Deed recorded June 22, 1943 in Book 309 at Page 49 of Clackamas County Deed Records and further described as:

Beginning at the center of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian; thence running East along the quarter section line a distance of 66.0 feet; thence South a distance of 773.8 feet to a point; thence West a distance of 66.0 feet to the quarter section line running North and South through said Section 13; thence North 773.8 feet to the place of beginning.

Parcel Q:

That certain tract of real property as described in that Warranty Deed recorded June 22, 1943 in Book 309 at Page 51 of Clackamas County Deed Records and further described as:

Beginning on the South line of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, a distance of 16.5 feet East of the quarter section corner on the South line of said Section 13; thence running North parallel to the quarter section line, a distance of 1320 feet; thence West a distance of 16.5 feet to the Northeast corner of the Southeast 1/4 Southwest 1/4 of said Section 13; thence North on the quarter section line a distance of 541.2 feet to the Southwest corner of the land conveyed on May 29, 1914, by Helena Morris to Ira Morris; thence tracing the South line of said Morris tract, East a distance of 66.0 feet; thence South a distance of 291.7 feet; thence South 3° 47' East a distance of 250.0 feet to a point which is East a distance of 82.5 feet from the said Northeast corner of said Southeast 1/4 Southwest 1/4; thence South a distance of 1320 feet to the South boundary of said Section 13; thence West a distance of 66.0 feet to the point of beginning.

Parcel R:

That certain tract of real property as described in that Warranty Deed recorded September 15, 1943 in Book 313 at Page 308 of Clackamas County Deed Records and further described as:

A strip of land 16.5 feet wide along and adjoining the East boundary line of that certain tract of land conveyed by Helena Morris to Otis G. Morris by deed recorded August 15, 1928 in Book 194 at Page 203 of Clackamas County Deed Records, said strip being more particularly described as follows:

Beginning at a point on the South boundary line of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian, which point is East 16.5 feet from the quarter-section corner common to Sections 13 and 24, Township 4 South, Range 1 East; thence North along the East boundary line of said Morris tract a distance of 1320 feet to the Northeast corner of said Morris tract; thence West along the North boundary of said Morris tract a distance of 16.5 feet to the North-South centerline of said Section 13; thence South along said North-South centerline a distance of 1320 feet to the said quarter-section corner; thence East 16.5 feet along the South boundary line of Said Section 13 to the point of beginning.

Parcel S:

Those portions of the North 1/4 Northwest 1/4 and Southeast 1/4 Northwest 1/4 of Section 13 in Township 4 South, Range 1 East of the Willamette Meridian in Clackamas County, Oregon, lying North and East of the Southern Pacific Company right-of-way.

EXCEPTING from the above described parcels A through S, any portions thereof which lie within the boundaries of public roads or highways.

Exhibit A

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Exhibit B
Exceptions to Title

1. Liens for ad valorem taxes, assessments and other governmental charges that are not yet due and payable as of the date hereof.
2. All land use (including environmental and wetlands), building, forestry, and zoning laws, rules, regulations, codes and ordinances affecting the Property or the use thereof.
3. Any rights of the United States of America, of the State of Oregon or any other parties whatsoever, in the use and continuous flow of any brooks, streams or other natural water courses or water bodies within, crossing or abutting the Property, including, without limitation, riparian rights and navigational servitudes, or to the beds and banks of such water courses below the ordinary high water mark thereof.
4. All existing public streets.
5. All easements for electric power, telephone, gas, sanitary sewer, storm sewer, water and other utility lines on, over or under the Property together with easements, permits, and prescriptive rights for the same not inconsistent with the current use of the Property.
6. Liens or encumbrances affecting the Property created or suffered by Grantee.
7. Reservations in federal patents and acts authorizing the same.
8. Possible additional taxes and penalties that may be assessed if the Property is disqualified for assessment on the basis of forestland or farmland use after or in connection with conveyance of the Property to Grantee.
9. All matters affecting title to the Property that would be disclosed by a thorough physical inspection or accurate survey of the Property.
10. Indian treaty or aboriginal rights, including easements and equitable servitudes.
11. Non-exclusive easements or rights of way not inconsistent with the current use of the Property.
12. Any claim of lack of access rights to any portion of the Property where (i) permission to access has been granted verbally or in writing or (ii) Grantor has otherwise historically enjoyed access.
13. Any rights in favor of the public which may exist on the Property if the Property or portions thereof are or were at any time used by the public.
14. Terms and conditions of that certain Declaration of Covenants and Restrictions, dated as of _____, recorded in the real property records of Clackamas County, Oregon as Instrument No. _____.

