



AGENDA

CANBY CITY COUNCIL REGULAR MEETING

November 7, 2012

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Randy Carson

Council President Walt Daniels

Councilor Richard Ares

Councilor Tim Dale

Councilor Traci Hensley

Councilor Brian Hodson

Councilor Greg Parker

CITY COUNCIL REGULAR MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

A. Approval of Minutes of the October 17, 2012 City Council Regular Meeting

B. Off-Premises Liquor License Application for Willamette Valley Country Club Pg. 1

C. Change of Ownership Liquor License Application for Pacific Northwest Petroleum, Inc. Pg. 3

7. PUBLIC HEARING

A. TA 12-01/ZC 12-02 Fred Meyers Stores, Inc. Pg. 5

8. RESOLUTIONS & ORDINANCES

A. Ord. 1364, Authorizing Contract with Hubbard Chevrolet; Wilsonville Chrysler Jeep Dodge; Wire Works of Salem; and Ford Motor Credit for the Lease/Purchase of One 2013 Chevrolet Tahoe and One 2013 Dodge Charger with Police Equipment Packages (2nd Reading) Pg. 264

B. Ord. 1365, Amending Title 16, Chapter 16.41 of the Canby Municipal Code Concerning the Subarea Boundary of the Canby Downtown Overlay Zone Pg. 266

C. Ord. 1366, Amending Canby Municipal Code Section 9.24.060 Regarding Drinking in Public Places Pg. 268

9. NEW BUSINESS

- A. Update on Business Energy Tax Credit (BETC) Pass Through Partners
- B. Completion of Metro 2035 Regional Forecast – Implications for Canby Pg. 271

10. CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS

11. CITIZEN INPUT

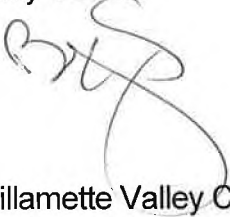
12. ACTION REVIEW

13. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation

14. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer, MMC, City Recorder at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City’s web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.

Memo

To: Mayor Carson & Members of City Council
From: Bret J. Smith, Chief of Police 
CC: Kim Scheafer, City Recorder
Date: October 17, 2012
Re: Liquor License Application / Willamette Valley Country Club

I have reviewed the attached liquor license application completed by the applicant, Allison Cruden for business, The Willamette Valley Country Club, located at 900 Country club Place, Canby, Oregon.

In addition, I have spoken with assistant club manager, Aaron Tewalt; and we discussed the laws involving the sale of alcoholic beverages. He told me he is familiar with the Oregon liquor laws, stating the club currently has an active bar business and they already serve alcoholic beverages to club members during meals. He said he has received training regarding the laws involving the serving of alcoholic beverages and he understands the consequences for failure to comply with the rules as set forth by Oregon State law. He said he will continue to work closely with OLCC as it relates to training for his employees on pertinent laws involving alcohol related issues.

Representatives of the Willamette Valley County Club are requesting an "additional privilege"; specifically applying for an "off-premise" liquor sales license. Aaron Tewalt said it is the club's intention to sell specially selected bottles of wine to their membership as an additional service.

It is my recommendation that the Canby City Council approve this application to the Oregon Liquor Control Commission (OLCC).



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

KDS
10.10.12
\$75 Pd.
6 L 762
LPO
10/10/12

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
- ☐ Commercial Establishment
- ☐ Caterer
- ☐ Passenger Carrier
- ☐ Other Public Location
- ☐ Private Club
- ☐ Limited On-Premises Sales (\$202.60/yr)
- ☒ Off-Premises Sales (\$100/yr)
- ☐ with Fuel Pumps
- ☐ Brewery Public House (\$252.60)
- ☐ Winery (\$250/yr)
- ☐ Other: _____

ACTIONS

- ☐ Change Ownership
- ☐ New Outlet
- ☐ Greater Privilege
- ☒ Additional Privilege
- ☐ Other _____

P 2134
L 165755

90-DAY AUTHORITY

☐ Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- ☐ Limited Partnership ☒ Corporation ☐ Limited Liability Company ☐ Individuals

CITY AND COUNTY USE ONLY

Date application received: 10.10.12

The City Council or County Commission:

City of Canby
(name of city or county)

recommends that this license be:

☐ Granted ☐ Denied

By: _____
(signature) (date)

Name: _____

Title: _____

OLCC USE ONLY

Application Rec'd by: QR

Date: 9-28-12

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Willamette Valley Country Club Inc ③ _____

② _____ ④ _____

2. Trade Name (dba): Willamette Valley Country Club Inc

3. Business Location: 900 Country Club Place Canby, Clackamas, OR 97013
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: PO Box 988 900 Country Club Place Canby, Clackamas, OR 97013
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-266-4066
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: Willamette Valley Country Club Inc Type of License: Full On Premise

8. Former Business Name: _____

9. Will you have a manager? ☒ Yes ☐ No Name: Alison Cruden
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Canby Oregon
(name of city or county)

11. Contact person for this application: Alison Cruden 503-266-4066
(name) (phone number(s))
900 Country Club Place Canby, OR 97013
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

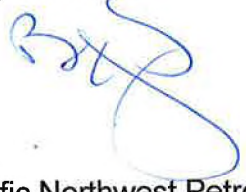
① Alison Cruden Date 9/6/12

② QR Date 9/27/12

RECEIVED
SEP 28 2012
REGULATORY FIELD SERVICES
Oregon Liquor Control Commission

Memo

To: Mayor Carson & Members of City Council
From: Bret J. Smith, Chief of Police
CC: Kim Scheafer, City Recorder
Date: October 17, 2012
Re: Liquor License Application / Pacific Northwest Petroleum Inc.
(76 of Canby)



I have reviewed the attached liquor license application completed by the applicant, Rohit Sharma for business, The 76 Gas Station of Canby, located at 453 SE First Ave, Canby, Oregon.

In addition, I have spoken with applicant Rohit Sharma; and we discussed the laws involving the sale of alcoholic beverages. He told me he is familiar with the Oregon liquor laws, stating he is of the owner of seventeen (17) other similar retail stores that sell alcoholic beverages. He said he has received training regarding the laws involving the serving of alcoholic beverages and he understands the consequences for failure to comply with the rules as set forth by Oregon State law. He said he will continue to work closely with OLCC as it relates to training for his employees on pertinent laws involving alcohol related issues.

Rohit Sharma is requesting a "Change of Ownership" at the business that has a current liquor license.

It is my recommendation that the Canby City Council approve this application to the Oregon Liquor Control Commission (OLCC).



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

pd. \$75
10.15.12
K.S.

Application is being made for:

LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)
☐ Commercial Establishment
☐ Caterer
☐ Passenger Carrier
☐ Other Public Location
☐ Private Club
☐ Limited On-Premises Sales (\$202.60/yr)
☒ Off-Premises Sales (\$100/yr)
☒ with Fuel Pumps
☐ Brewery Public House (\$252.60)
☐ Winery (\$250/yr)
☐ Other: _____

ACTIONS

- ☒ Change Ownership
☐ New Outlet
☐ Greater Privilege
☐ Additional Privilege
☐ Other _____

L 167534
P 46053

90-DAY AUTHORITY

☒ Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- ☐ Limited Partnership ☒ Corporation ☐ Limited Liability Company ☐ Individuals

CITY AND COUNTY USE ONLY

Date application received: 10.15.12

The City Council or County Commission:

City of Canby
(name of city or county)

recommends that this license be:

☐ Granted ☐ Denied

By: _____

(signature)

(date)

Name: Randy Carson

Title: Mayor

OLCC USE ONLY

Application Rec'd by: M. LeClair

Date: 10-8-12

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① PACIFIC NORTHWEST PETROLEUM INC ③ _____
 ② _____ ④ _____

2. Trade Name (dba): 76 OF CANBY

3. Business Location: 453 SE FIRST AVENUE CANBY CLACKAMAS OREGON 97013
 (number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: _____ LAKE OSWEGO OREGON 97035
 (PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-639-5800 503-639-5412
 (phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☒ Yes ☐ No

7. If yes to whom: GREAT DANE PETROLEUM Type of License: OFF PREMISES WITH GAS PUMPS

8. Former Business Name: GREAT DANE PETROLEUM

9. Will you have a manager? ☐ Yes ☒ No Name: _____
 (manager must fill out an Individual History form)

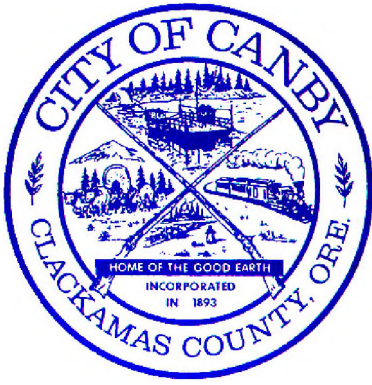
10. What is the local governing body where your business is located? CITY OF CANBY
 (name of city or county)

11. Contact person for this application: ROHIT SHARMA (name)
 (address) 503-639-5383 (phone number(s)) ROHIT@PNWPETRO.COM (e-mail address)
 (fax number)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① [Signature] Date 10/1/2012 ③ _____ Date _____
 ② Rakhi Batra-Sharma Date 10/1/12 ④ _____



City of Canby

MEMORANDUM

To: Canby City Council

Date: November 7, 2012

From: Bryan Brown, Planning Director/Angie Lehnert, Associate Planner

RE: Timeline and Summation of Planning Files TA 12-01/ZC 12-02

Jake Tate, Great Basin Engineering, representing Fred Meyer Stores, Inc. applied for a Site and Design Review (DR 12-03) and Text Amendment (TA 12-01) in May and for a Zone Change (ZC 12-02) in August for a Fred Meyer fuel facility at 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2nd Ave.

The applicant is requesting a Text Amendment/Zone Change of the Canby *Land Development and Planning Ordinance/Zoning Map* to shift the subarea boundary of the Downtown Canby Overlay Zone at this site from Core Commercial (CC) to Outer Highway Commercial (OHC). This change would accommodate the applicant's proposed Fred Meyer Fuel Station on the subject taxlots. Refer to the staff report and attached information for a map of the proposed boundary change.

Files TA 12-01 and ZC 12-02 are planning Type IV legislative processes that require a recommendation from the Planning Commission and final approval by City Council Ordinance. The Planning Commission conducted a public hearing for the proposal over three dates. After deliberation, the Planning Commission recommended Council denial of the application in a 3-1 vote for the following general reasons; refer to the attached minutes for more details:

- Concerns that the adopted zoning text and downtown overlay boundaries are a result of extensive planning efforts for downtown Canby; the planning and public input from this process should not be questioned
- Concerns that the traffic studies conducted for the proposal are inadequate and that the proposed fuel facility will create both vehicle/vehicle and pedestrian/vehicle conflicts
- Concerns that the proposal conflicts with the Gateway Corridor Plan
- Concerns that the proposal does not meet the Code's criteria for text and map amendments. i.e. the applicant failed to demonstrate a need for the change, that the application conflicts with the existing intent to create a pedestrian environment along the highway out to Locust Street, and the belief that the current subarea overlay boundaries are appropriate
- The dissenting vote felt that traffic issues and Code criteria for text and map amendments had been adequately addressed and that no particular adverse impacts were noted, that the proposed text and map amendments are minor, and that the proposal should be approved from a pro-business standpoint

Since the time the project was initially proposed, there have been many additional submittals and

written/verbal public testimony regarding the proposal. The following is a brief timeline of key dates so far in conjunction with the proposal:

- **2/28/12**: Pre-application meeting for the proposal held
- **5/17/12**: Application for TA 12-01/DR 12-03 submitted; the traffic study by Group Mackenzie, Fred Meyer's traffic consultants, was submitted with this application
- **6/14/12**: DKS, City of Canby's consulting traffic engineers, respond to the submitted traffic study and requested more information about vehicle queuing
- **7/6/12**: Additional traffic study information regarding queuing submitted by applicant's consultant Group Mackenzie
- **7/12/12**: Supplemental information submitted by applicant; the application originally proposed shifting the OHC boundary to Knott Street, but the request was amended to only include the project's subject properties. Additional narrative for the proposal also submitted.
- **7/13/12**: Staff Reports finalized
- **7/17/12**: City's consultant DKS responded to the additional traffic study information and recommended some conditions of approval related to traffic concerns
- **7/23/12**: First Planning Commission Public Hearing
 - Opponents "Save Downtown Canby" and their attorney Michael Connors, Hathaway Koback Connors LLP, submitted written testimony dated 7/23/12
 - The Planning Commission continued the public hearing to a date certain to allow review and response to the opponent's submittal
- **8/13/12**: Applicant submitted a Zone Change application in response opponent's testimony.
 - This submittal included revised site plan, lighting plan, and landscaping plan
 - The Applicant hired an attorney, Steve Abel, Stoel Rives LLP. Mr. Abel submitted a rebuttal to the opponent's testimony from the 7/23/12 Planning Commission meeting.
 - The applicant submitted a letter from ODOT approving the proposed driveway off 99E and a response from their traffic engineer as to why an extensive Transportation Planning Rule (TPR) analysis was not warranted by this request.
- **9/14/12**: Revised staff report for TA 12-01, now also incorporating ZC 12-02, finalized
- **9/24/12**: Second Planning Commission meeting, continuing the hearing opened on 7/23/12
 - Opponents "Save Downtown Canby" and their attorney Michael Connors, Hathaway Koback Connors LLP, submitted written testimony and a letter stating traffic concerns from Lancaster Engineering, consulting traffic engineers, dated 9/24/12
 - The state "120-day rule" for making a final decision was extended to November 22, 2012 for all applications
 - Attorneys on both sides invoke state land use laws and request that the record be left open for 7 days for submittal of additional evidence, another 7 days for rebuttal, and another 7 days for the applicant's closing written argument
- **10/1/12**: Opponents "Save Downtown Canby" and their attorney Michael Connors, Hathaway Koback Connors LLP, submitted additional written testimony and an additional letter from Lancaster Engineering opposing the project
- **10/8/12**: Applicant's attorney, Steve Abel, Stoel Rives LLP submitted a rebuttal letter addressing the opposition's concerns
- **10/15/12**: Applicant's attorney, Steve Abel, Stoel Rives LLP submitted final closing arguments
- **10/22/12**: Third Planning Commission meeting held to review the additional written records, deliberate, and reach a decision. The Planning Commission recommended denial of the text amendment and zone change applications with a 3-1 vote
- **11/7/12**: City Council Public Hearing for files TA 12-01/ZC 12-02

The Site and Design Review file #DR 12-03 portion of this proposal is a Type III process only requiring approval by the Planning Commission and therefore is being processed as a separate file. If the Council approves files TA 12-01 and ZC 12-02, then the Planning Commission will hold a public hearing and make a decision on DR 12-03. The Design Review application/staff report for file #DR 12-03 is available upon request but the specifics of the Site and Design Review are not relevant to the Council's decision for files TA 12-01 and ZC 12-02. The Planning Commission has not reviewed or acted on the Site and Design Review application at this time.

See the attached Staff Report prepared for the Planning Commission, written testimony/comments from interested parties, and the associated Ordinance appropriate if the Council entertains approval of files TA 12-01/ZC 12-02.

Other attachments include:

- Proposed Code changes
- Pre-application minutes
- Application forms and narratives
- Neighborhood meeting notices and minutes
- Site plan, drawings, and elevations
- Customer spotting map
- Traffic Impact Study and Queuing Review
- ODOT approval letter

Exhibit A:
Proposed Canby *Land Development and Planning*
Ordinance/Zoning Map Changes

Chapter 16.41 DOWNTOWN CANBY OVERLAY (DCO) ZONE

Sections

- 16.41.010 Purpose.
- 16.41.020 Applicability.
- 16.41.030 Uses permitted outright.
- 16.41.040 Conditional uses.
- 16.41.050 Development standards.
- 16.41.060 DCO site and design review guidelines.
- 16.41.070 DCO site and design review standards.
- 16.41.020 Applicability.

A. It is the policy of the City of Canby to apply the DCO zone to all lands located within the boundaries illustrated on the Downtown Canby Framework Diagram; the boundaries of the overlay district, and boundaries of the three sub-areas, are as shown in this chapter, Figure 11. The three sub-areas are established as follows:



Figure 6
Example of high-quality screening design

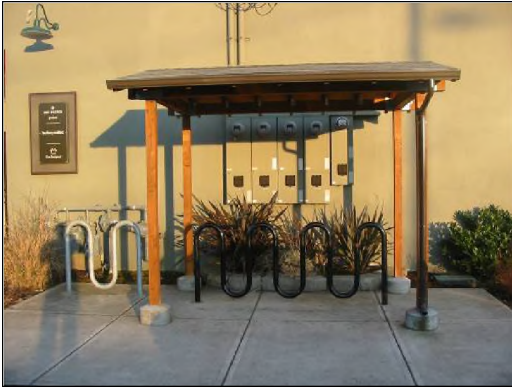


1. Core Commercial Area. This area straddles Highway 99E and includes portions of both the C-1 and C-2 zones and forms the densest commercial area of the city, as well as the city's primary community facilities – city hall, police station, library, etc.

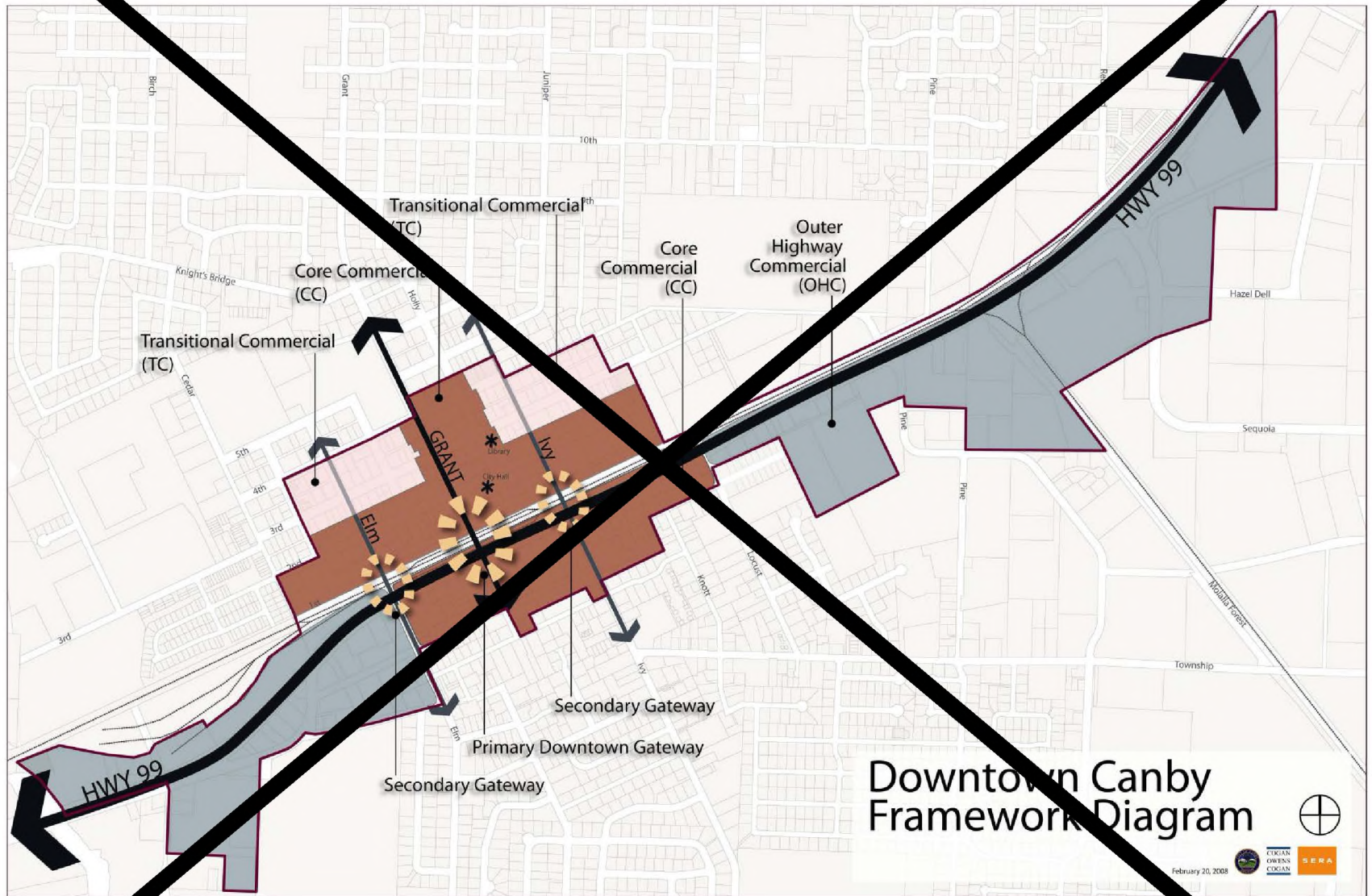
2. Transitional Commercial Area. This is the transitional area that lies between the more intense Downtown Core Commercial area and the established single-family neighborhoods to the north and northeast. The two Transitional Commercial nodes are tucked between 3rd and 4th and Fir and Douglas on the west side of Downtown, and 3rd and 4th and Holly and Knott on the east side.

3. Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and mid-block between Knott and north of Locust Streets. This area is quite different from the Core Commercial and

Figure 7
Example of well-planned landscaping



Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.



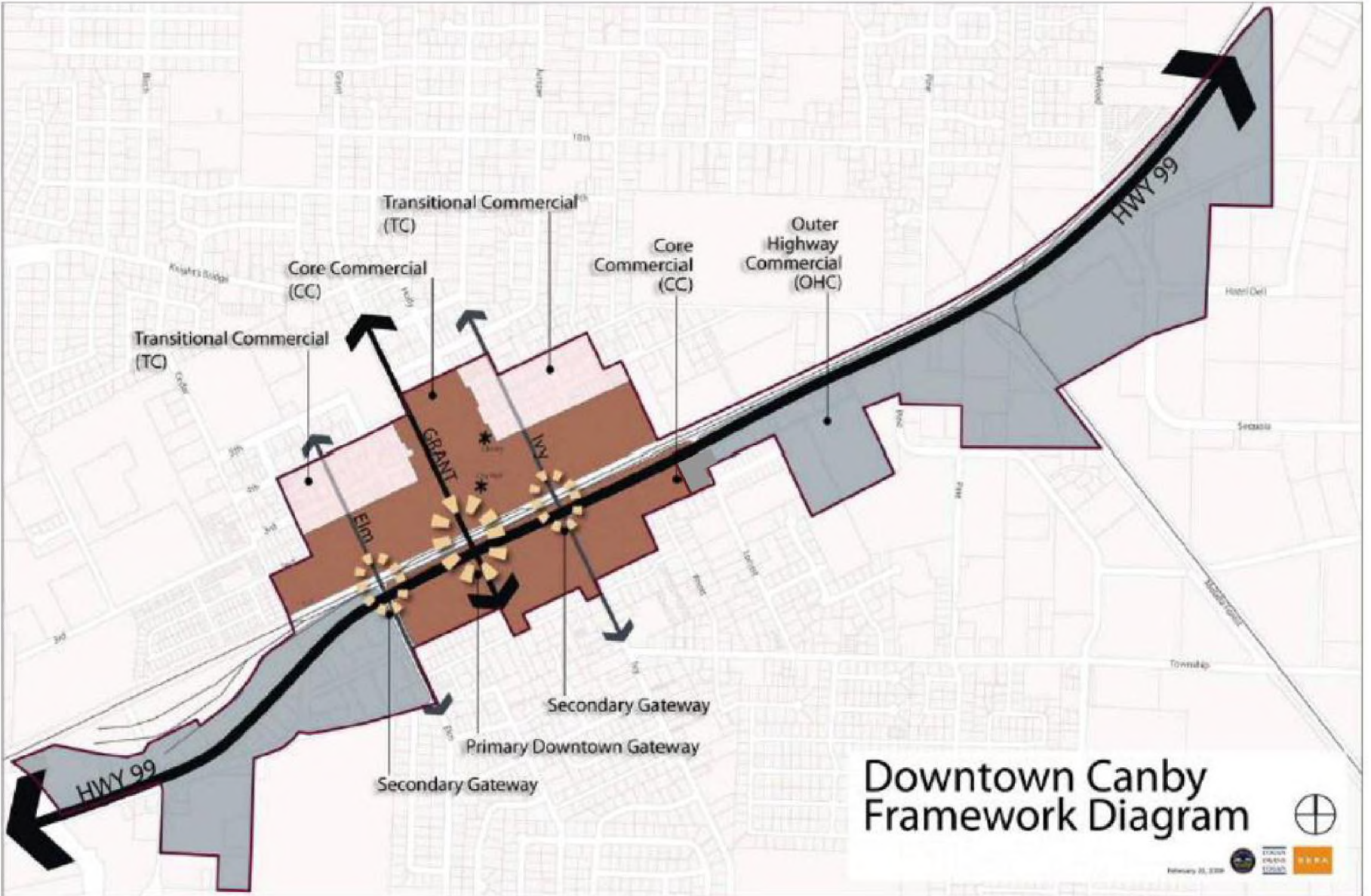


Figure 11 Downtown Canby Overlay Zone



Figure 21
The chamfered entry on this building reinforces the corner



Figure 22
Use of materials such as stone and stucco add to a feeling of permanence



Figure 23
These buildings in the commercial core illustrate desired design features in

1. General applicability.

a. Subsection 16.41.060.C and section 16.41.070 define how and where different types of standards apply.

b. Design standards apply only to the following: (1) new developments; (2) remodels which represent 60 percent or more of the value of the existing building; (3) façade improvements that would alter the exterior structure of the building.

c. Design standards do not apply to the following:

(1) Interior remodels not combined with exterior changes and valued at less than 60 percent of the total improvement value of the property;

(2) Repair and maintenance of buildings, accessory structures, parking lots and pedestrian areas that present an immediate or potential risk of public safety;

(3) Normal or routine maintenance and repair of existing structures;

(4) Any type of construction that does not require a building permit;

(5) Temporary structures and emergency structures permitted pursuant to applicable code standards.

2. Sub-Areas. Site and design review standards are applied differently within the three sub-areas described below (see Figure 11).

a. Core Commercial Sub-Area (CC). The “downtown” portion of this area extends primarily along 1st and 2nd Avenues between Cedar and Knott Streets, and extends northward, away from Highway 99E along Grant and Holly, past Wait Park



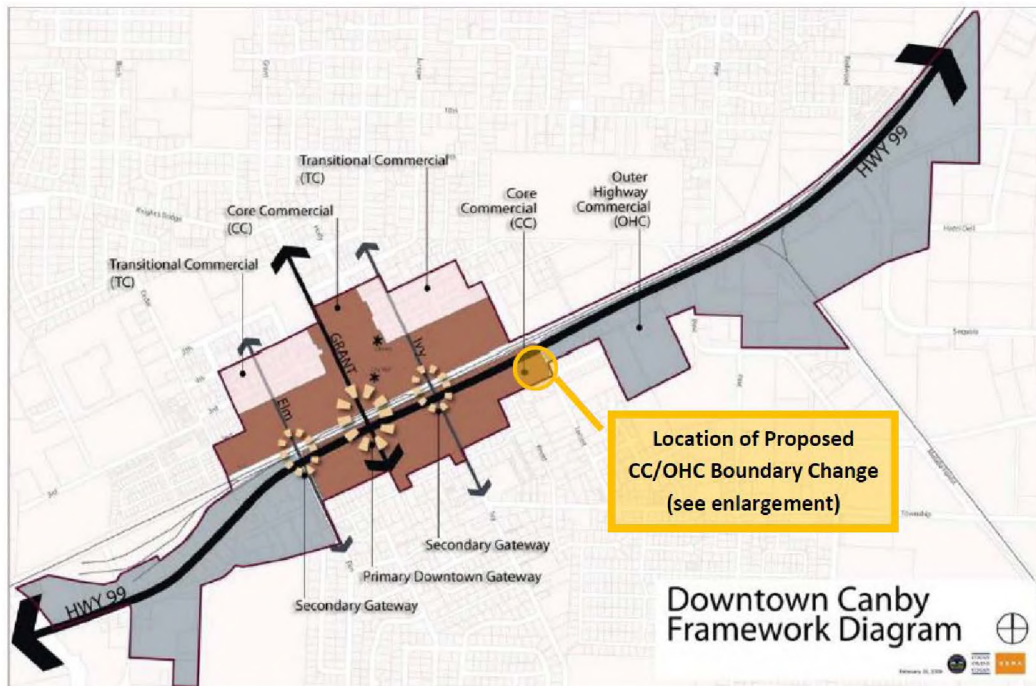
Figure 24
The Canby Herald Building in the commercial core incorporates many good design elements including a recessed entry, sign frieze, engaged



to 4th Avenue. This area is the “heart” of Canby. Here one will find the City’s more historic, traditional commercial structures. The built environment is characterized by one to two story buildings with commercial storefronts, built up to the sidewalk, and containing a more or less solid “building wall.” The result is a more active and vibrant street life than may be found elsewhere in the City. Future development in this area should continue this trend, designing commercial and mixed-use buildings that adequately address the sidewalk and create an engaging experience for pedestrians (see Figures 23 and 24).

The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and mid-block between Knott and Locust Streets. In many ways, it serves as an extension of the Downtown Core, just across the highway. Because this area serves as a “gateway” from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses, buildings here should be appropriately scaled, inviting to pedestrians, and demonstrate high-quality architectural design. As a result, architectural standards for this area and the downtown are identical, although some development standards differ as described in section 16.41.050.

Exhibit B:
Illustrations of the proposed CC/OHC Boundary Changes



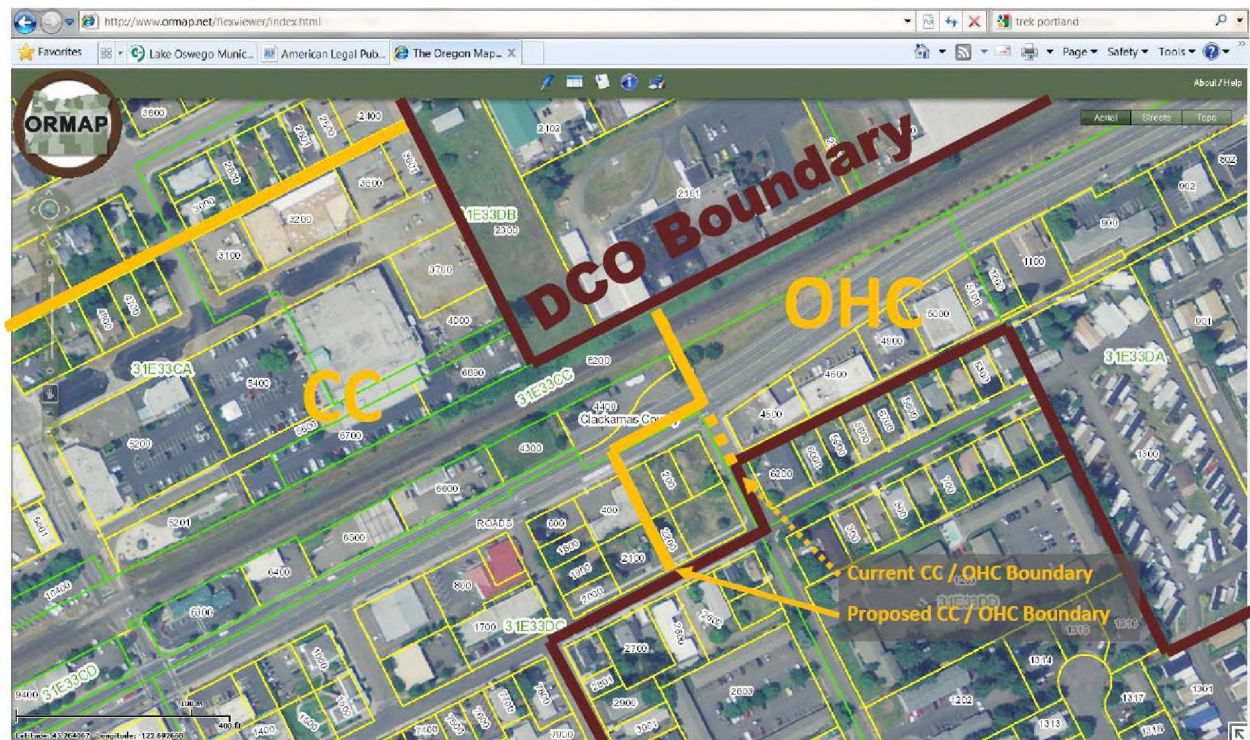
Proposed Action

Change the Downtown Canby Overlay (DCO) designation of 0.75 acres, from Core Commercial (CC) to Outer Highway Commercial (OHC), consisting of the following five tax lots:

Tax Map 3S 1E 33DC

Tax Lots

00100, 00200, 00300, 02200 & 02300





Pre-Application Meeting

Fred Meyer Gas Station

February 28, 2012

11:00 am

Attended by:

Mike Lang, Oliver/Lang LLC, 503-655-8999

Adam Schatz, Fred Meyer, 503-797-3026

Hassan Ibrahim, Curran-McLeod Engineering, 503-684-3478

Jerry Nelzen, Public Works, 503-266-4021

Jeff Randall, Great Basin Engineering, 801-521-8529

Bryan Brown, Planning Dept, 503-266-7001

Avi Tayar, ODOT, 503-731-8221

Jim Coombes, Fred Meyer, 503-797-5617

Vickie Lang, Oliver/Lang LLC, 503-266-2545

Dan Mickelsen, Public Works, 503-266-4021

Doug Quan, CUB, Water Dept, 971-563-6314

Jake Tate, Great Basin Engineering, 801-521-8529

Seth Brumley, ODOT, 503-731-8534

This document is for preliminary use only and is not a contractual document.

GREAT BASIN ENGINEERING, Jake Tate

The project we are proposing is on the southwest corner of Highway 99E and S Locust Street. Fred Meyer is proposing a six multi-side product dispenser fuel station with associated attendance kiosk and propane distribution tank. There will be two underground storage tanks totally approximately 38,000 gallons, along with associated parking and asphalt improvements to go along with this site development.

CURRAN-MCLEOD ENGINEER, Hassan Ibrahim

- The fueling area under the canopy needs to be hydraulically isolated by a means of surface grading or gutter. The drainage from the fueling area has to go through an oil/water separator or petroleum scavenge device. Jeff asked where will the designation go to and Hassan stated the sanitary sewer. The rest of the area will go through a storm system which has to be kept on site.
- Hassan asked how did you determine the access needs off of SE 2nd Avenue. Jeff said it was how the stacking went with the usage of the fueling center and having people entering both sides. This helps circulate them easier, faster and more efficient. Jim also stated we looked at S Locust Street, but to get cars to go through and circulate in the driveways would not function well for that intersection.
- The sites driveway approach on SE 2nd Avenue will need to be ADA compliant and the S Locust Street driveway approached will be going away, correct. The answer was yes. You will need to have a sidewalk and curb put in on S Locust Street. I do not know from your design if the driveway approach on SE 2nd Avenue lines up and Jeff said once the survey comes in we will know and if we need to move it we will. Hassan said the wings on both driveways do not appear to be ADA compliant. It was asked if the City had any standard details and Hassan stated it needs to be 12 to 1 ratio.
- Did you get the right-of-way off the tax map? Jeff said yes it did come off the tax map, but we are waiting for the survey to verify. Hassan wanted to make sure the corners are 90 degrees or close to it. We want to make sure we get the triangle piece as a right-of-way dedication.
- On the northeast corner of the site, there is a large power pole and fire hydrant. I do not know how that is going to affect you, but you need to keep in mind you have vision triangle

- requirements for the corner of 99E and S Locust, which is 30 feet on each side, from back of curb. It was asked if the height requirement was 30 inches and the answer was yes.
- Hassan asked if there was any right-of-way dedication along the highway. Bryan said we are currently addressing some issues for the Gateway Corridor Plan on 99E. We are doing the right-of-way dedications to ensure we have a minimum of an 8 foot sidewalk along 99E and our designs are likely to be much wider than the 8 foot and in order to achieve that we will need a foot or two of dedication. Right now, I just want you to keep it in mind. We also have a Downtown Overlay which comes into play with the Gateway Corridor and we will need to work this out for your site.
- We put in a new sewer mainline on SE 2nd Avenue and stubbed a new lateral to the site with a clean out at the property line. Hassan handed the as-builts to Jake for the sewer main and the 6 inch lateral.
- You will need to design for a 10-year storm, 3 inches in a 24 hour period. Use the Clean Water Services of Portland. If you decide to go with drywells they need to be rule authorized through DEQ.

CITY OF CANBY, PUBLIC WORKS DEPARTMENT, Jerry Nelzen

- There is a sewer lateral line coming off the 99E side and I would like to see it and make sure the line is capped. If you find any more I would like to know and see them before you cap them.
- You will need to have an interceptor before anything goes into the sewer main.
- You will need an emergency shut off switch and an “in case of an emergency” plan in effect. Jeff said we will have all of it in place; it is standard issues for fueling stations.

CITY OF CANBY, PUBLIC WORKS, EROSION CONTROL, Dan Mickelsen

- Do you know what you are planning for the onsite storm? Swales or drywells? Jeff asked if there is a method you prefer. It was suggested an infiltration basin rather than a drywell, if possible. We have a large landscape area and we might have to flip it because of the topography of the site.
- You will need to talk to Gary Stockwell, Canby Utility, Electric Department Foreman for the onsite lighting and the cobra head light off their power pole, which might need to be moved because of your proposed driveway. Discussion ensued about the power poles on 99E in front of their site. The representatives will contact Gary Stockwell.
- You will need to apply for an Erosion Control application and you can get the application at the Planning Department.

CANBY UTILITY, WATER DISTRIBUTION DEPARTMENT, Doug Quan

- We have a 12 inch water line underneath the sidewalk on the south side of 99E with a fire hydrant on the corner. There are two services currently going from main to meter on the 99E side and they are 1 inch services. If you choose to use one of the two services it will save you the main to meter charge. We also have mains off of S Locust or SE 2nd Avenue. You will need to pay the System Development Charge (SDC) and meter charges; there are no credits for the site because the services were grandfathered in. Discussion followed on which service to use.

- Are you going to have an FDC on site? The answer was no, they will utilize hydrants around the site.
- Are you planning on having irrigation? The answer was yes. Doug said you can T-off the domestic service, but you will need to have a backflow device after the meter and will need to be tested annually.

OREGON DEPARTMENT OF TRANSPORTATION, Avi Tayar

- We are looking at having your access off of 99E relocated to the property line and have a shared driveway with the adjacent site to the west. The driveway's maximum width is 40 feet, face to face. The representative said they will look into the option of a consolidated driveway with the property owners to the west. Hassan said there might be an agreement for a consolidated driveway and Avi said he would look into it.
- You will need to get an Access permit from our district office.
- The City will require a traffic study and we would like to have a copy sent to us.

CITY OF CANBY, PLANNING DEPARTMENT, Bryan Brown

- We have a process outlining the Code for conducting a traffic survey. Bryan will give the representative the point of contact with DKS Engineering. We will work closely with you and ODOT on the traffic study.
- The main issue we have is an underline zoning problem, this site is zoned C-2 along with being subjected to the Downtown Overlay. Looking at this situation, I came to the conclusion to strongly recommend for you to submit a Text Amendment with the request to change the development and guidelines, which are applicable to the core commercial subarea of the Downtown Canby overlay. If you submit the Text Amendment, figure 11, the diagram structure shows the boundaries of the three subareas and if it could be moved back one site from your property it will give you some arguments and a basis for moving the boundary line. You will still have some troubles complying with the "T" development of the design standards. A question was asked to Bryan, what do you consider a building, is a canopy considered a building? Bryan stated I do not think of a canopy being a building, which is probably being the intent of the standards, because it is not an enclosed structure like the kiosk. The other application you will need for the Site and Design Review is a Type III and also the Code views the Downtown Overlay. It will be a discretionary type application from the Planning Commission, but that will be a good thing to review because it will give you the argument of intent and the unusual/difficult in implying these standards to something as odd as a filling station canopy and not being associating with a convenience store on your site, you do not have a building. This is a gray area and cannot be advocated for this Text Amendment, but I can tell you I think it is the way to go for such a request.
- A question was asked on the timeline of those applications, like the Text Amendment. Bryan said it will be the same as your Site and Design review; it usually takes approximately a 3 month period. The Planning Commission meets every 2nd and 4th Monday of each month. There are two aspects and depending on how quickly you want to get through this, you should have started and been working on the Traffic study and this is partly my fault, but we need to get through the zoning concerns. Once we get the information, we can write a Staff Report from the Traffic study. Bryan will get them the information they are requesting.

- The Type III application requires you to have a neighborhood meeting and that needs to be completed prior to your application and forward the results of the meeting to us. It is applicable to incorporate citizen's design considerations from the neighborhood meetings and comment on how you are addressing their concerns. The mailing distance is 500 feet from the outside edge of your property; we will need mailing labels for us to send to the landowners, occupants or residents. You can get this information from a title company of your choice. Bryan explained the timeline for the process of submitting in his Memorandum he handed out, which highlights all of the issues needing to be addressed before going in front of the Planning Commission.
- We discussed the vision triangles of the corner of 99E and S Locust, but we did not discuss the vision triangle for the driveways and they are 15 feet.
- If you take my suggestion with the Text Amendment and are successful in getting into outer highway subarea you will be subjected to table III of the Sign Ordinance which indicates your maximum pole pylon design of 48 square feet per side and 18 feet in height.
- Our Codes of the Access Management guidelines, 16.46.30 discusses the minimum driveway separation between properties. The other standard is 330 feet away from any street intersection from your proposed driveway and apparently from what I see you are too close to the S Locust intersection. Our Code reinforces ODOT's standards and if you cannot meet these standards, the next two things which need to be done, are an engineered traffic study and/or Access Management evaluation to access it. It will help demonstrate the impact of the driveway where you are proposing to place it and if there are any other potential locations which might be better. Jeff asked what is the footage for the combined driveways. The answer was 20 and 20 for a shared with a maximum of 40 feet driveway. Jeff said we are concerned about the driveway approach because of our fuel trucks and the adjacent building sits about 15 feet from the sidewalk. Avi said they will look at it and the traffic study will address it. Jake asked if there will be any flexibility with widening the driveway approach. The answer was they will look into it after the traffic study was completed.
- This site has several platted lots and or tax lots which will make a potential problem if you do not consolidate the lots into one tax lot. Clackamas County will not want to issue a Building permit over property lines. We have a process here in Canby which is a replat/lot consolidation and in order to implement it, it might include a final plat and you will have to consult with the County Surveyor.
- I have included our Outdoor Lighting Standards with this Memorandum; it is a new addition to our Code. You will need to supply a Photometric plan with your submittal.
- I see you have a plaza on your site plan at the intersection and Jake said per your Code it stated if you are on the corner lot you needed to try to improve the corner, but if you do not want it we can remove it. Bryan said with the 1,000 gallon propane tank you want it seen and not have a sign reading it is in the back. Discussion was held on protective barriers for the propane tank. Jake said we put a wall around it to soften the surroundings of the tank. We can change it and accommodate what you would like for the area.
- Jim showed two different designs for the site with different driveway entrances and the reasons why they picked the current site plan, not only for the ease of stacking but for the fuel truck accesses in and out of the site.

TEXT AMENDMENT APPLICATION

FEE \$2,880
PROCESS TYPE IV

OWNERS

Name Oliver & Lang, L.L.C. and E. Wayne Oliver

Address PO Box 353

City Canby State OR Zip 97013

Phone 503-226-2715 Fax 503-263-6968

E-mail ryan@oliverinsurance.net

APPLICANT**

Name Great Basin Engineering - Jake Tate

Address 2010 North Redwood Road

City Salt Lake City State UT Zip 84116

Phone 801-521-8529 Fax 801-521-9551

E-mail jaket@gbesouth.com


Please indicate who is to receive correspondence (i.e. staff reports etc) and what format they are to be sent

☒ Owner ☒ Email ☐ US Postal
☒ Applicant ☒ Email ☐ US Postal

☐ Fax
☐ Fax

OWNERS' SIGNATURES


E. Wayne Oliver


Oliver & Lang, L.L.C. By: E. Wayne Oliver
Its President

DESCRIPTION OF PROPERTY

Tax Map: 3S1E33DC Tax Lot(s): 00100, 00200, 00300, 02200, 02300 Lot Size: 32,466 Sq Ft (0.75 acre)

USE OF PROPERTY

Existing Use: Vacant Land

Proposed Use: Gasoline Distribution Facility

Existing Structures: None

ZONING: C-2

COMPREHENSIVE PLAN DESIGNATION: HC – Highway Commercial

PREVIOUS LAND USE ACTION (if any): N/A

FOR CITY USE ONLY

File # :

Date Received:

By:

Completeness:

Pre-App Meeting:

Hearing Date:

*If the applicant is not the property owner, he must attach documentary evidence of his authority to act as agent in making application.

GREAT BASIN ENGINEERING - South

2010 North Redwood Road • P.O. Box 16747 • Salt Lake City, Utah 84116
(801) 521-8529 • (801) 394-7288 • Fax (801) 521-9551



CONSULTING ENGINEERS
AND LAND SURVEYORS

May 7, 2012

City of Canby
Attention: Bryan Brown
111 NW 2nd Avenue
Canby, Oregon 97013

Re: Text Amendment Associated with the Proposed Fred Meyer Fuel Center #651

Bryan,

The purpose of this written statement is to provide the City of Canby, the Planning Commission and the City Council with information regarding the conditions surrounding the proposed Fred Meyer Fuel Center and why an amendment to the text of the current zoning code would be in the best interest of the City and how it would meet the standards & criteria specified in chapter 16.88.160 of the zoning code.

Project Background

Fred Meyer Stores, Inc. is proposing a 6 multi-product dispenser fuel center at the southeast corner of SE 1st Avenue (Hwy 99E) and Locust Street. The project includes a 92' x 58' fuel canopy, two underground fuel storage tanks, an attendant kiosk, a mechanical equipment kiosk with restroom, dumpster enclosure, storage shed, propane tank refueling station and an air/water pad. Also, included in the project will be the associated asphalt circulation and queuing areas, parking stalls, site curbing and sidewalks.

The site is zoned C-2 Highway Commercial where a service (fueling) station is an outright permitted use. The site also is located at the easternmost edge of the Core Commercial (CC) area of the Downtown Canby Overlay (DCO) Zone. While the underlying C-2 highway commercial zone allows a fueling station outright as does the CC overlay area, the CC area's purpose and subsequent additional development standards do not appear to have been created with a fueling station in mind.

Proposed Text Amendment

Upon reviewing the Canby City Code, having discussions with the City and attending a pre-application meeting with all applicable entities, the decision was made to submit a text amendment that would adjust the boundary of the DCO, specifically the eastern boundary of the Core Commercial overlay area. The amendment would shift the eastern boundary of the Core Commercial overlay area on the south side of SE 1st Avenue (Hwy 99E) from Locust Street to Knott Street. This would also result in the Outer Highway Commercial overlay area being extended from Locust Street to Knott Street and would place the Fred Meyer Fuel Center project in the Outer Highway Commercial area.

The specific amendments to the zoning code that are being proposed at this time are as follows:

1. Section 16.41.020 (A)(3) which currently reads: "*Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of Locust Street...*" would be revised to read: "*Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of **Knott** Street...*"
2. Section 16.41.060 (B)(2)(a) the second paragraph of which begins: "*The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust...*" would be revised to read: "*The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and **Knott**...*"
3. Figure 11 titled "Downtown Canby Overlay Zone" located between Sections 16.41.040 and 16.41.050 would revise the eastern boundary between the Core Commercial and Outer Highway Commercial south of SE 1st Avenue (Hwy 99E) to be drawn at Knott Street instead of Locust Street.

Justification for Text Amendment

The following items are a summary of the conditions that led Fred Meyer to seek to move the subject property from the Core Commercial Overlay Area to the Outer Highway Commercial Overlay area through an amendment to the zoning code.

- A service (fueling) station is an outright permitted use in the C-2 Highway Commercial Zone per Section 16.28.010 (J).
- Uses permitted outright in the underlying base zones are permitted outright in the DCO zone per Section 16.41.030.
- Section 16.41.020 (A)(3) states that by the nature of its highway access and orientation the design focus of the Outer Highway Commercial area is: "*less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.*" This is in direct harmony with the existing businesses located between Locust and Knott Streets and the proposed project which are all highly "automobile-oriented" in nature (See the next item below for further explanation). Contrastingly, the purpose of the Core Commercial area which is identified in Section 16.41.010 (B) as "*...a pedestrian friendly environment...*" having "*a comfortable pedestrian-oriented environment and limited setbacks...*" does not fit the existing businesses located between Locust and Knott Streets or the proposed project as completely as the Outer Highway Commercial area.
- The four (4) neighboring commercial businesses to the west of the site, which also fall between Locust Street and Knott Street and will be transitioned into the Outer Highway Commercial Overlay area with the approval of this text amendment, are all highly "automobile-oriented" in nature. They are the Canby Cleaners (dry cleaners w/ drive thru window), Domino's Pizza (pick up & delivery only), Canby Shoe Repair & Saddlery, and the Canby Psychic. All are destination type businesses where patrons go for a specific good or service and would be less subject to casual pedestrian drop-ins that are the focus on the more pedestrian-oriented Core Commercial Overlay area. Also, the property to the east of the subject site is a service station. This text amendment would not make the subject area incompatible with the surrounding area.

- There are also three (3) residential homes that fall in this area which front SE 2nd Avenue and Knott Street. They should not be negatively impacted by the DCO change because, while residential homes are permitted in the DCO areas, the design standards of the DCO do not apply to residential, per Section 16.41.030 (A), as they still have to meet the requirements of the R-2 development standards in Section 16.20.
- Moving the eastern boundary of the Core Commercial Overlay area from Locust Street to Knott Street creates a uniform eastern boundary between the north (which already has Knott Street as its eastern boundary) and south sides of SE 1st Avenue (Hwy 99E). Refer to Figure 11 located between Section 16.41.040 and 16.41.050.
- The proposed Fred Meyer site is surrounded on three (3) sides by non-Core Commercial areas. Moving the eastern boundary will not make the subject property an outlier or incompatible with the neighboring properties with respect to the intent or development standards of the DCO. Refer to Figure 11 located between Section 16.41.040 and 16.41.050.

Compatibility with Section 16.88.160 (A)(1-5): Standards and Criteria

Amendments to the text of the Canby City Code are considered and subject to the requirements identified in Section 16.88.160 (A)(1-5). The following section addresses this projects compliance with each criterion.

1. The Comprehensive Plan – the proposed fueling station is an outright permitted use. It is assumed that all comprehensive plan research that was conducted to establish the permitted uses in the base C-2 Highway Commercial Zone remain applicable and no additional proof of compatibility will be necessary.
2. A Public Need for Change – as opinions on the “need for change” vary from person to person this criterion is a highly subjective one. Gasoline prices have been on a steady rise and have placed greater financial burdens on public as a whole. Fred Meyer hopes that their ability to provide a more affordable source for gasoline and diesel fuels through their customer rewards program to the City of Canby would be a welcome change and constitute a “need” in and of itself.
3. The Proposed Change Will Serve the Public Need Better than Any Other Change Which Might Be Expected to be Made – the current text of the zoning code, particularly the Downtown Canby Overlay Zone is not written specifically to accommodate a service (fueling) station even though such a station is an outright permitted use. The proposed text amendment attempts to use the code, as it is currently written, in the most complete way with the least impact to surrounding properties and code as a whole. Other more extensive revisions to the code could be researched, however, extensive code changes in an attempt to accommodate an individual use is not preferable or practical.
4. Will the Change Preserve and Protect the Health, Safety, and General Welfare of the Residents in the Community – again, the fact that the proposed fueling station is an outright permitted use, the assumption can be made that the City would not permit a use that would be a detriment to the preservation and protection the health, safety and general welfare of the residents of the community. On a site specific scale, Fred Meyer construction standards for


its fuel centers meet and in most cases exceed all Local, State and Federal requirements. Especially those related to underground storage of fuel, vapor recovery activities and any other requirement specific to a gasoline distribution facility.

5. Statewide Planning Goals – exact statewide planning goals are unknown to the applicant at this time, however, having affordable fueling options conveniently available along main transportation & commuting corridors would appear to fall in harmony with goals of the State.

This statement has been prepared for the City of Canby to request amendment in three (3) locations of the existing zoning code. Should you require additional information or have any questions please contact me at (801) 521-8529.

Sincerely,

GREAT BASIN ENGINEERING – SOUTH

A handwritten signature in black ink, appearing to read 'Jake Tate', with a stylized flourish extending to the right.

Jake Tate, P.E. (Utah)
Project Engineer

Fred Meyer – Canby Text Amendment Application

Supplemental Recommended Findings

July 12, 2012

The Applicant provides the following re-statement of the Proposed Text Amendment, justification, and supplemental recommended findings of fact and conclusions of law for the record.¹ Applicable Code provisions are quoted in *italic type* followed by responses from the Applicant.

Proposed Text Amendment

Based on review of the Canby City Code, a pre-application conference with City staff and a neighborhood meeting, the Applicant has elected to propose a text amendment to shift the boundary between sub-areas of the Downtown Canby Overlay (DCO) district. More particularly, on the south side of SE 1st Avenue (Highway 99), the text amendment will shift the existing boundary between the Core Commercial (CC) and Outer Highway Commercial (OHC) overlay zone sub-areas to the west, from the current alignment in S Locust Street to the eastern boundary of Tax Lots 400 and 2100, Tax Map 3 1E 33CC. The proposed alignment is depicted in attached Exhibits A, B and C. The result will be to re-designate the vacant 0.75-acre rectangular area on the west side of S Locust Street between SE 1st and SE 2nd Avenues (Tax Lots 100, 200, 300, 2200 and 2300, Tax Map 3 1E 33DC) from CC to OHC for purposes of implementing DCO zone development standards.

The specific proposed amendments to the zoning code are as follows (deletions are in ~~striketrough type~~ and insertions are in **boldface underlined type**):

Figure 11, “Downtown Canby Overlay Zone,” will be amended as depicted in attached Exhibits A and B. (Note: the attached Exhibits include callout annotations that need not be included in the final version within the Code.)

Section 16.41.020(A)3. Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of ~~Locust Street.~~ **the alignment depicted in Figure 11, “Downtown Canby Framework Diagram”, within the Downtown Canby Overlay Zone.** This area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality

¹ This information is intended to supersede and replace in their entirety the statements previously submitted as part of the land use application materials, under the headings “Proposed Text Amendment,” “Justification for Text Amendment” and “Compatibility with Section 16.88.160(A)(1-5): Standards and Criteria” of the May 7, 2012 letter from Jake Tate, P.E., of Great Basin Engineering – South.

pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.

Section 16.41.060(B)2.a (second paragraph). The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust. **the alignment depicted in Figure 11, “Downtown Canby Framework Diagram”, within the Downtown Canby Overlay Zone.** In many ways, it serves as an extension of the Downtown Core, just across the highway. Because this area serves as a "gateway" from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses, buildings here should be appropriately scaled, inviting to pedestrians, and demonstrate high-quality architectural design. As a result, architectural standards for this area and the downtown are identical, although some development standards differ as described in section 16.41.050.

Justification for Text Amendment

The following items summarize the reasoning behind Fred Meyer’s proposal:

1. A service (fueling) station is an outright permitted use in the C-2 Highway Commercial Zone, per Section 16.28.010(J).
2. Uses permitted outright in the underlying base zones are permitted outright in the DCO zone, per Section 16.41.030.
3. The Core Commercial area is described as “*a pedestrian friendly environment ... [having] a comfortable pedestrian-oriented environment and limited setbacks*” [§16.41.010(B)]. Such areas, characteristic of traditional small-town Main Streets, benefit from having a close concentration of shops and stores that face each other on both sides of the street. To succeed and thrive, they require pedestrian access that is easy, safe and comfortable. In areas along highways, activity concentrates around key intersections, such as the Primary and Secondary Gateway locations identified in Figure 11 of the DCO District (see attached Exhibit A). As distances from the primary Gateway location increase along the highway, both the sense of activity concentration and the ease of pedestrian circulation become more and more difficult to maintain as a result of increasing un-metered highway traffic. Moreover, attempting to extend a “Main Street” environment along a highway corridor for more than about 1/4 (0.25) mile tends to allow businesses to scatter rather than concentrate close to the core, diluting the desired concentration effect.

The Grant Street Primary Gateway is the focal point of the Core Commercial sub-area, which currently extends from Elm Street to Locust Street on the south side of SE 1st Avenue, a distance of 1/2 mile. The Subject Property is on the eastern outer fringe, located more than

900 feet from the Ivy Street intersection (Secondary Gateway) and about 1,700 feet (0.32 mile) from the Primary Gateway at Grant Street. The intersection of S Locust Street and SE 1st Avenue is dominated by an existing fuel station at the southeast corner. The parking lot of the Hulbert's Flowers store is to the north, across SE 1st Avenue (Hwy 99). This context is not conducive to successful pedestrian-oriented commercial development. Encouraging such use at the Subject Property could actually compete with, and so detract from, the concentration needed to reinforce the Primary and Secondary Gateway nodes, to the overall detriment of the Downtown Canby Overlay district.

4. The Outer Highway Commercial area is *“less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.”* In light of the Subject Property's context, as discussed above, OHC designation is more suitable because none of the critical factors needed for successful CC-style development (storefront activity on both sides of the street, easy pedestrian access across the street, concentration within a 1/4-mile linear distance) are in evidence at this location. The nearest signalized pedestrian crossing of Highway 99 is at Ivy Street, over 900 feet away. Just west of the Subject Property, the neighboring commercial development is in a primarily auto-oriented configuration: an “L”-shaped building set back from the roadway, with a driveway access loop and off-street vehicle parking between the building and the street. For all these reasons, allowing the transition to OHC-style uses to occur on the east end of the block between S Knott Street and S Locust Street will help concentrate CC-style development close to the Primary and Secondary Gateways. The Subject Property's location makes it better suited to meeting some combination of local -and highway-travel-related needs, anticipating that a high proportion of site visitors will be using motor vehicles.
5. The proposed boundary change will not affect the base zoning or the overlay zoning designation of any property other than the five tax lots comprising the Subject Property (Tax Lots 100, 200, 300, 2200 and 2300, Tax Map 3 1E 33DC).

Compliance with Approval Criteria

16.88.160 Amendments to text of title.

...

D. Standards and Criteria. In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

- 1. The Comprehensive Plan of the city, 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;*

Applicant's Response: The proposed text change is very limited in scope: the base zoning of the Subject Property will remain the same, and the property will remain within the Downtown Canby Overlay (DCO) zone, subject to its development standards. The proposed change will make the transition between the Core Commercial (CC) and Outer Highway Commercial (OHC) sub-areas of the DCO zone occur approximately 950 feet east of the Ivy Street intersection with Highway 99, rather than approximately 1,100 feet from it. Since the Ivy Street intersection is the eastern Secondary Gateway designated by the City in Figure 11 of the DCO regulations, the Subject Property represents only 0.75 acre of land on the far perimeter of the current CC area boundary. This minor change will have no significant impact on implementation of the City's Comprehensive Plan, zoning or other regulations, and it will have no significant effect on plans and policies of county, state and local districts, agencies or service providers. This criterion has been met.

2. *A public need for the change;*

Applicant's Response: The proposed change is necessary because the regulations currently applicable to the Subject Property have not fostered economic development and productive use of the site since the time of their adoption. Existing neighboring developments and the distance from the Primary and Secondary Gateway locations designated by the City do not support pedestrian-oriented commercial development at the Subject Property. Furthermore, the public will benefit from achieving a concentration of pedestrian-oriented commercial activity as close as possible to the Primary Gateway location. To the extent the Subject Property could offer a lower-cost site for competing development and use, it stands to potentially detract from the goal of activating the center of the Downtown Canby Overlay district by encouraging businesses to scatter to the edges of the CC area rather than invest in more central locations. For all these reasons, this criterion has been met.

3. *Whether the proposed change will serve the public need better than any other change which might be expected to be made;*

Applicant's Response: The Applicant considered, and ultimately rejected, alternative potential regulatory changes, finding them not to be desirable for the following reasons:

- **Change the Base Zoning of the Subject Property** – the Highway Commercial (C-2) zoning of the Subject Property fits its location and context better than any other zoning designation in the Canby Code.
- **Designate with a different sub-area of the Downtown Canby Overlay zone** – the only other sub-area of the DCO zone is Transitional Commercial (TC). The TC area standards have been tailored to address urban adjacency issues found within areas on the northern edge of the CC area north of Highway 99. In adopting the DCO program and standards,

the City did not find that it would be appropriate to designate any TC areas on the south side of the Highway. Designating the Subject Property as TC could therefore amount to “spot zoning.”

- **Revise development standards within the CC sub-area to better accommodate a fueling station** – the Applicant’s goal of developing the Subject Property for use as a fueling facility could be achieved within the CC sub-area if the applicable standards were revised to allow such a use. This approach is not desirable because it would have the same effect throughout the CC sub-area, including central locations at or near the Primary and Secondary Gateways identified in Figure 11, “Downtown Canby Framework Diagram”, within the Downtown Canby Overlay Zone.

Therefore, the proposed change will serve the public need better than any other change which might be expected to be made. This criterion has been met.

4. *Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;*

Applicant’s Response: The Applicant has presented evidence to show that the proposed change will help to concentrate pedestrian-oriented businesses close to the heart of the CC sub-area of the Downtown Canby Overlay district. Such concentration is an important factor for achieving a “critical mass” of activity that attracts people to the district for shopping, eating, and other commerce or activities. The Subject Property, located more than 900 feet from the nearest of the city’s identified Gateway locations, is far from the heart of the Core Commercial area, and neighboring commercial uses are configured to serve customers primarily traveling by motor vehicle. In light of the above factors, and given its location on the fringe of the Core Commercial sub-area, re-designating the Subject Property as Outer Highway Commercial (OHC) maintains the City’s commitment to high standards of development while better fostering productive economic use of the land to meet community needs. The City has already determined that implementation of the use and design standards in the Downtown Canby Overlay (DCO) zone, including the regulations that apply throughout the OHC sub-area, protects the health, safety and welfare of the residents in the community. This criterion has been met.