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15. Terms and conditions of that certain Access Easement from Grantor to various third-parties, dated as of _____, recorded in the real property records of Clackamas County, Oregon as Instrument No. _____.

16. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Aurora Electric Company
Purpose: right to divert water
Recording Date: November 29, 1904
Recording No: Book 92, Page 185

17. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Aurora Electric Company
Purpose: right to divert water
Recording Date: November 29, 1904
Recording No: Book 92, Page 188

18. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Aurora Electric Company
Purpose: right to divert water
Recording Date: November 29, 1904
Recording No: Book 92, Page 193

19. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Aurora Electric Company
Purpose: right to divert water
Recording Date: November 29, 1904
Recording No: Book 92, Page 194

20. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Aurora Electric Company
Purpose: right to divert water
Recording Date: November 29, 1904
Recording No: Book 92, Page 198

Exhibit B

21. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Molalla River District Improvement Company
Purpose: ingress and egress for flood control, channel changes and repair
Recording Date: June 2, 1938
Recording No: Book 247, Page 309
22. Roadway Agreement, including the terms and provisions thereof
- Recording Date: June 23, 1943
Recording No.: Book 17, Page 216
23. Covenants, conditions, restrictions and easements, as set forth in deed
- Recording Date: September 30, 1943
Recording No: Book 314 Page 108 re-recorded
Recording Date: October 6, 1943
Recording No: Book 314 Page 330
24. Reservations disclosed in Deed from Southern Pacific Company to Roy Chubb,
- Recording Date: February 11, 1944
Recording No: Book 320, Page 336
25. Reservations disclosed in Deed from Ostrander Railway & Timber Company to Crown Zellerbach Corporation,
- Recording Date: January 5, 1946
Recording No: Book 358, Page 92
Re: Molalla Forest Road
26. Roadway Agreement, including the terms and provisions thereof
- Recording Date: December 9, 1948
Recording No.: Book 21, Page 419, Fee 16872
27. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Molalla River District Improvement Company
Purpose: ingress and egress to maintain bank protection and channel improvements
Recording Date: September 29, 1950
Recording No: Book 436, Page 609

Exhibit B

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28. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: United States of America
Purpose: ingress and egress for bank protection and channel improvement
Recording Date: October 23, 1950
Recording No: Book 437, Page 518
29. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Molalla River District Improvement Company
Purpose: ingress and egress to maintain bank protection and channel improvements
Recording Date: August 27, 1951
Recording No: Book 448, Page 91
30. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Portland General Electric Company
Purpose: utility
Recording Date: April 24, 1953
Recording No: Book 469, Page 186, Fee 6596
31. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Molalla River District Improvement Company
Purpose: ingress and egress to maintain bank protection and channel improvements
Recording Date: August 12, 1954
Recording No: Book 26, Page 32
32. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: United States of America
Purpose: ingress and egress
Recording Date: June 10, 1955
Recording No: Book 496, Page 560

Exhibit B

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33. Agreement, between Southern Pacific Railroad and The United States of America, including the terms and provisions thereof

Recording Date: July 17, 1956
Recording No.: Book 513, Page 538

34. Agreement, including the terms and provisions thereof

In favor of: Molalla River District Improvement Company
Purpose: ingress and egress to maintain bank protection and channel improvements
Recording Date: March 3, 1961
Recording No: Book 31, Page 584 , Fee 3888

35. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Portland General Electric Company
Purpose: transmission line
Recording Date: April 25, 1961
Recording No: Book 586, Page 87

36. Roadway Agreement, including the terms and provisions thereof

Entitled: Easement, including the terms and provisions thereof
In favor of: Owen W. Park et ux
Purpose: ingress and egress and maintenance
Recording Date: April 22, 1963
Recording No: Book 32, Page 843, Fee 8383

37. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:

Entitled: Easement, including the terms and provisions thereof
In favor of: Twyla D. Rasmussen
Purpose: ingress and egress
Recording Date: October 10, 1977
Recording No: 77-041134

Exhibit B

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38. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Canby Telephone Association
Purpose: ingress and egress to maintain bank protection and channel improvements
Recording Date: June 17, 1987
Recording No: 87-027201
39. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document
- Recording Date: November 30, 1987
Recording No: 87-053648
40. Road Maintenance Agreement, including the terms and provisions thereof set out in deed
- Recording Date: November 30, 1987
Recording No.: 87-053648
41. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Kitty Fowler
Purpose: roadway use with shared maintenance
Recording Date: January 27, 1993
Recording No: 93-005901
42. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
- Entitled: Easement, including the terms and provisions thereof
In favor of: Devisees of Elwood J. Faist
Purpose: roadway use with shared maintenance
Recording Date: May 26, 2005
Recording No: 2005-048338
43. Interest of Parker-Northwest Paving Co., as disclosed on Tax Roll.

Exhibit B

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Exhibit "B"

CONTRIBUTION AGREEMENT

This agreement is between Nancy L. Traverso, located at _____ (the "Donor") and the City of Canby, a political subdivision of the State of Oregon, with offices located at _____ (the "Donee").

BACKGROUND

A. Nancy Traverso is the sole owner of certain real property commonly referred to as the Molalla Forest Road, located in the City of Canby.

B. The Donee desires to obtain the property for the purposes of creating a pedestrian and bike path for public use.

AGREEMENT

Donor offers and agrees to donate the property to the Donee under the following terms and conditions:

1. **Real Property.** Donor agrees to transfer property having the legal description on Schedule A (the "Donated Property"). Donee shall accept the property, subject to satisfactory completion of a Level 1 Environmental Review.

2. **Transfer.** Donor shall deliver or cause to be delivered to the Donee a Bargain and Sale Deed transferring her entire interest in the Donated Property.

3. **Donation and Purpose.** The Donor agrees to donate the property to the Donee to be used exclusively for public purposes, including the preservation of land areas for outdoor recreation and scenic enjoyment by the general public. Specifically, Donee shall use the property to create a pedestrian path, as substantially described in the Clackamas County Project, Line 2038 Plan and associated documents attached as Schedule B. If, for some reason, the Donee determines that all or part of this gift cannot be used for the purpose for which it was given, the Donee and the Donor shall select an alternative purpose that is consistent with the Donor's original purpose and which dedicates the Donated Property to public use.

4. **Recognition.** In recognition of the Donor's generosity, the Donor will receive recognition through placement of signage and trail dedication honoring the Traverso Family for their contribution.

5. **Retention of Property.** Donee does not intend to sell or otherwise transfer the property for at least three years from the date of the transfer of the property.

6. **Appraisal.** Donor shall obtain a qualified appraisal. Donor and Donee agree that the fair market value of the Donated Property shall be the value described in a Qualified Appraisal as defined under IRC § 170(f)(11)(E). Donor will use the appraised value for the purposes of determining her charitable deduction. The Donee has not provided any goods or services in consideration, in whole or part, for the Donated Property.

7. **Form 8283 and Other Reporting Requirements.** An official of the City of Canby shall sign Form 8283 as attached in Schedule C upon the date of the Transfer of the Donated Property. Such signature does not represent concurrence in the appraised value of the Donated Property. Rather, it represents acknowledgement of receipt of the Donated Property described on the date specified in Form 8283. Donee shall comply with all information reporting requirements imposed by IRC § 6050L and 1.6050L-1.