5. *Statewide planning goals.*

Applicant’s Response: The proposed change complies with applicable Statewide Planning Goals for the following reasons:

Goal 1 Citizen Involvement

The acknowledged Canby Comprehensive Plan and Zoning Code contain procedures for review and approval of this proposed Text Amendment. Conduct of the review process in accordance

with those procedures, including required notices and public hearings, constitutes compliance with Statewide Goal 1. This proposal does not involve any attempt to alter the approved procedures for citizen involvement.

Goal 2 Land Use Planning

This application provides evidence to support the proposed text change. The narrative and the recommended findings and conclusions presented by the Applicant address the applicable approval criteria, which is the mechanism for ensuring that such changes maintain consistency with State and City policy frameworks for land use management. The Subject Property is located in an urban area, within the City of Canby's Urban Growth Boundary and City Limits. No resource land designations are affected, and so there is no need for an Exception to Statewide Goal 2 in this case.

Goal 3 Agricultural Lands

Goal 4 Forest Lands

Goals 3 and 4 are not applicable because the Subject Property is not designated for resource use. It is located in an urban area, within the City of Canby's Urban Growth Boundary and City Limits.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces

No significant Goal 5 resources have been identified within the Subject Property or its immediate vicinity. The proposed text amendment will have no impact with respect to Goal 5 resource protections or policies.

Goal 6 Air, Water and Land Resources Quality

The proposed text change will not alter the range of commercial uses allowed in the base zoning of the Subject Property. It will primarily affect the set of design and development standards with which the property must comply when urban development occurs. The proposed change will affect only the 0.75-acre Subject Property and will have no significant impact on air, water and land resources quality.

Goal 7 Areas Subject to Natural Hazards

The Subject Property is not located in an area with known natural hazards. This Goal is not applicable to the Subject Property and is not affected by the proposed change.

Goal 8 Recreational Needs

The Subject Property does not have suitable characteristics for recreational use or destination resort siting. This Goal is not applicable to the Subject Property and is not affected by the proposed change.

Goal 9 Economic Development

The Subject Property is suitable, and is zoned for, urban commercial use. It is adjacent to the primary road through the City of Canby, SE 1st Avenue (Oregon State Highway 99E) at the eastern edge of the designated Core Commercial sub-area. However, development of the 0.75-acre property has yet to occur. The proposed change to Outer Highway Commercial (OHC) sub-area designation is likely to spur development and commercial use of the property, which will contribute to economic development in the Canby community as well as the State of Oregon.

Goal 10 Housing

This Goal is specifically applicable to urban areas zoned for residential use. It is not applicable to the Subject Property and will not be affected by the proposed change.

Goal 11 Public Facilities and Services

Public services are available to serve the Subject Property. Because the proposed change will primarily affect the design requirements that will apply to development of the property, rather than altering the set of land uses to which it may be put, it will not significantly alter demand for public facilities and services. The proposed change will therefore not affect the City of Canby's compliance with this Goal.

Goal 12 Transportation

The Subject Property is located on the south side of Oregon Highway 99E, at the eastern edge of the City of Canby's designated Core Commercial sub-area of the Downtown Canby Overlay zone. Auto-oriented development, including a fuel station, is located to both the east and west of the Subject Property. It is located approximately 1,700 feet east of the City's designated Primary Gateway intersection (Highway 99E and Grant Street), and over 900 feet east of the nearest City-designated Secondary Gateway intersection (Highway 99E and Ivy Street). These distances are relatively far from those critical pedestrian activity centers for the Subject Property to be able to support pedestrian-oriented uses. Allowing development of the 0.75-acres Subject Property under Outer Highway Commercial (OHC) design requirements will enable the site to serve the commercial needs of the public, including motorists, without compromising or diluting the City's aspirations for the Core Commercial (CC) sub-area. Allowing such use of the Subject Property will have no significant effect on transportation network safety or capacity.

Goal 13 Energy Conservation

The small (0.75-acre) Subject Property is located within a designated urban commercial corridor along busy Oregon Highway 99E. The proposed change will affect its design/development standards rather than the set of land uses allowed in its base zone. Due to its small size and corridor location, the proposed change will have no significant effect on patterns of energy consumption or conservation.

Goal 14 Urbanization

The Subject Property is not designated as an Urban Reserve or as a Rural Reserve. It is located within the urban area of the City of Canby.

Goal 15 Willamette River Greenway

This Goal is not applicable because the Subject Property is not located within or near the Willamette River Greenway.

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

Goals 16-19 are not applicable because the Subject Property is not located in a coastal or estuarine area.

Summary and Conclusion

The Applicant has presented substantial evidence demonstrating that the proposed Text Amendment has been properly submitted and meets all applicable approval criteria. The Applicant respectfully requests that the City of Canby approve the requested Text Amendment.

Fred Meyer – Canby Site Design Review Application

Supplemental Recommended Findings

July 12, 2012

The Applicant, Fred Meyer Stores, provides the following findings supplement to support the previously submitted Site and Design Review application. Applicable Code provisions are quoted in *italic type* followed by responses from the Applicant.

16.49.040 *Criteria and standards.*

In review of a Type III Site and Design Review Application described in Section 16.49.035.B, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following A through D, and with Criteria 4, 5, and 6 below:

- A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and*
- B. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and*
- C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.*
- D. The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.*
- E. The Board shall, in making its determination of compliance with subsections B through D above, use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible, in regards to subsections B, C, and D above, if the following conditions are met:*
 - a. The development accumulates a minimum of 70 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and*

- b. At least 15 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).*

Applicant's Response: The materials provided in the letter dated May 17, 2012 from Jake Tate, P.E. of Great Basin Engineering – South, provide detailed statements responding to the above approval requirements.

- 2. In review of a Type II Site and Design Review Application described in Section 16.49.035.A.1, the Planning Director shall, in exercising his powers, duties or functions, determine whether there is compliance with the DCO site and design review standards set forth in 16.41.070.A through F, and with Criteria 4, 5, and 6 below.*

[not applicable to this Type III application]

- 3. In review of a Type III Site and Design Review Application described in Section 16.49.035.A.2, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the DCO site and design review standards set forth in 16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1, and with Criteria 4, 5, and 6 below.*

16.41.070.A. Pedestrian oriented ground floor design standards.

- 1. Intent. Design standards in this section are intended to help create an active, inviting street and sidewalk-facing storefronts and entryways that are friendly and easily accessible to passersby. They also will help ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.*

16.41.070.B. Cohesive architectural elements standards.

- 1. Intent. Build upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades.*

16.41.070.C. Integrated building façade standards.

- 1. Intent. Build upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between.*

16.41.070.D. Corner intersection standards.

- 1. Intent. Create a strong architectural statement at street corners to create a strong identity. Establish visual landmarks and enhance visual variety.*

16.41.070.E. Materials standards.

- 1. Intent. Use building materials that evoke a sense of permanence and are compatible with Canby's business areas and the surrounding built environment.*

16.41.070.F. Color palette.

- 1. Intent. Use colors on buildings that are generally compatible with Canby's business areas and the surrounding built environment.*

Applicant's Response: In evaluating the proposed plans with respect to the **intent** of all the above design parameters, the Board must also consider the larger context established by the land use zoning as it applies to the Subject Property and, more broadly, the Highway 99 corridor.

1. The Subject Property is located in the Highway Commercial (C2) base zone, which allows service stations as an outright permitted use.
2. The Subject Property is also within the Downtown Canby Overlay (DCO) zone, which intends to “[*permit*] land uses which are permitted by the underlying zone districts, with some exceptions, as set forth in Sections 16.41.030 and 16.41.040.” [§16.41.020.B.1] None of the specific exceptions make a service station impermissible within the DCO zone.
3. In the Outer Highway Commercial (OHC) Area, the Applicability section of Chapter 41 notes that “[*t*]his area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.” [§16.41.020.A.3] It is apparent that implementation of the DCO zone provisions is not intended to preclude land uses permitted by the base zoning, including “automobile-oriented” uses.
4. As noted in the narrative and proposed findings prepared by Great Basin Engineering – South, several of the architectural and site design standards of the DCO zone are by nature unsuitable for a service station. For example, a contemporary service station does not require a garage building, but only an operator booth located under the canopy itself, and the canopy structure has no perimeter walls or windows. Although such design standards are logically irrelevant to a service station, the Code does not explicitly exempt service stations from compliance. The appearance of a conflict results, to the extent that service stations are a

permitted use but design standards seem to require site design and building elements that are not characteristic of service stations generally.

5. The Outer Highway Commercial sub-area of the DCO zone extends along the full length of Highway 99 through the City of Canby. Interpreting the DCO standards so as to impose an overly burdensome set of design requirements for service stations would in effect prohibit them along the whole Highway 99 corridor, to the detriment of the entire community.
6. Omission of clarifying statements in Chapter 16.41 offering specific guidance for the design and construction of service stations within the Outer Highway Commercial sub-area of the DCO zone is not a valid pretext for denial of the use. Rather, the Board is directed by this Code provision to *determine whether there is compliance with the INTENT of the DCO site and design review standards* in evaluating proposals through a Type III review procedure. That is, the Board has substantial discretion to determine how a service station proposal can keep faith with the INTENT of the design standards, and to give it relief from standards that should be considered not applicable in the context of a service station.

4. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.

Applicant's Response: The submitted plans demonstrate how all public facilities and services will be provided to the site.

5. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.

Applicant's Response: The Subject Property is not zoned for residential use and no residential use is proposed. This provision is not applicable.

6. *As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Chapter 12.32, the city Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.*

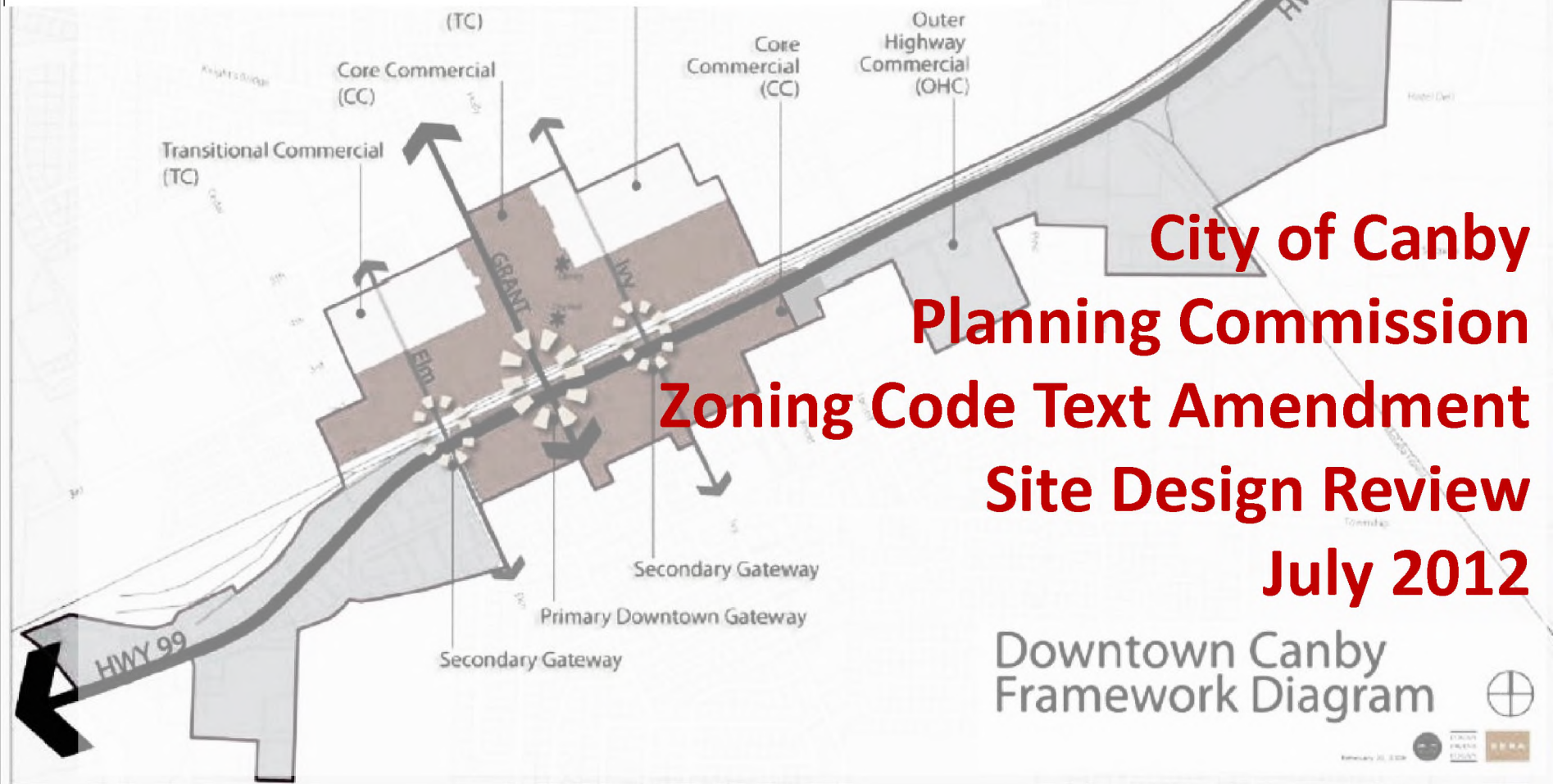
Applicant's Response: The subject property is vacant and does not contain trees subject to Tree Ordinance protections. This provision is not applicable.

Summary and Conclusion

The Applicant has presented substantial evidence demonstrating that the proposed development plan has been properly submitted and complies with the INTENT of the DCO site and design review standards. The Applicant respectfully requests that the City of Canby approve the requested development plan.

Applicant's PowerPoint Presentation

Fred Meyer



**City of Canby
Planning Commission
Zoning Code Text Amendment
Site Design Review
July 2012**

Downtown Canby
Framework Diagram

February 20, 2012

Customer Spotting Map - Fred Meyer #651

Address Date From: Period 4, 2012

Fred Meyer

Legend

- Limited Access Highways
- Primary Highways
- Secondary Highways
- Major Roads
- Streets
- + Railroads
- Lakes, Rivers and Oceans
- Cemeteries, Golf Courses
- Parks
- Airports, Airfields, & Airparks
- Military Installations

Trade Area

80.99% live within
87.70% spent within
142.3 sq. mi.

9,369 Addresses Potted

Distribution by City

Canby	66%
Aurora	6%
Molalla	5%
Oregon City	5%
Woodburn	3%
Other OR cities	14%
Out of State	1%

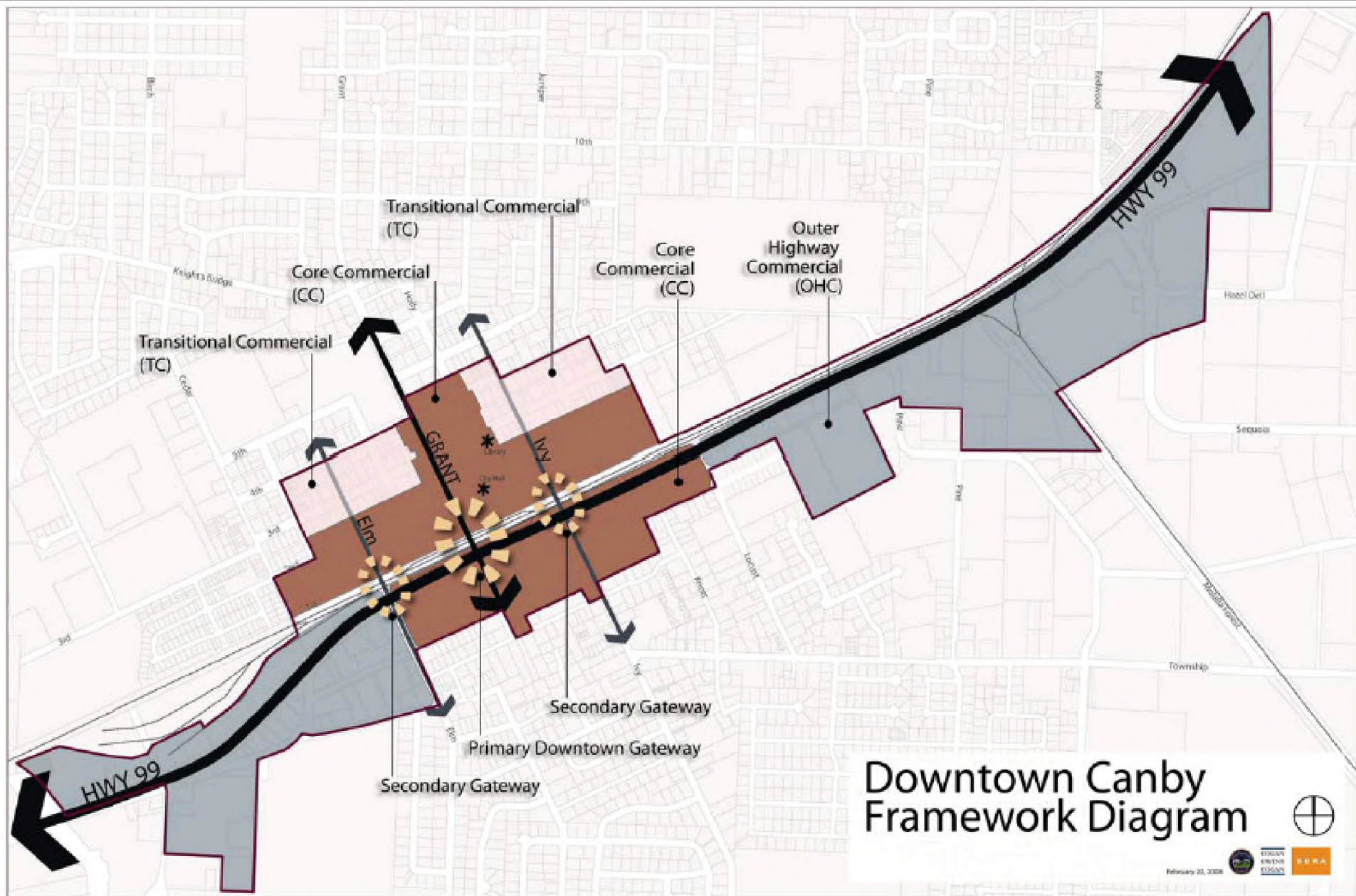
Note: These percentages come from mailing addresses. There are many who do not necessarily reflect the municipality in which customers live.