8. **Effective Date.** The effective date of this Agreement shall be the date of the last of the parties to sign below.

DONOR

Date: _____

Nancy Traverso

**DONEE FOR THE CITY OF CANBY
City Counsel,**

Date: _____

Brian Hodson

Schedule A

Donated Property

Schedule B

Clackamas County Project,
Line 2038 Plan

Schedule C

Form 8283

Recorded at the request of
and after recording return to:

DECLARATION OF
COVENANTS AND
RESTRICTIONS

The undersigned ISLAND PARK CO., an Oregon corporation (“**Declarant**”), owns that certain real property in Clackamas County, Oregon, more particularly described on attached Exhibit A (as now or hereafter constituted, divided or developed, the “**Burdened Property**”). The undersigned CANBY ROD & GUN CLUB, an Oregon corporation (“**Gun Club**”), owns and/or occupies that certain real property in Clackamas County, Oregon, more particularly described on attached Exhibit B (as now or hereafter constituted, divided or developed, including other lands added to or otherwise occupied or used by Gun Club in connection with the use and operation of a shooting range or ranges and/or related activities as described below, the “**Benefitted Property**”). As used in this Declaration of Covenants and Restrictions (“**Declaration**”), the terms “**including**” or “**includes**” and any other similar term or phrase shall be deemed to be followed in each instance by the words “without limitation” whether or not so expressed.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares and covenants for itself and its successors and assigns that the Burdened Property is and shall be held, sold and conveyed subject to the following covenant(s) and restrictions (each, a “**Covenant**”), which Covenant(s) shall constitute covenants running with the land and shall be binding on all persons now having or hereafter acquiring or claiming any right, title or interest in or to the Burdened Property or any portion thereof, and shall be for the benefit of Gun Club and all future owners, tenants, users and operators of said Benefitted Property and each part thereof, as such may now or hereafter be configured, operated, expanded, divided or developed:

1. Limitation on Public Trails, Bike Paths or Walkways or Roadways. No public trail, walkway, pedestrian access, or bike lane or path of any kind (whether by dedication or other means) is allowed on the portion of the Burdened Property in the area depicted on attached Exhibit C, except on the **twenty feet** of the Burdened Property that is furthest from the Gun Club. The foregoing limitation shall not preclude the use of the Burdened Property for private access to and egress from the private properties identified in the Access Easement dated _____, 2017, and recorded in the real property records of Clackamas County, Oregon, as Instrument No. _____.

2. Acceptance of and WAIVER OF CLAIMS for Standard Practices. The Benefitted Property is and has been used and operated for the practice of shooting sports and related activities, including without limitation, the use and operation of one or more rifle, pistol/revolver, silhouette, skeet, trap, blackpowder, archery and/or other shooting, practice, exhibition and/or competition and other ranges and events, and related activities, the generation of smoke, dust, odors, noise (audible and inaudible) and reports, including from the discharge of such firearms and devices, and such operations, practices and activities, including related effects occur and will continue to occur in the future on or about the Benefitted Property and may expand or change over time and from time to time. All activities (including noise and other effects) (1) that are generally accepted for similar facilities in rural Oregon areas (regardless whether the area