Map Key

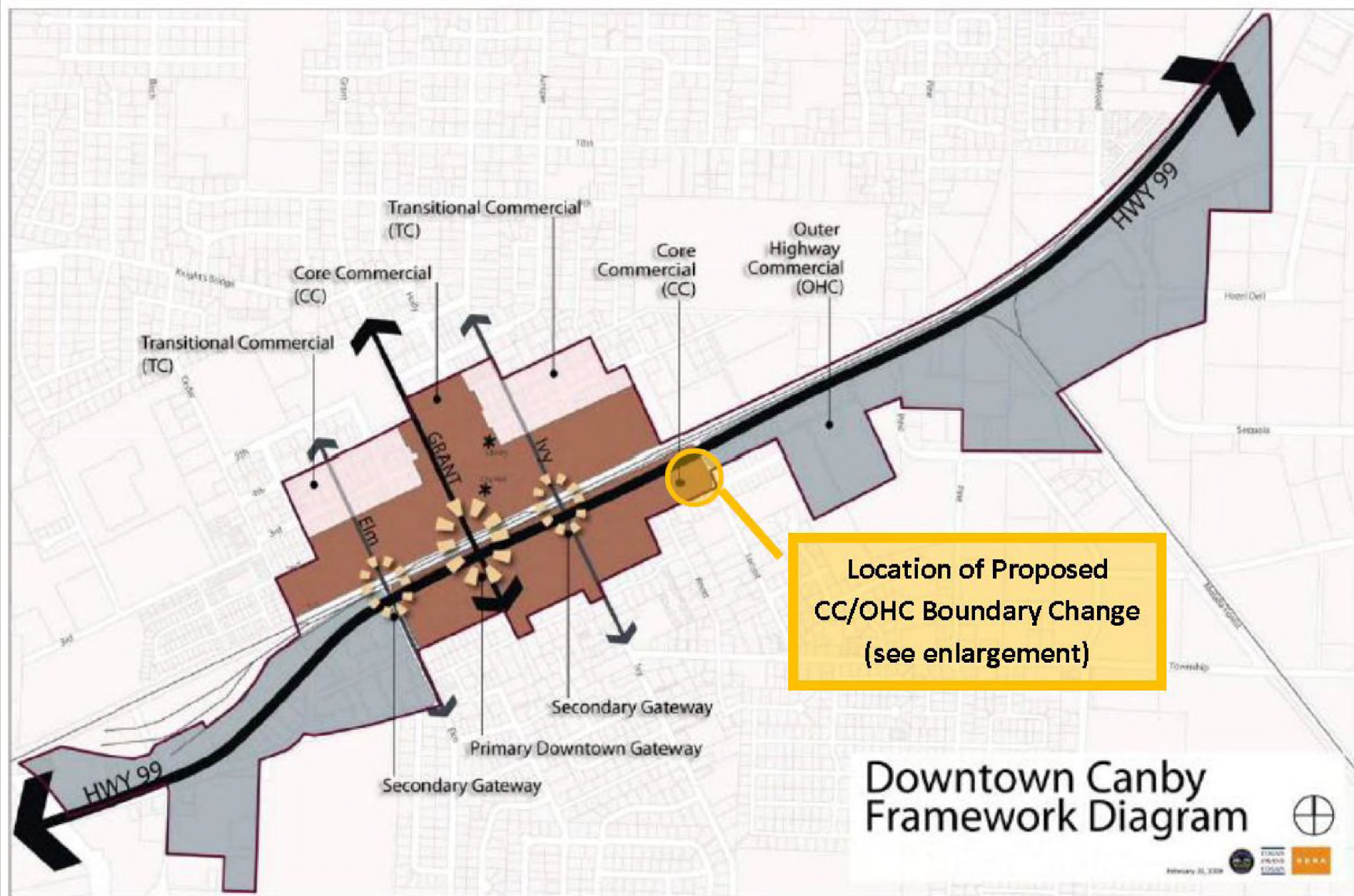
- = Open ◇ = U.C. □ = Planned
- ◆ Fred Meyer #242 Fuel Customers
- ◆ Fred Meyer #516 Fuel Customers
- ◆ Fred Meyer #651 Grocery Customers
- Fred Meyer

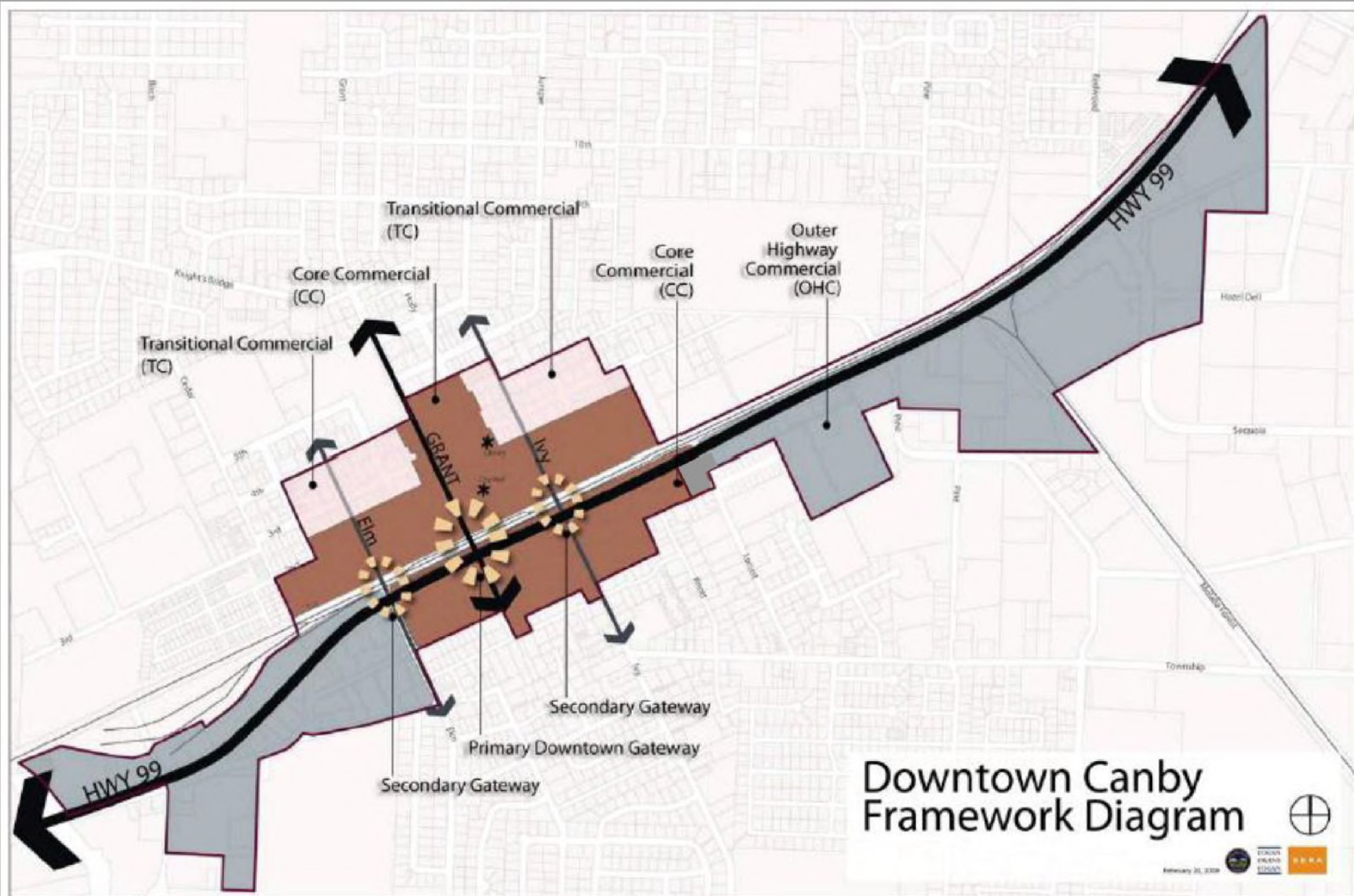
realstate
Corporate Development Research Department

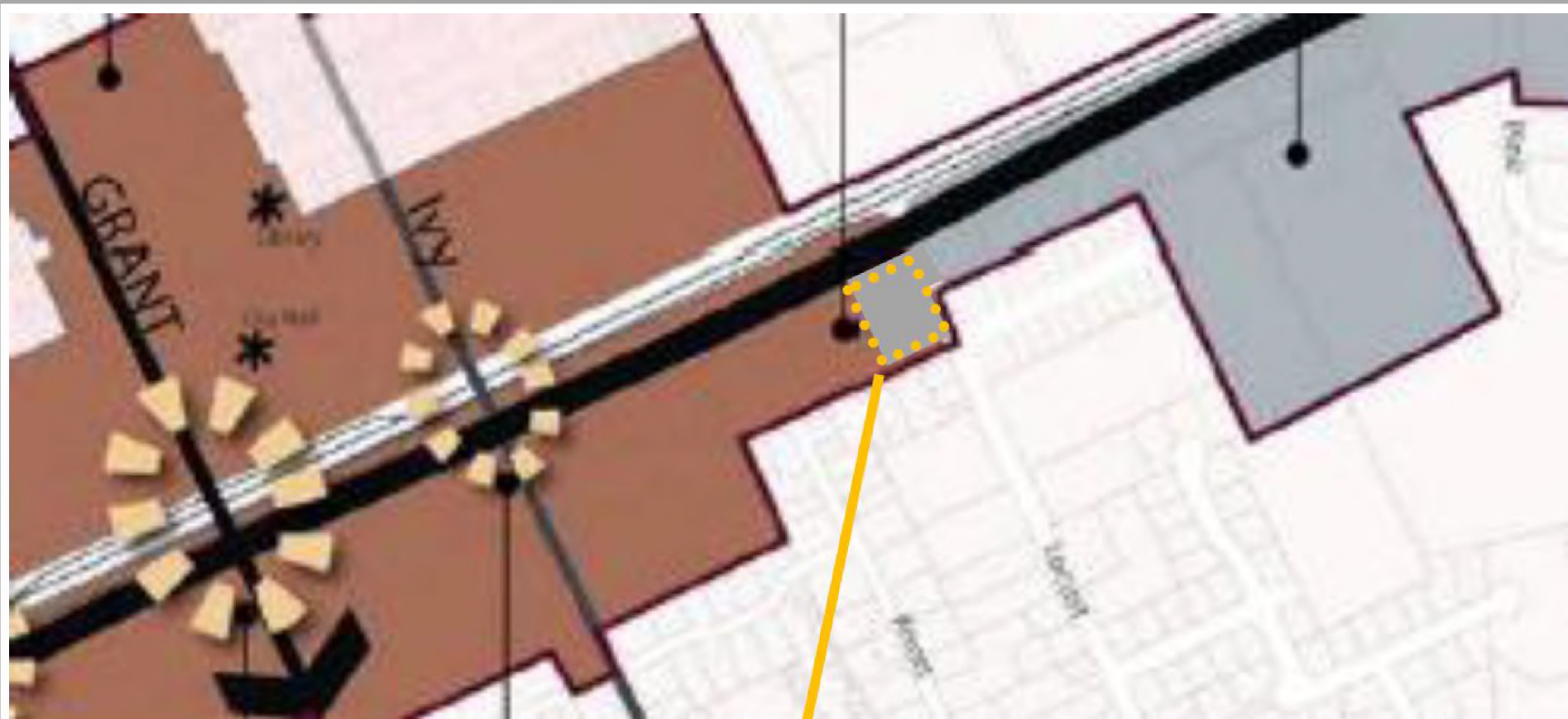




Downtown Canby Framework Diagram







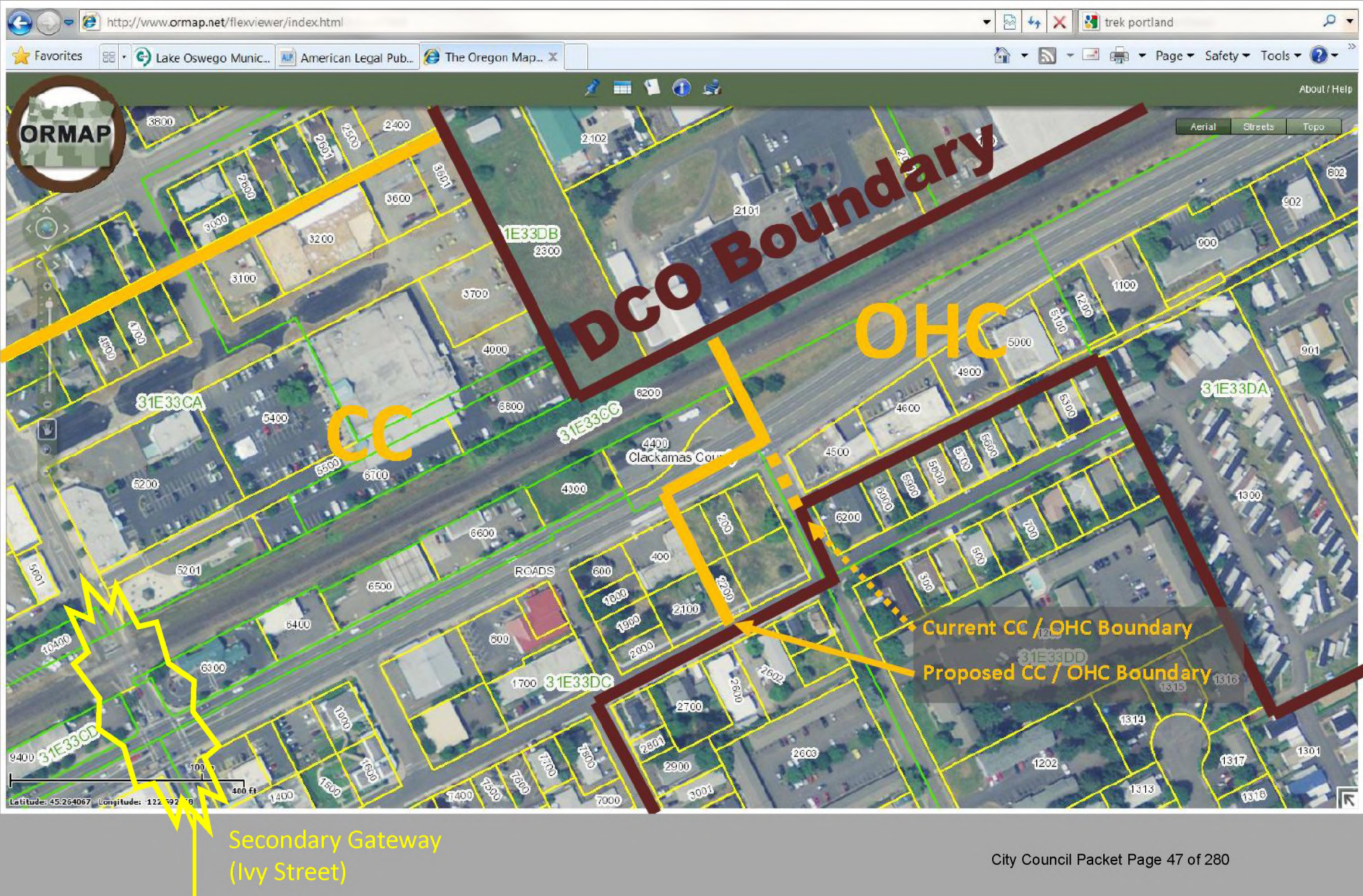
Proposed Action

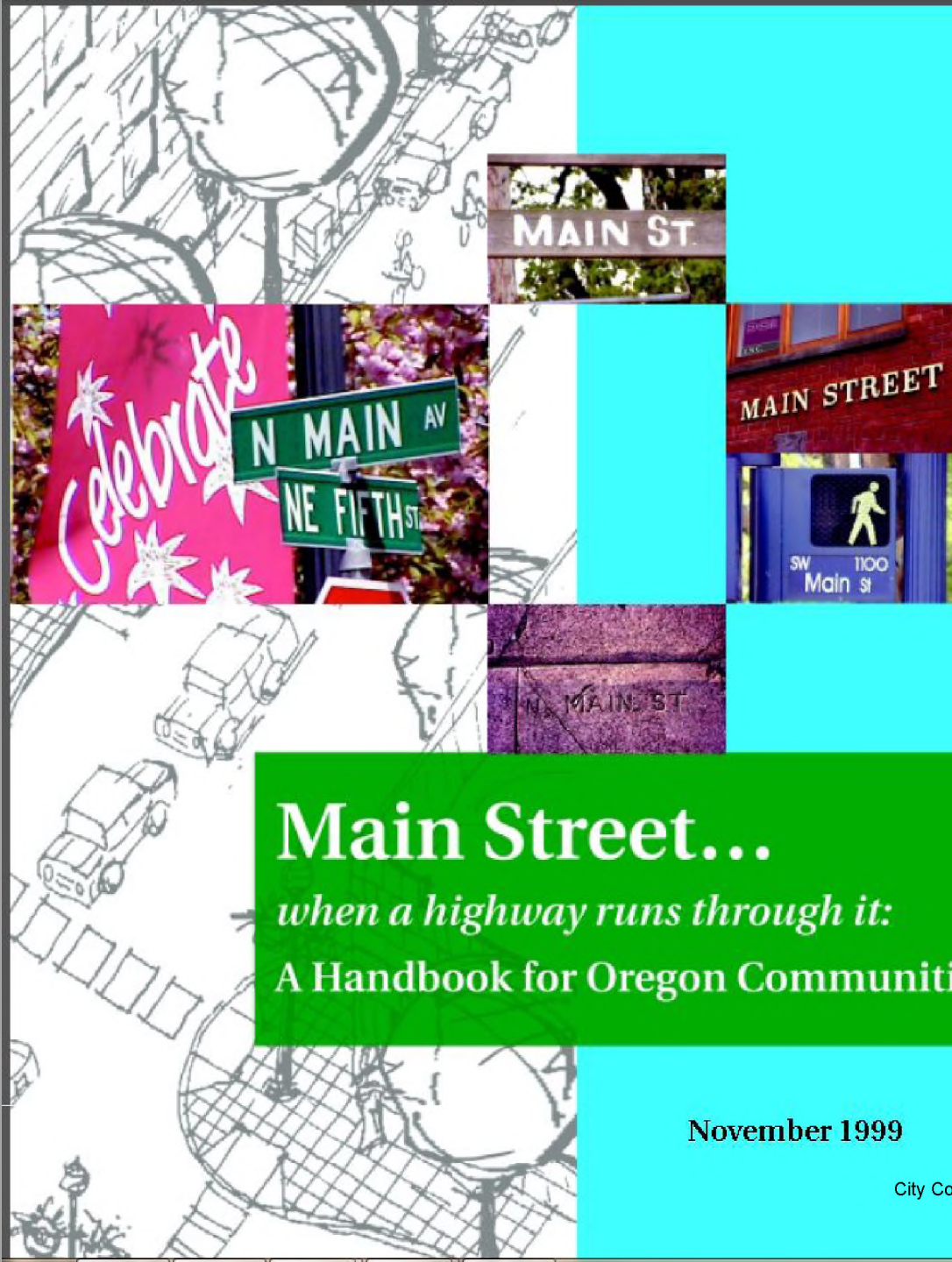
Change the Downtown Canby Overlay (DCO) designation of 0.75 acres, from Core Commercial (CC) to Outer Highway Commercial (OHC), consisting of the following five tax lots:

Tax Map 3S 1E 33DC

Tax Lots

00100, 00200, 00300, 02200 & 02300





Main Street...

when a highway runs through it:
A Handbook for Oregon Communities

November 1999

Acknowledgements

This project was funded by the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation (ODOT) and the Oregon Department of Land Conservation and Development (DLCD). Additional funds were provided by the ODOT Bicycle and Pedestrian Program and by the Oregon Downtown Development Association (ODDA) through a grant from the Oregon Economic and Community Development Dept.

TGM Program Staff

Pamela Kambur, TGM Outreach Coordinator, DLCD
Lainie Smith, Urban Growth Program Coordinator, DLCD

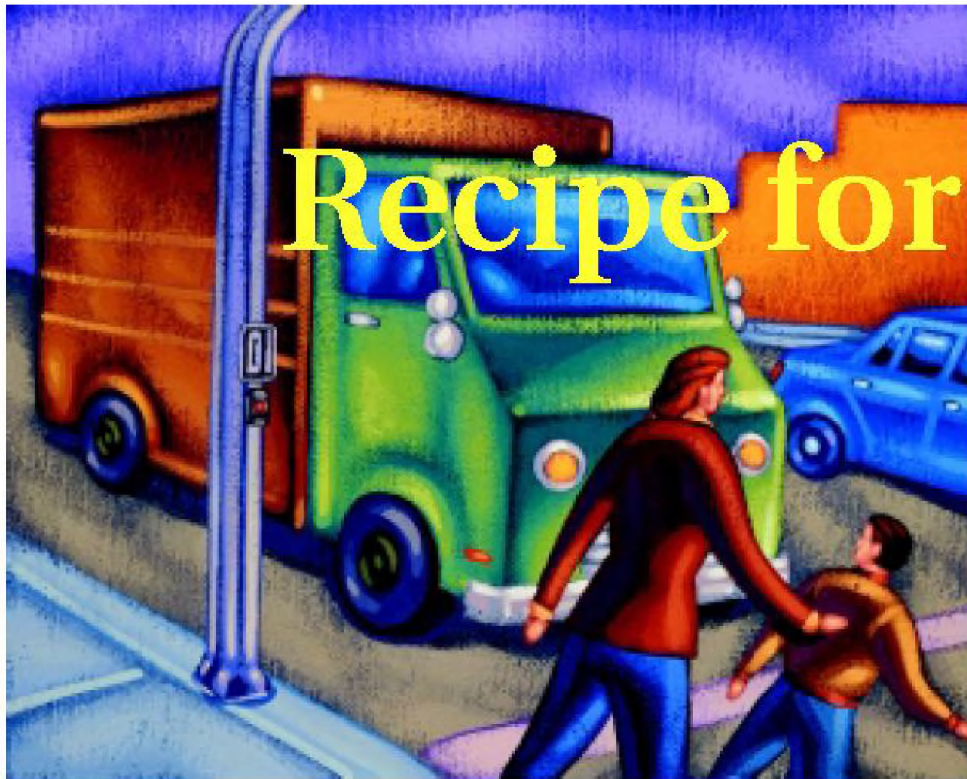
Consultant Team

Karen Swirsky, David Evans and Associates, Inc.
Nils Eddy, David Evans and Associates, Inc.
David Olsen, David Evans and Associates, Inc.
Brian Rankin, David Evans and Associates, Inc.
Dan Burden, Walkable Communities
Pat Kliewer, Kliewer and Associates



Steering Committee

Kent Belleque, Highway Design Manual Manager, ODOT Project Support
Vicki Hilliard, Executive Director, ODDA
Lynn Peterson, Transportation Advocate, 1000 Friend of Oregon
Lidwien Rahman, TGM Grant Coordinator, ODOT Region 1
Michael Ronkin, Program Manager, ODOT Bicycle and Pedestrian Program
Terry Wheeler, Transportation Design Manager, ODOT Technical Services



Recipe for Success

Chapter 3

Gateway

A gateway identifies the beginning or end of a distinct place. It gives a sense of welcome and transition, and helps to orient people. Gateways are located at the entrance to the core downtown or to distinct districts.

See also:

***Street Zones in
Chapter 3***



***A banner is a
common gateway
element.***

Although district identification signs, a list of local businesses, banners, and other non-traffic signs that welcome visitors to the downtown are helpful in establishing identity, a true gateway is a combination of architecture, landscaping, fountains, and other special features that say, "you have arrived and we welcome you."

Street Zones

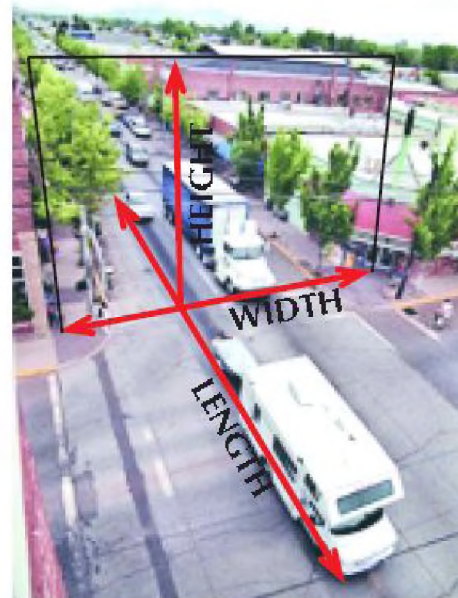
A main street can be considered from 3 perspectives: length, width, and height.

Length

A length of highway has different purposes depending on the area of the state and the adjacent land uses. A given highway may change function as it traverses urban, suburban, and rural areas. Oregon has many highway classifications (refer to the *Glossary* in the Appendix).

The most important length characteristic of a main street is that it is relatively **short** compared to the overall highway

length. A main street is typically the downtown, central business district or community center, and might be only 4–8 blocks long. Main streets are usually located on an urban arterial with a posted travel speed of 25 mph, frequent street connections, and on-street parking. For good main street planning, local access and pedestrian travel needs to be given preference over through travel.

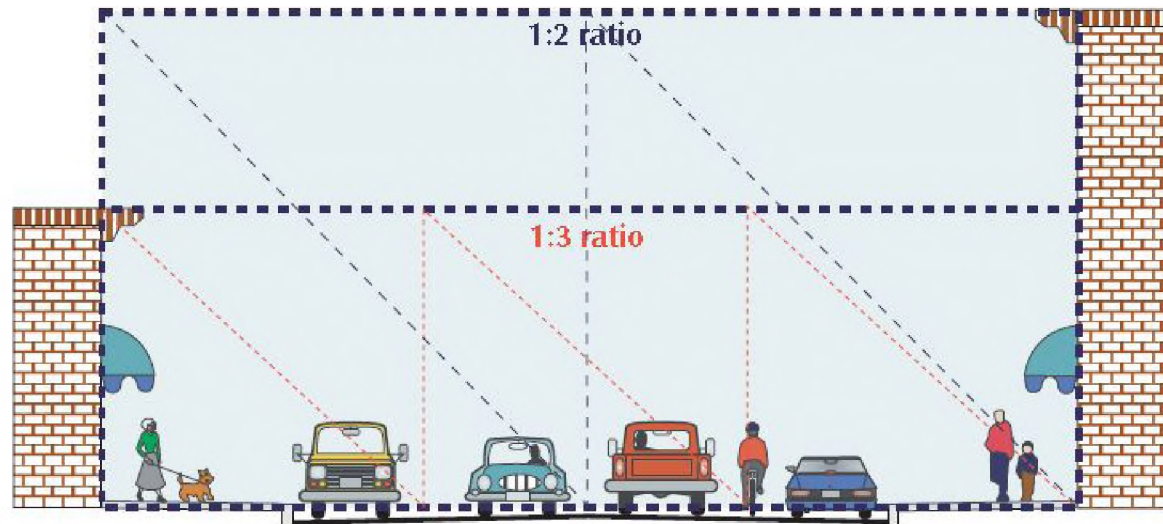


Street zones

Compact
and
Focused



Human scale height-to-width ratios fall between 1:3 and 1:2 as measured from the building fronts or large trees if present.



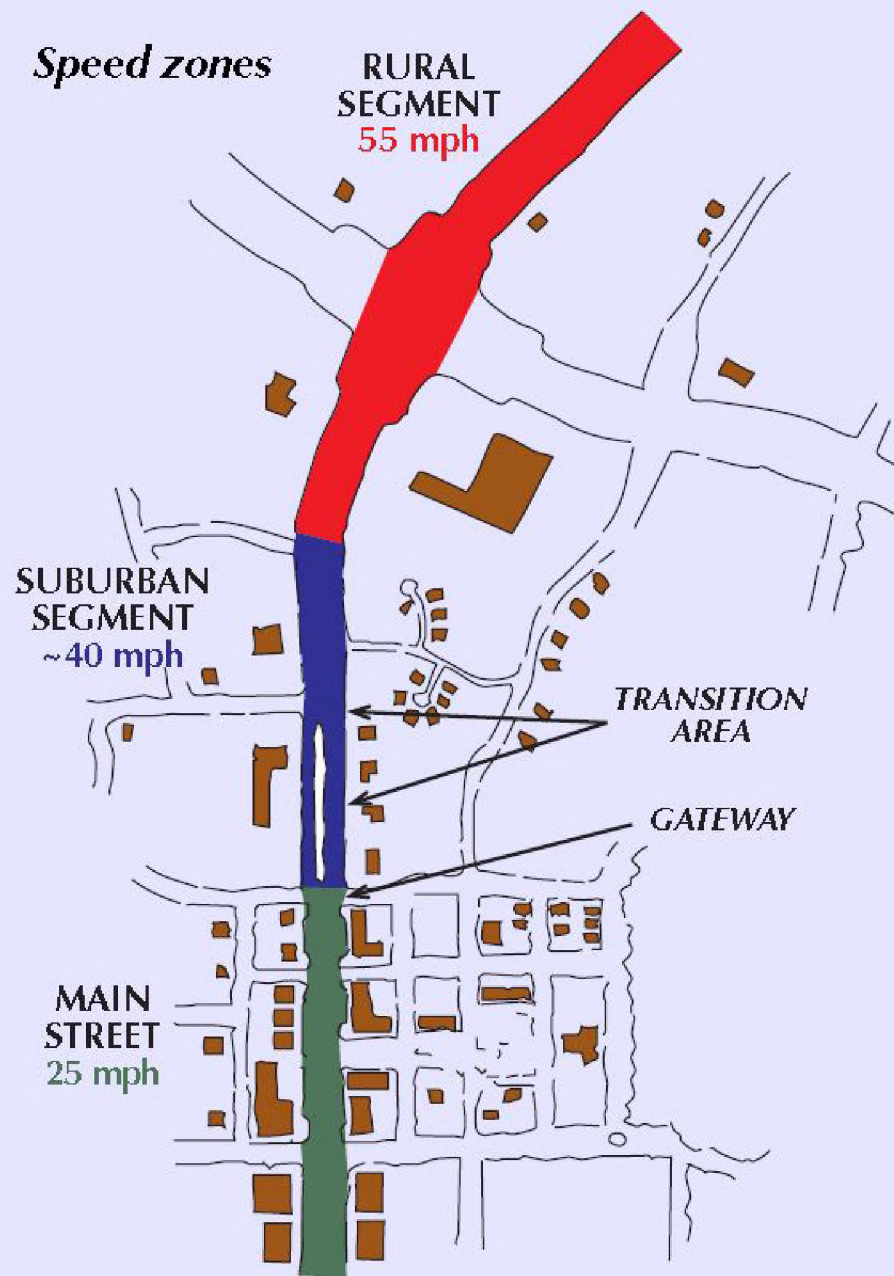
1:3 height-to-width ratio creates a human scale Main Street



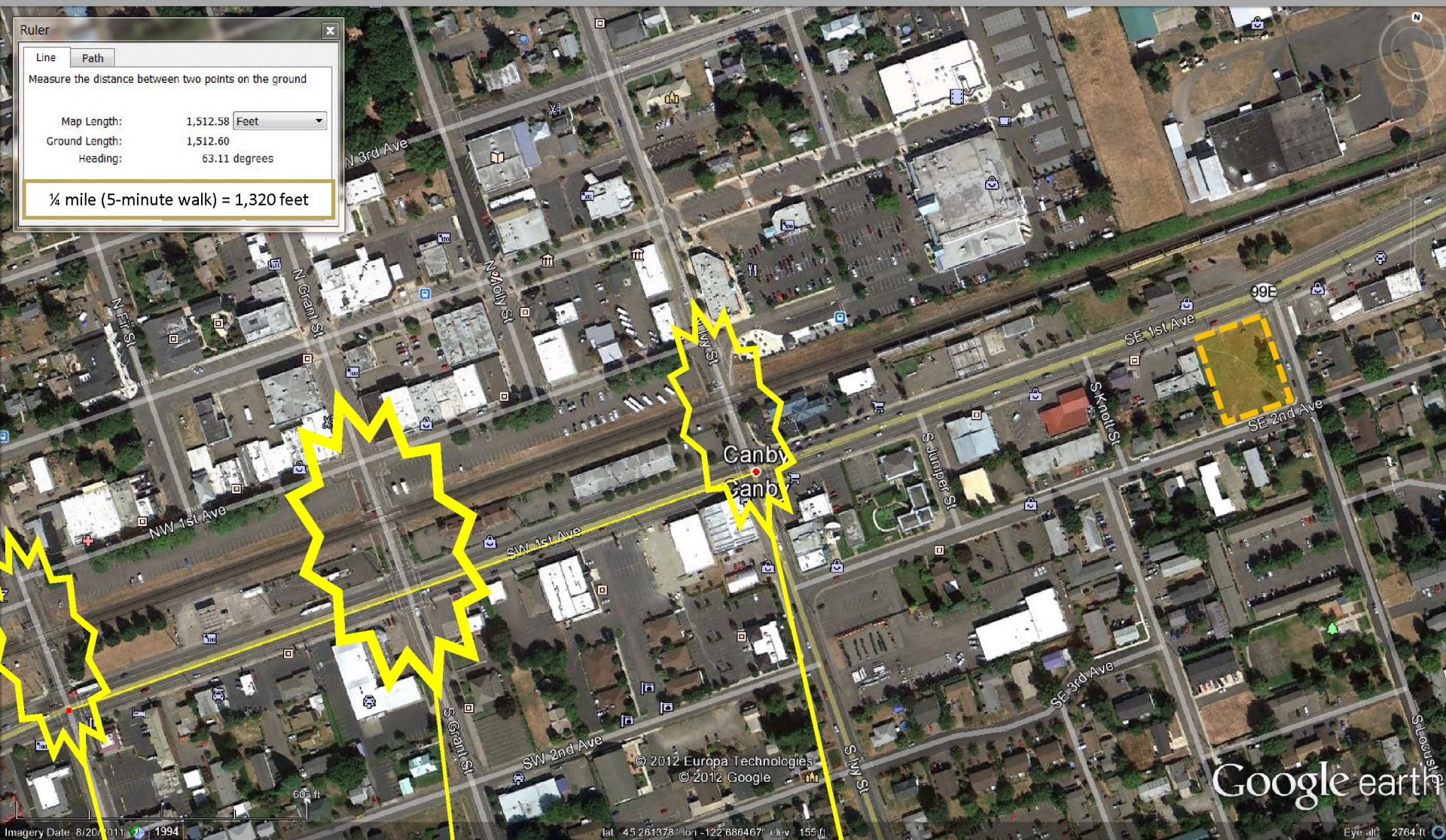
1:7 height-to-width ratio creates a scale uncomfortable for pedestrians



Speed zones







Northeast East Southeast South Southwest



Photo montage: from north side of Highway 99, west of the Locust Street intersection

Southeast

South

Southwest

[Locust Street]



Photo montage: from north side of Highway 99, aligned with the centerline of Locust Street

West

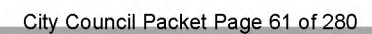
Northwest

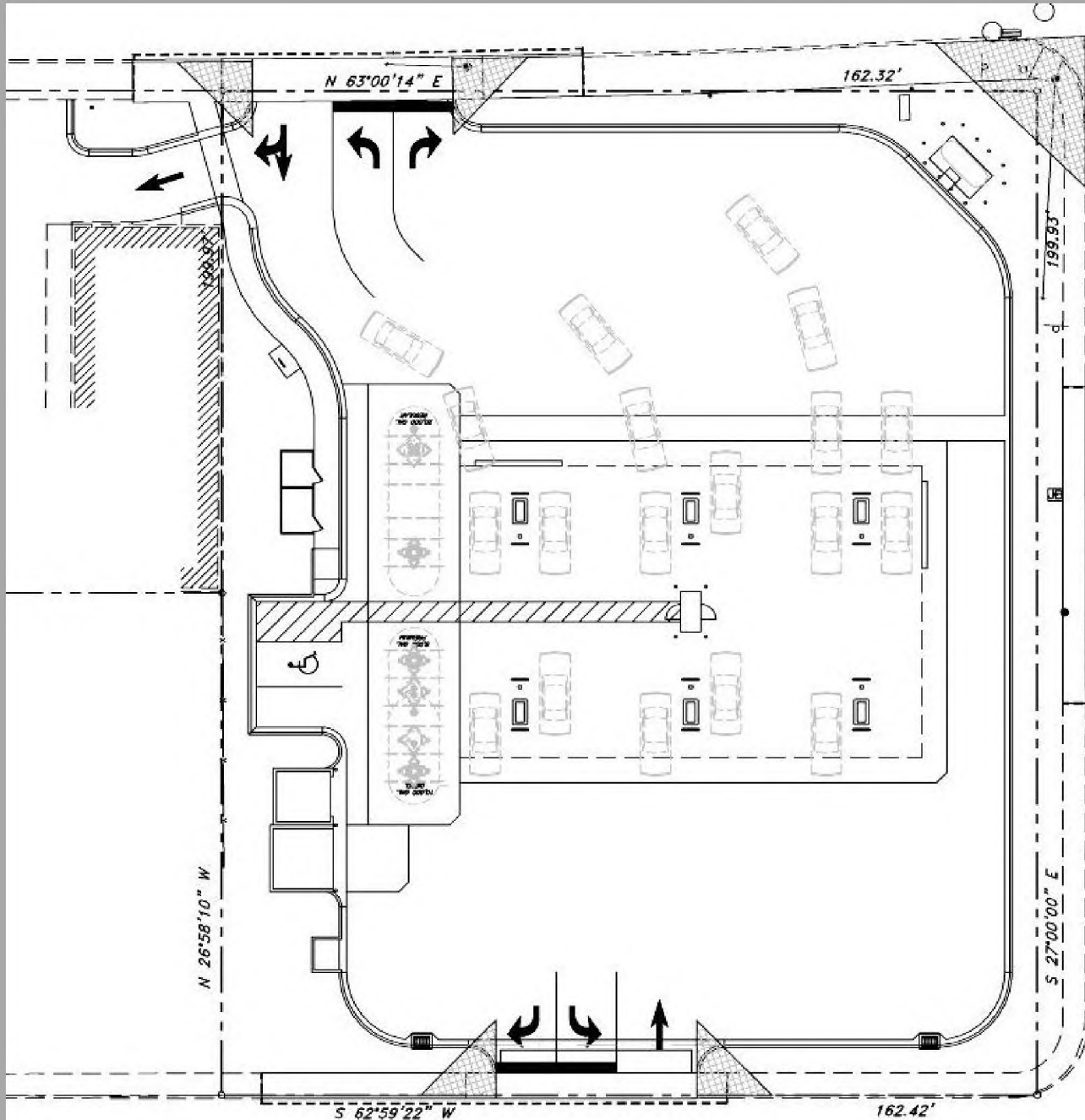
North

Northeast

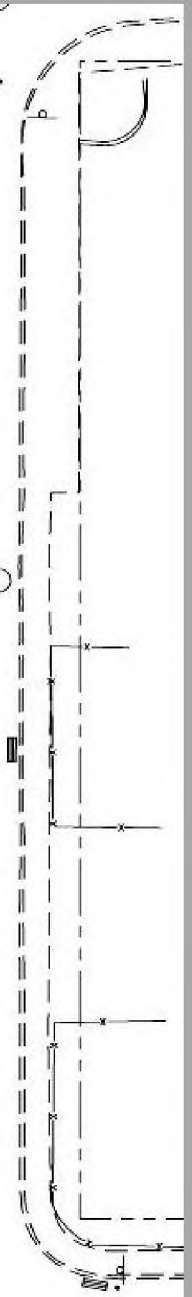


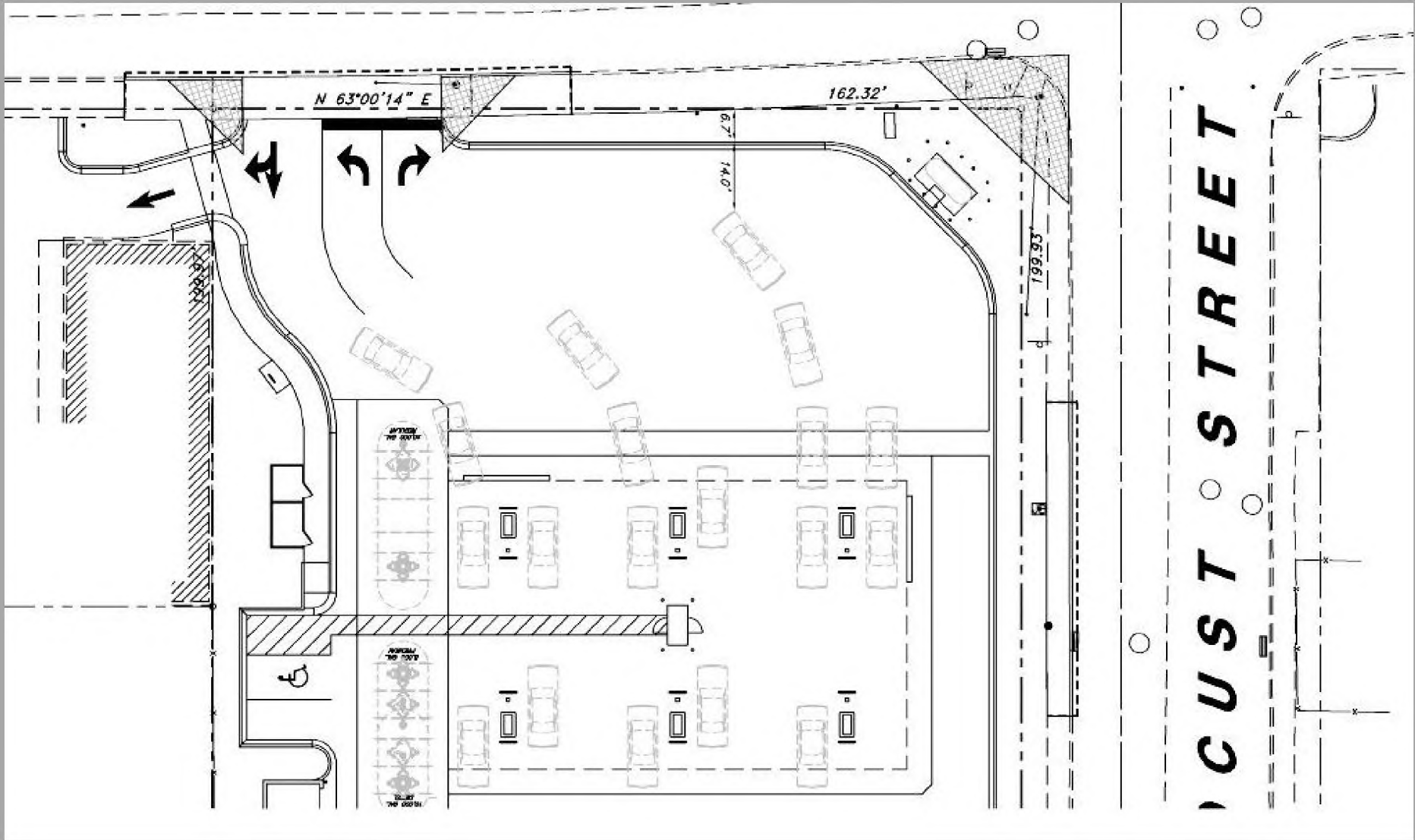
Photo montage: from the southwest corner of Highway 99 and Locust Street (Subject Property is to the left)