around the Benefitted Property and/or Burdened Property is or remains rural in character), and, (2) as such relates to noise generated from any particular shooting range on the Benefitted Property, the owner, operator or lessee of the Benefitted Property complied with any applicable noise control law or ordinance existing at the time construction of the applicable shooting range began or no noise control law or ordinance was then existing, are referred to herein as “**Standard Practices.**” DECLARANT (FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS) AND EACH PERSON HAVING OR ACQUIRING ANY INTEREST IN OR TO ANY BURDENED PROPERTY, AND BY VIRTUE OF TAKING TITLE TO, OCCUPYING OR ENTERING ONTO ANY OF THE BURDENED PROPERTY, AND ITS SUCCESSORS, ASSIGNS, INVITEES, GUESTS AND LESSEES WITH RESPECT TO EACH PORTION OF THE BURDENED PROPERTY, (1) HEREBY ACCEPTS THE POTENTIAL IMPACTS FROM SUCH STANDARD PRACTICES, AND AGREES THAT NO SUCH STANDARD PRACTICES ON OR ABOUT THE BENEFITTED PROPERTY OR THE BURDENED PROPERTY SHALL BE DEEMED, CONSIDERED OR CLAIMED TO BE A NUISANCE, TRESPASS OR OTHER ACTIONABLE CIRCUMSTANCE OR OTHERWISE BE THE BASIS FOR OR GIVE RISE TO ANY CLAIM BY, FOR OR UNDER SUCH PERSON OR OTHERWISE, specifically, but without limitation, noise, dust, odors, smoke, vibration and other impacts as a normal and necessary burden on the use, ownership and occupancy of each affected portion of the Burdened Property, and (2) HEREBY WAIVES AND RELEASES ANY AND ALL OBJECTIONS, CLAIMS AND CAUSES OF ACTION, WHETHER OTHERWISE NOW OR HEREAFTER ARISING, WITH RESPECT TO STANDARD PRACTICES AND/OR THE EFFECTS OF STANDARD PRACTICES ON OR ABOUT THE BENEFITTED PROPERTY AND HEREBY COVENANTS NOT TO SUE (AND/OR BRING OR JOIN IN ANY COURT OR ADMINISTRATIVE OR OTHER PROCEEDINGS OPPOSING OR SEEKING TO LIMIT OR NEGATE THE RIGHTS OF) GUN CLUB OR ANY OTHER OWNER, TENANT, USER OR OCCUPANT OF THE BENEFITTED PROPERTY BY, FOR OR ON BEHALF OF WHOM SUCH STANDARD PRACTICES ARE CONDUCTED, OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THE FOREGOING PROVISIONS OF THIS SECTION 3 ARE IN ADDITION TO AND NOT IN LIEU OR LIMITATION OF (AND ARE NOT LIMITED BY) THE PROTECTIONS PROVIDED TO GUN CLUB OR ANY THIRD PARTY IN CONNECTION WITH THE OPERATION OF A SHOOTING RANGE OR RANGES AND RELATED ACTIVITIES UNDER APPLICABLE LAW FROM TIME TO TIME, INCLUDING, WITHOUT LIMITATION ORS 467.131 ET SEQ.

4. Enforcement. If any suit or action is brought to enforce this Declaration, the party not prevailing shall pay to the prevailing party all costs and expenses incurred by the prevailing party in connection with such suit or action, such amount as the court may determine to be reasonable as attorneys’ fees at trial and upon any appeal or petition for review thereof and any other proceedings, including any arbitration and any bankruptcy case or proceedings (including but not limited to any issues peculiar to bankruptcy). This Declaration and each Covenant shall be binding upon and run for the benefit of the parties and their respective successors and assigns. Time is of the essence for this Declaration.

5. Binding Effect/Modification. This Declaration is automatic and self-executing. Every person who now or hereafter owns, occupies or acquires any right, title or interest in or to any portion of the Burdened Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired or claims an interest in the Burdened Property or any portion thereof. This Declaration shall not be modified except by a writing executed and acknowledged by all the persons then owning the Benefitted Property and the Burdened Property or terminated except by a writing executed and acknowledged by all the persons then owning the Benefitted Property and in both cases, evidenced by recording of said writing a supplement to this instrument to such effect in the records of Clackamas County, Oregon.

NO MORE TEXT THIS PAGE - SIGNATURES NEXT PAGE(S)

Dated this _____ day of _____, 2017.

<p>DECLARANT:</p> <p>ISLAND PARK CO. an Oregon corporation</p> <p>_____</p> <p>Nancy L. Traverso, President</p>	<p>GUN CLUB:</p> <p>CANBY ROD & GUN CLUB an Oregon corporation</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p>
---	--

STATE OF OREGON)
)ss.
 County of _____)

This instrument was acknowledged before me this ____ day of _____, 2017, by Nancy L. Traverso, acting in her capacity as President of Island Park Co., an Oregon corporation, on behalf of the corporation.