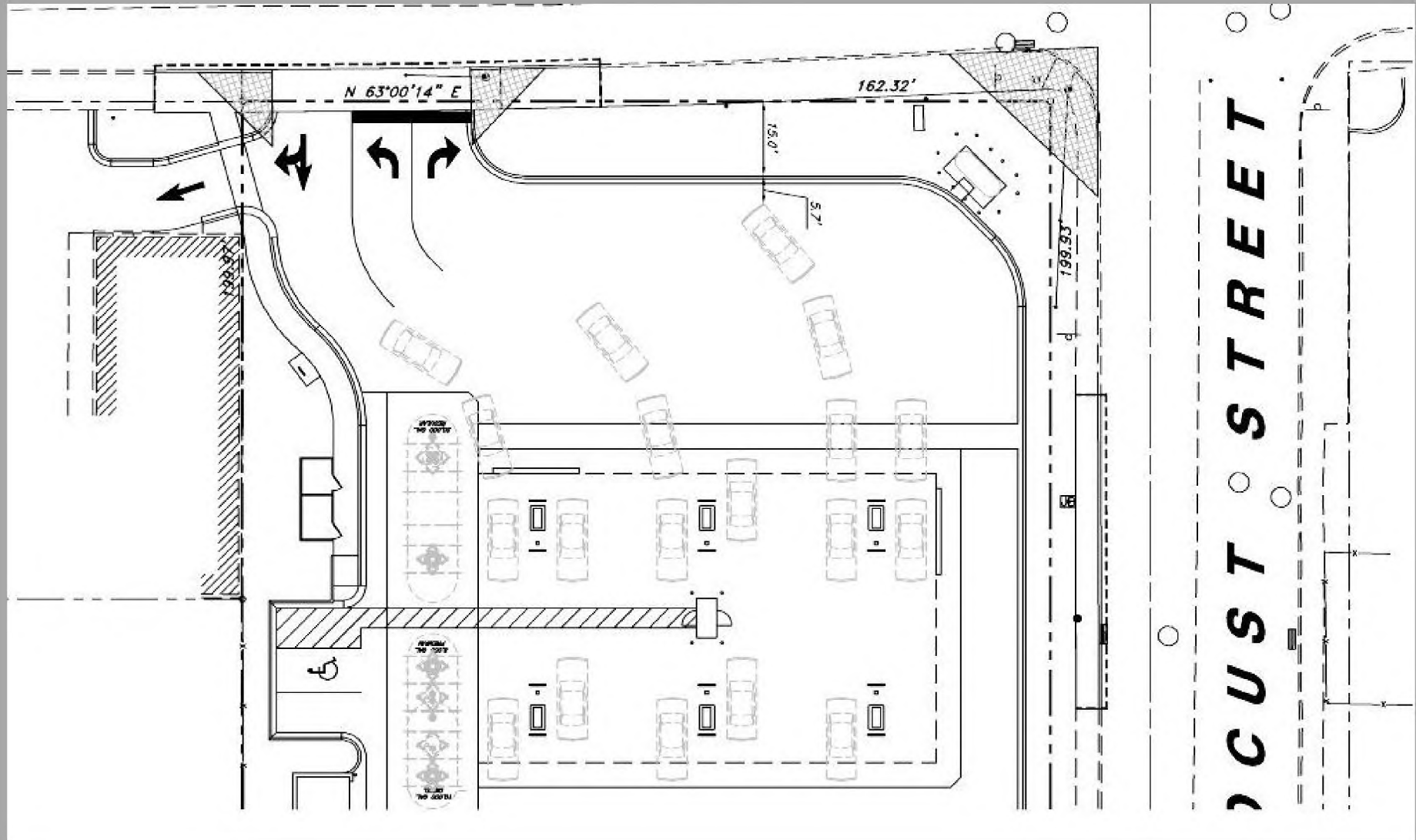


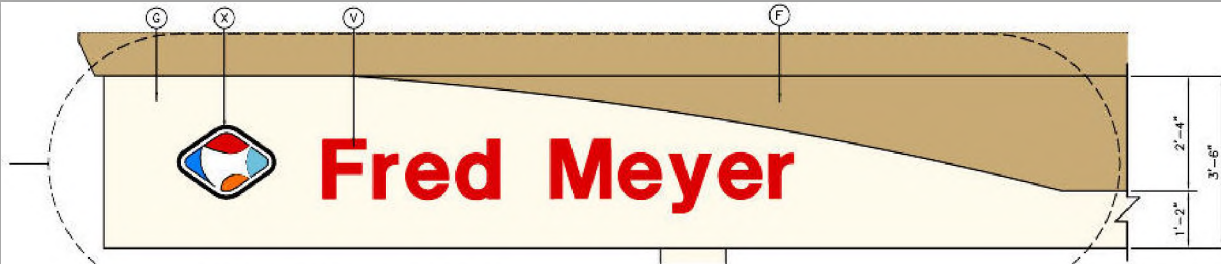


S LOCUST STREET

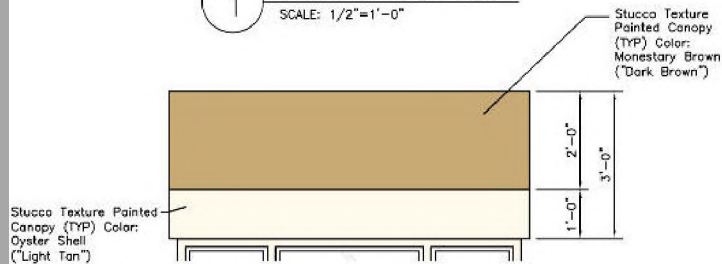




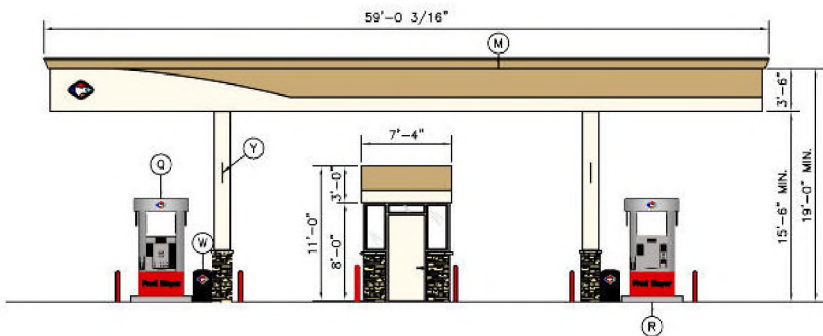




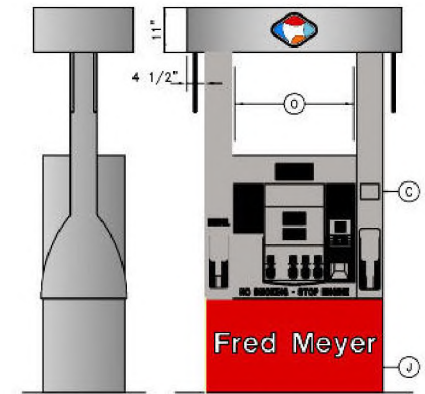
1 CANOPY GRAPHICS
SCALE: 1/2"=1'-0"



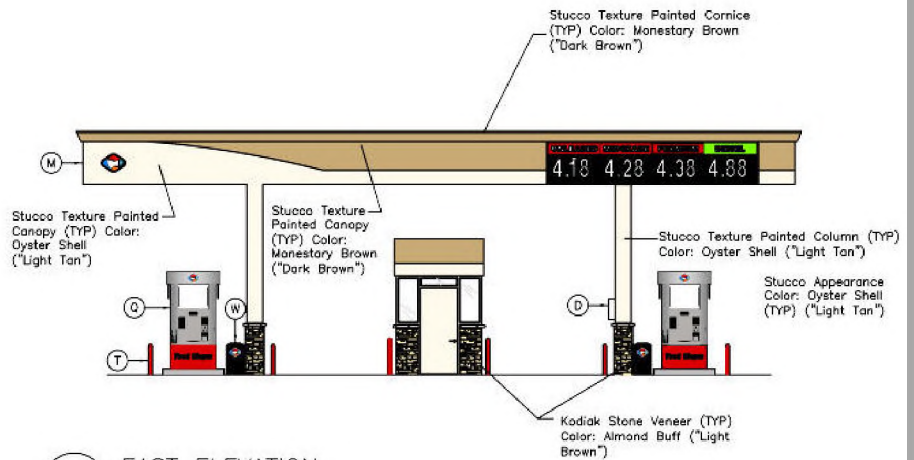
2 KIOSK GRAPHICS
SCALE: 1/2"=1'-0"



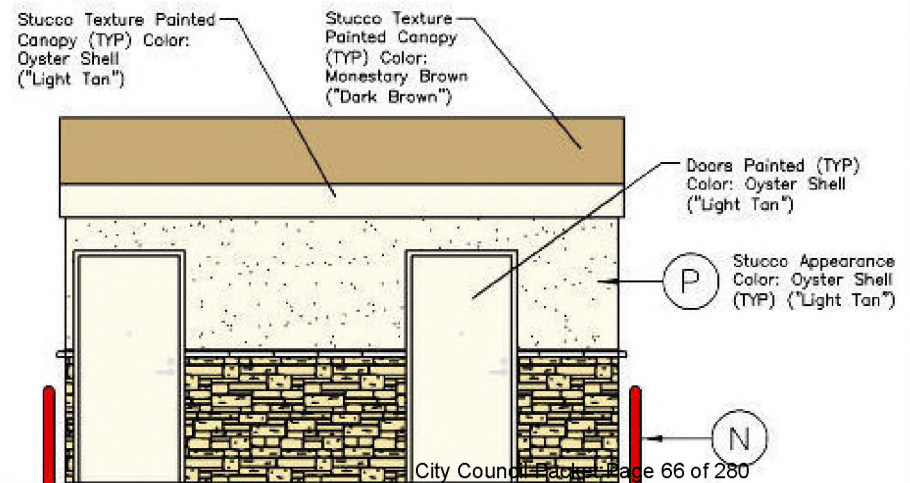
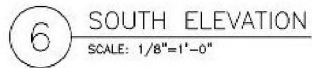
4 WEST ELEVATION
SCALE: 1/8"=1'-0"

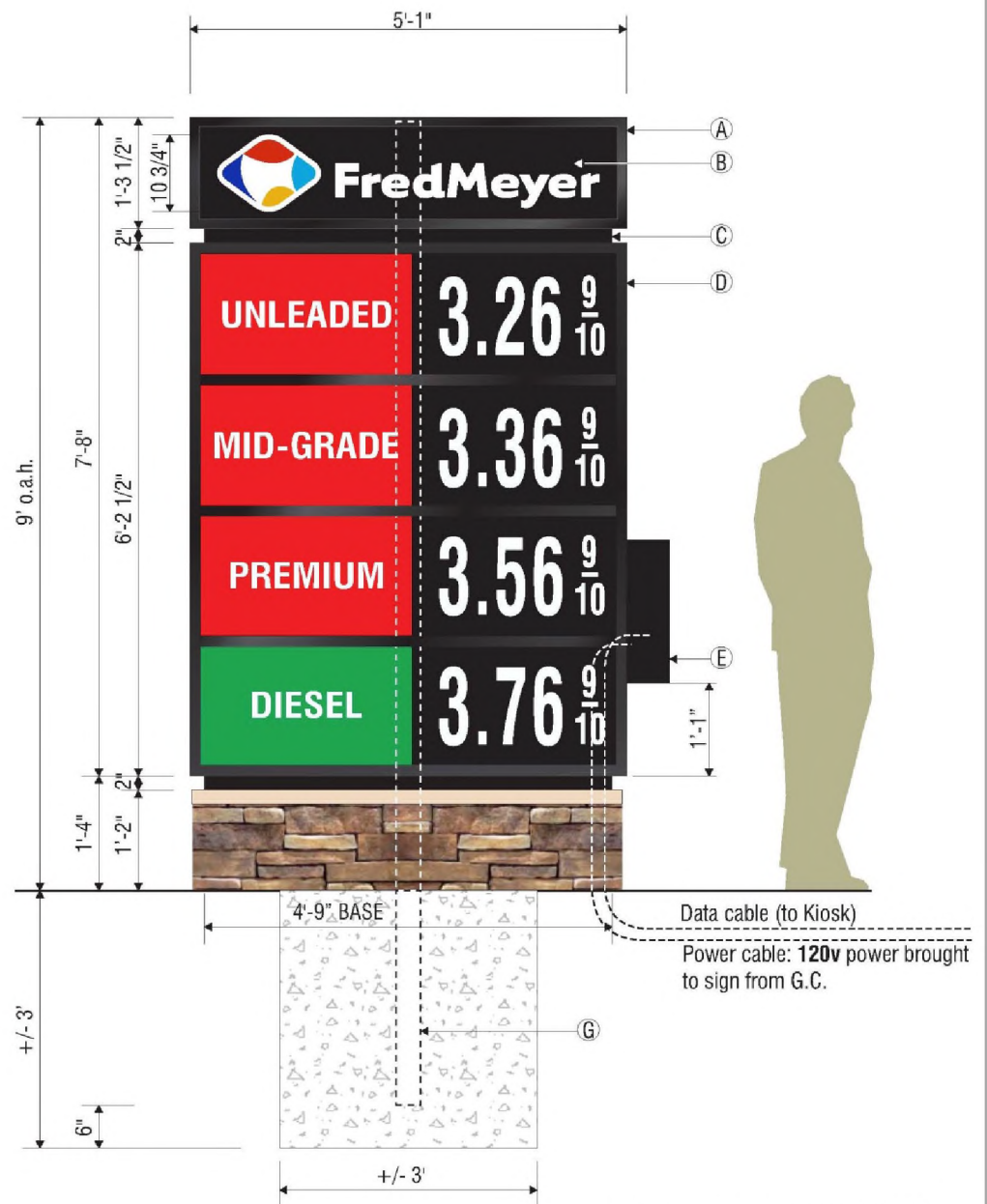
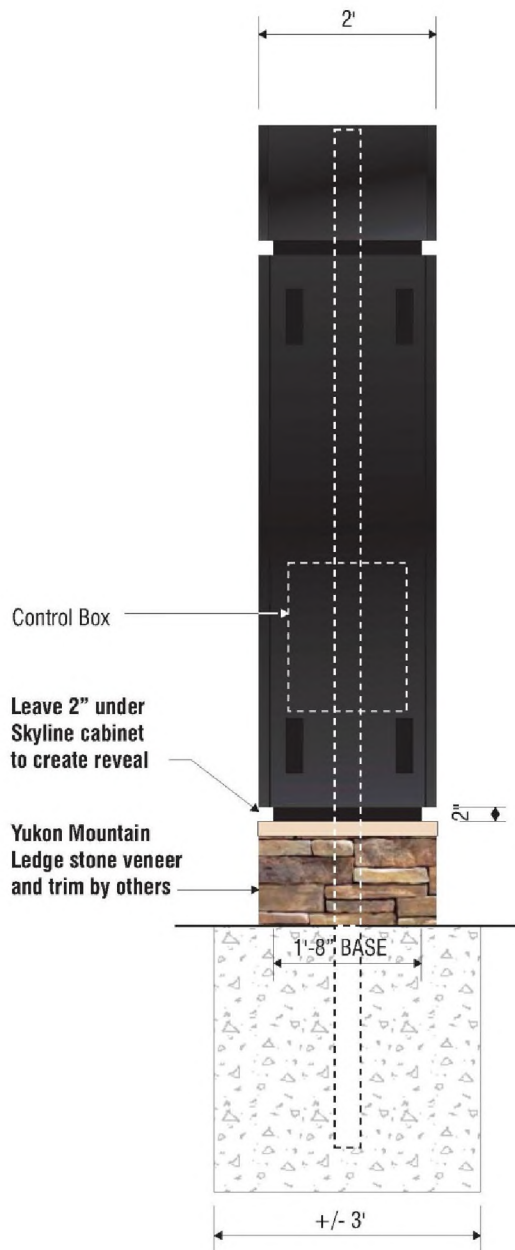


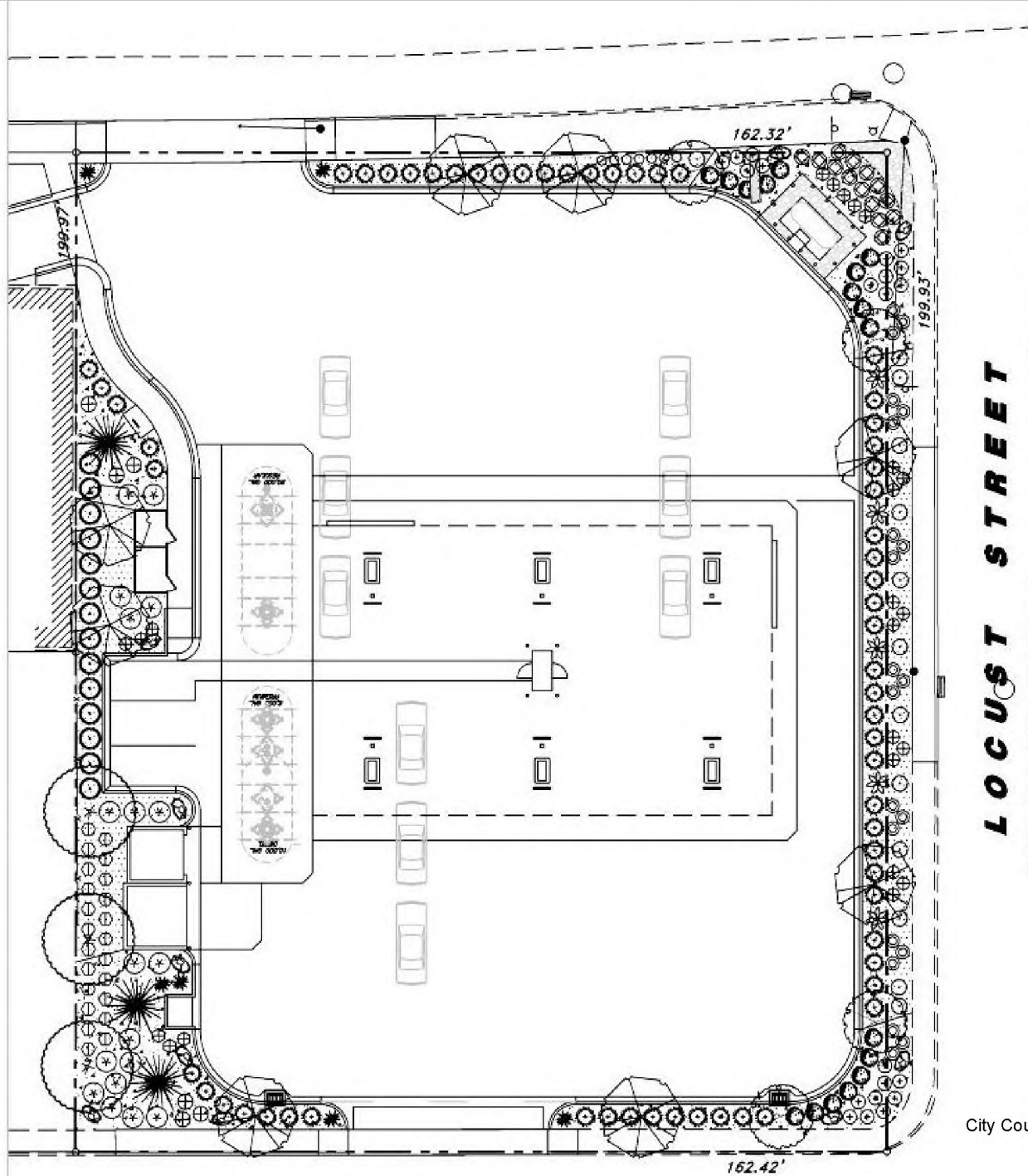
3 DISPENSER ELEVATION
SCALE: 1/2"=1'-0"



5 EAST ELEVATION
SCALE: 1/8"=1'-0"

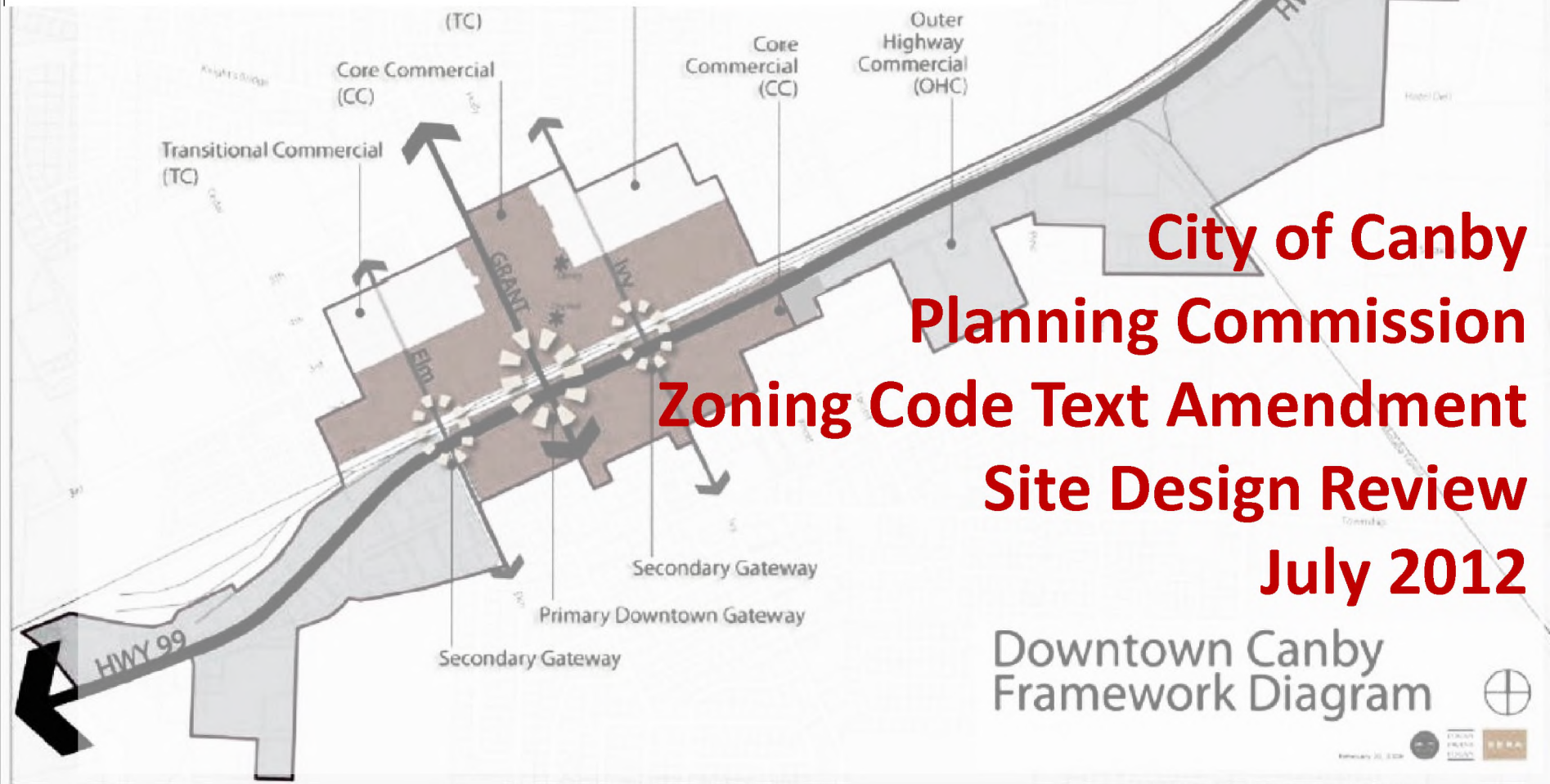






LOCUST STREET

Fred Meyer





Canby Neighborhood Review Meeting Notes

A neighborhood review meeting was held per March 20, 2012 mailing notice as follows:

Date: April 4, 2012

Time: 6:00 PM-7:30 PM

Location: Hope Village Community Center

Address: 1535 S. Ivy St Canby, OR 97013

James Coombes of Fred Meyer Stores, Inc. hosted and conducted the meeting. Highlight project description was presented of proposed Fred Meyer Fuel Center at the southwest corner of SE 1st Avenue (Hwy 99E) and S. Locust St.