 Notary Public for Oregon

STATE OF OREGON)
)ss.
 County of _____)

This instrument was acknowledged before me this ____ day of _____, 2017, by _____, acting in his/her capacity as _____ of Canby Rod & Gun Club, an Oregon corporation, on behalf of the corporation.

 Notary Public for Oregon

EXHIBIT A

Burdened Property

[To be inserted.]

EXHIBIT B

Benefitted Property

[To be inserted.]

EXHIBIT C

Map

[To be inserted.]

OREGON REVISED STATUTES RE: NEEDED HOUSING

197.303 “Needed housing” defined. (1) As used in ORS 197.307, “needed housing” means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following housing types:

(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.

(2) Subsection (1)(a) and (d) of this section shall not apply to:

(a) A city with a population of less than 2,500.

(b) A county with a population of less than 15,000.

(3) A local government may take an exception under ORS 197.732 to the definition of “needed housing” in subsection (1) of this section in the same manner that an exception may be taken under the goals. [1981 c.884 §6; 1983 c.795 §2; 1989 c.380 §1; 2011 c.354 §2]

197.307 Effect of need for certain housing in urban growth areas; approval standards for certain residential development; placement standards for approval of manufactured dwellings. (1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for farmworkers, is a matter of statewide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable, decent, safe and sanitary housing.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land described in subsection (3) of this section. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(5) The provisions of subsection (4) of this section do not apply to:

(a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.

(b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

AVERAGE LOT SIZE FOR UNITS IN ALLEN MANUEL DEVELOPMENT

Lot #	Type of Home	Beginning Lot Size	Unbuildable STREET Right-of-Way sq ft (est)	Lot Size minus Street Right-of-Way	Unbuildable SIDEWALK Right-of-Way sq ft (est)	Minus Street AND Sidewalk Right-of-Ways	Minus Visitor Parking Stalls sq ft (est)	NET LOT SQUARE FOOTAGE	Guideline Minimum Allowable Square Feet	Meets Minimum Guideline?	FOUNDATION FOOTPRINT Sq Feet
# 1	Townhouse	3002	-160	2,842	-120	2722	0	2722	3000	No	21X48= 1008
# 2	Townhouse	3002	-160	2,842	-120	2722	0	2722	3000	No	21X48= 1008
# 3	Townhouse	3001	-160	2,841	-120	2721	0	2721	3000	No	21X48= 1008
# 4	Townhouse	3038	-160	2,878	-120	2758	0	2758	3000	No	21X48= 1008
# 5	Single Family Residence	4267	-1628	2,639	-320	2319	0	2319	5000	No	21X42= 882
# 6	Single Family Residence	5,000	-650	4,350	-360	3990	0	3990	5000	No	30X27= 810
# 7	Single Family Residence	5,000	-500	4,500	-240	4260	0	4260	5000	No	22X42= 942
# 8	Single Family Residence -(existing home)	7,106	-500	6,606	-340	6266	0	6266	5000	Yes	(existing)
# 9	Single Family Residence -(existing home)	8,109	0	8,109	0	8109	0	8109	5000	Yes	(existing)
# 10	Single Family Residence	5,647	-1600	4,047	-360	3687	0	3687	5000	No	28X32= 896
# 11	Single Family Residence	5,000	-1,315	3,685	-380	3305	0	3305	5000	No	27X35= 945
# 12	Single Family Residence	5,041	-960	4,081	-160	3921	-600	3321	5000	No	19X30= 570
TOTAL	All Home Types	57,213	7,793	49,420	-2640	46,780	-600	46180			
	Lot Size Average (SFR only)	5,646*		4,752**				4,407**			
		*Planning Staff's "Average Lot Size"= 5,646									
		** My calculation Average Lot Size= 4,407 to 4,752									