Exhibit drawings [attached] were on display showing the proposed Fred Meyer Fuel Center site plan, elevations, and a map of current Canby Downtown Overlay District (CDOD) with surrounding properties.

Nine people attended the meeting. Eight of people attending identified themselves on the meeting mailing list. [attached]

Mr. Coombes described the current conditions of the subject property, surrounding properties and the zoning change application process and design review application process required for approval of the fuel center development as proposed by Fred Meyer.

Mr. Coombes pointed out that subject site is zoned Hwy Commercial (C2) but located just inside the CDOD where minimum building setback requirement restricts new fuel center site layout and circulation. He noted subject property was surrounded on three of four sides by properties outside of CDOD. This placed development restriction not required of three quarter of adjacent properties.

Opportunity was provided for questions and discussion. Traffic impacts, fuel center operations, design elements including landscaping, lighting, signage, and safety and security were major points discussed.

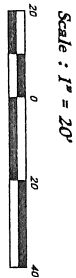
Mr. Coombes described details of design elements, site lighting, safety standards and security monitoring proposed by Fred Meyer. He noted a comprehensive traffic study would be provided with the application package as required by City and State direction and reviewed by both City of Canby and Oregon Department of Transportation.

He informed those in attendance that public notices would be mailed to them once the applications were received by the City and public hearings were scheduled.

CANBY NEIGHBORHOOD MTG. 4-4-12

MAILING LIST

Buey Hazen	
John Serlet	
Leelie Turner	
Gary Palfrey	→ grodanepetroleum@gmail.com
Yeressa Bould	475 S.E. 2nd Ave Canby OR 9703
Sandra Gravening	P.O. Box 548 Canby, OR 97013
Gerald Gravening	P.O. Box 548 Canby, OR 97013
Jay Gravening	P.O. Box 548 Canby, OR 97013



Parking Provided = 2 Stalls

[illegible]

FM651-SF



Fred Meyer Fuel #651 - Canby
369 SE 1st Avenue
Canby, Oregon 97013

Fred Meyer

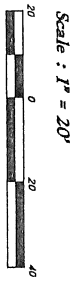
3800 SE 22nd Avenue
Portland, Oregon 97242-0121
Telephone (503) 797-3509

#651

Canby, Oregon

27 Aug, 2012

SHEET N

[illegible]

1. *Open face grutter shall be constructed where drainage is directed away from cars.*
2. *Open face grutter locations are indicated by shading and notes on the grading plan.*
3. *It is the responsibility of the surveyor to adjust top of construction grades to top of curb grades at the time of construction activity.*
4. *Refer to the typical details for a standard and open face curb and grutter for dimensions.*
5. *Transfomers from open face to standard curb and grutter shall be smooth. Hand from these areas if necessary.*

ADA Note: Contractor must maintain a running slope on Accessible routes no steeper than 5:01 (1/20). The cross slope for all Accessible routes must be no steeper than 1:48 (1/4%) and the cross slope for all other routes must be no steeper than 1:50 (2%).

If Grades on plans do not meet this requirement notify Consultant immediately.

The Owner, Contractor and Subcontractor should investigate the project to determine if the proposed design complies with the intent of the ADA (ICC/ANSI A117.1—Latest Edition) and/or FHWA.

Fred Meyer
3800 SE 22nd Avenue
Portland, Oregon 97242-0121
Telephone (503) 797-3509

#651
Canby, Oregon

City Council Packet Page 75 of 280

GREAT BASIN ENGINEERING - SOUTH
CONSULTING ENGINEERS and LAND SURVEYORS
2010 North Redwood Road, P.O. Box 16747
Salt Lake City, Utah 84116
Salt Lake City (801)521-8529 Ogden (801)394-7288 Fax (801)521-9551

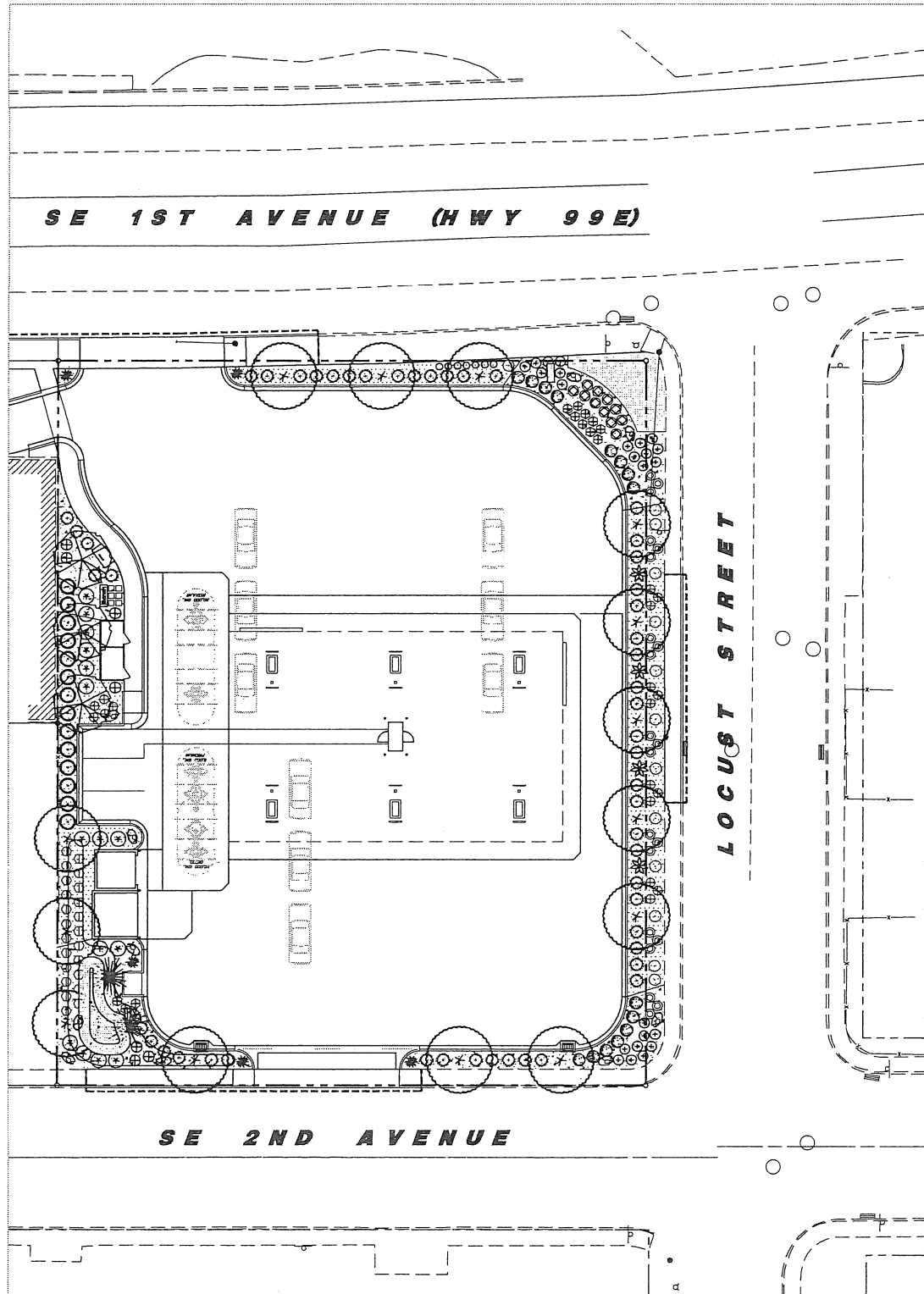
Preliminary Grading Plan

Fred Meyer Fuel #651 - Canby
369 SE 1st Avenue
Canby, Oregon 97013

27 Aug, 2012

21

C:\Users\jake\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.I55-2012\jake_8272012_180719_A44_jake_120



Legend / Materials

Symbol	Item	Description / Remarks
	Decorative Stone Surfacing 1\" Minus Size / Washed	Place To A Uniform Depth Of 4 Inches Over Approved Weed Barrier Fabric. The Sub-grade Shall Be Raked Smooth-Clear Of All Material Over 1\" Size. Submit Product Sample.
	Decorative Stone Surfacing 2\" Minus Size / Washed	Place To A Uniform Depth Of 4 Inches Over Approved Weed Barrier Fabric. The Sub-grade Shall Be Raked Smooth-Clear Of All Material Over 1\" Size. Submit Product Sample.
	Decorative Stone Surfacing 3\" Minus Size / Washed	Place To A Uniform Depth Of 4 Inches Over Approved Weed Barrier Fabric. The Sub-grade Shall Be Raked Smooth-Clear Of All Material Over 1\" Size. Submit Product Sample.
	Decorative Landscaping Boulder 4' Minimum Diameter Size	Bury 1/3 Of Boulder Diameter Into Soil, Keeping Best Visual Side Above Grade. All Boulders Shall Be Of Similar Color & Type As Stone Surfacing. Submit Product Sample.




Stone Surfacing

- APPLICATION PROCEDURE:
1. Place pre-emergent herbicide on fine grade layer.
 2. Place weed barrier fabric.
 3. Place 4\"/>

Sub-Grade Requirements

1. SHRUB/STONE AREAS: Four (4) inches below finish grade. This will allow for the installation of the required depth of decorative stone surfacing, leaving the grade slightly below finish grade of concrete areas.

Plant List (TREES)

Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
2		<i>Cedrus atlantica</i> 'Fastigiata'	Columnar Blue Atlas Cedar	6' Min. Height B 4 B	Full Throughout Mature Height - 30 Ft.
14		<i>Tilia euchlora</i>	Crimean Linden	3' Calliper 12'-14' Height.	Full Head Crown Mature Height - 50 Ft.
3		<i>Zelcova serrata</i> 'Musashino'	Musashino Zelcova	3" Calliper 12'-14' Height.	Full Head Crown Mature Height - 45 Ft.

Plant List (SHRUBS)

Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
52		<i>Buxus microphylla</i> 'Winter Gem'	Winter Gem Boxwood	5 Gallon	15\"/>
15		<i>Euonymus alatus</i> 'Compacta'	Dwarf Burning Bush	5 Gallon	18\"/>
13		<i>Mahonia aquifolium</i> 'Compacta'	Compact Oregon Grape	5 Gallon	15\"/>
14		<i>Photinia fraseri</i>	Fraser's Photinia	5 Gallon	18\"/>
4		<i>Physocarpus opul.</i> 'Diablo'	Diablo Ninebark	5 Gallon	18\"/>
24		<i>Spiraea bumalda</i> 'Goldmound'	Goldmound Spiraea	5 Gallon	15\"/>
11		<i>Spiraea japonica</i> 'Neon Flash'	Neon Flash Spiraea	5 Gallon	15\"/>
15		<i>Syringa patula</i> 'Miss Kim'	Miss Kim Lilac	5 Gallon	15\"/>
5		<i>Yucca filamen.</i> 'Golden Sword'	Golden Sword Yucca	5 Gallon	15\"/>

Plant List (ORNAMENTAL GRASSES)

Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
23		<i>Calamagrostis a.</i> 'Foerster'	Foerster Feather Grass	5 Gallon	24\"/>
12		<i>Calamagrostis a.</i> 'Overdam'	Overdam Feather Grass	5 Gallon	18\"/>
7		<i>Festuca ovina</i> 'Elijah Blue'	Elijah Blue Fescue	2 Gallon	12\"/>
17		<i>Helictotrichon sempervirens</i>	Blue Oat Grass	2 Gallon	15\"/>
7		<i>Miscanthus sinensis</i> 'Gracillimus'	Gracillimus Maiden Grass	5 Gallon	24\"/>
21		<i>Pennisetum alopec.</i> 'Hameln'	Dwarf Fountain Grass	2 Gallon	12\"/>

Tree Selection & Description Statement

1. **COLUMNAR BLUE ATLAS CEDAR** - This evergreen tree is mentioned for hardiness zones 6-9, but has been grown in even colder environments. This tree produces no noticeable fruit, is drought tolerant, and has a low moisture requirement, especially following the initial establishment period.
2. **CRIMEAN LINDEN** - This deciduous tree is mentioned for hardiness zones 3-8. It produces small 2\"/>

Planting Notes

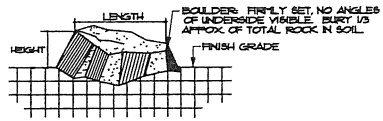
1. All new planting and stone surfacing areas shall be sub-graded to a depth of 4 inches below the ultimate finish grade, allowing for the installation of a 4 inch layer of either bark mulch for plant water wells and/or the installation of each type of stone surfacing and weed barrier fabric.
2. All plant material holes shall be dug a minimum 2 times the diameter of the rootball and (6) inches deeper. Excavated material shall be removed from the site, or used for other grading purposes on the site.
3. Plant backfill mixture shall be composed of 4 parts (80%) topsoil to 1 part (20%) humus mulch additive, and shall be rotary mixed on-site prior to installation.
4. Plant fertilizer shall be 'Agriform' brand 21 gram tablets used as per manufacturers recommendations.
5. Upon completion of planting operations, all shrub and tree wells shall receive a (4) inch minimum depth of fine ground bark in the planting pit. The overall shrub areas (beyond the planting pit), shall receive a 4 inch depth of the type of stone surfacing or cobble rock as specified over Daltuff (or equal) weed barrier fabric. Apply 2 applications of pre-emergent herbicide per detail.
6. All areas where different types of stone surfacing are adjacent, shall be neatly placed together, matching a uniform transition from one material type to the other. It is not the intent to install any type of edger for this.
7. The project shall be swept clean of dirt and debris prior to completion of the project.
8. The contractor shall comply with all warranties and guarantees set forth by the Owner, and in no case shall that period be less than one year following the date of final completion and acceptance.

General Notes

1. The contractor shall verify the exact location of all existing and proposed utilities, and all site conditions prior to beginning construction. The contractor shall coordinate his work with the project manager and all other contractors working on the site.
2. The finish grade of all planting areas shall be smooth, even and consistent, free of any humps, depressions or other grading irregularities. The finish grade of all landscape areas shall be graded consistently 1/2\"/>
3. The contractor shall stake the location of all plants for approval prior to planting. Trees shall be located equidistant from all surrounding plant material. Shrubs and ground covers shall be triangular and equidistant.
4. The plant materials list is provided as an indication of the specific requirements of the plants specified, wherever in conflict with the planting plan, the planting plan shall govern.
5. The contractor shall provide all materials, labor and equipment required for the proper completion of all landscape work as specified and shown on this drawings.
6. All plant materials shall be approved prior to planting. The Owner/Landscape Architect has the right to reject any and all plant material not conforming to the specifications. The Owner/Landscape Architect decision will be final.
7. The contractor shall keep the premises, storage areas and paving areas neat and orderly at all times. Remove trash, sweep, clean, hose, etc. daily.
8. The contractor shall plant all plants per the planting details, stakes/guy as shown. The top of root balls shall be planted flush with finish grade.
9. The contractor shall not impede drainage in any way. The contractor shall always maintain positive drainage away from the building, walks, etc.
10. The contractor shall maintain all work until all work is complete and accepted by the Owner. In addition, the contractor shall maintain and guarantee all work for a period of ONE YEAR from the date of final acceptance by the Owner. Maintenance shall include weeding, pruning-trimming, fertilizing, cleaning, insecticides, herbicides, etc. and all other necessary for a complete service of the project.
11. It shall be the contractor's responsibility to ensure that any damaged or disturbed landscaping from the construction of this project is to be returned to as good or better condition.
12. It shall be the responsibility of the property owner to maintain all landscaping and irrigation facilities after construction at the end of the contractor warranty period.

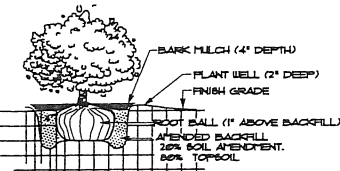
Submittal Requirements

1. The contractor shall provide to the Owner/Engineer product samples of all landscape materials such as boulders, decorative stone, bark mulches, weed barrier fabric, soil amendments & import topsoil in order to obtain approval to be used on the project, and prior to any shipment to the site. Failure to provide this in a timely manner will in no way affect or delay the construction schedule and time for project completion.
2. All plant materials shall be secure for the project a minimum of 60 days prior to shipment to the site. The contractor shall provide to the Owner/Engineer written confirmation of this a minimum of 30 days prior to planting of the project. No substitutions will be considered following this time period.

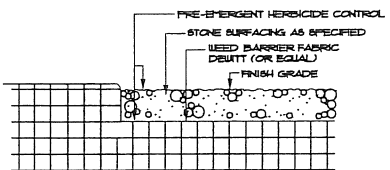


NOTE: USE CARE TO MINIMIZE MARKING & SCRATCHING.

Decorative Boulder

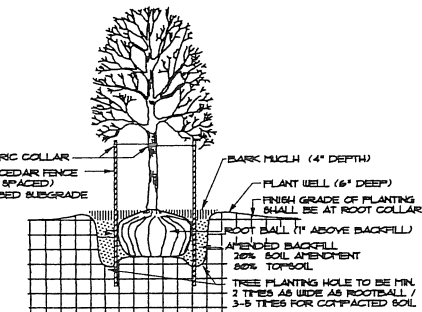


Shrub Planting



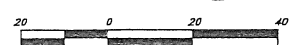
NOTE: SMOOTH GRADE ENTIRE AREA PRIOR TO PLACEMENT.

Stone Surfacing



Tree Planting

Scale: 1\"/>



Fred Meyer

3800 SE 22nd Avenue
Portland, Oregon 97242-0121
Telephone (503) 797-3509

#651

Canby, Oregon

GREAT BASIN ENGINEERING - SOUTH
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2010 North Redwood Road, P.O. Box 16747
Salt Lake City, Utah 84116
Salt Lake City (801)321-8229 Ogden (801)347-7288 Fax (801)321-9551

Landscape Plan

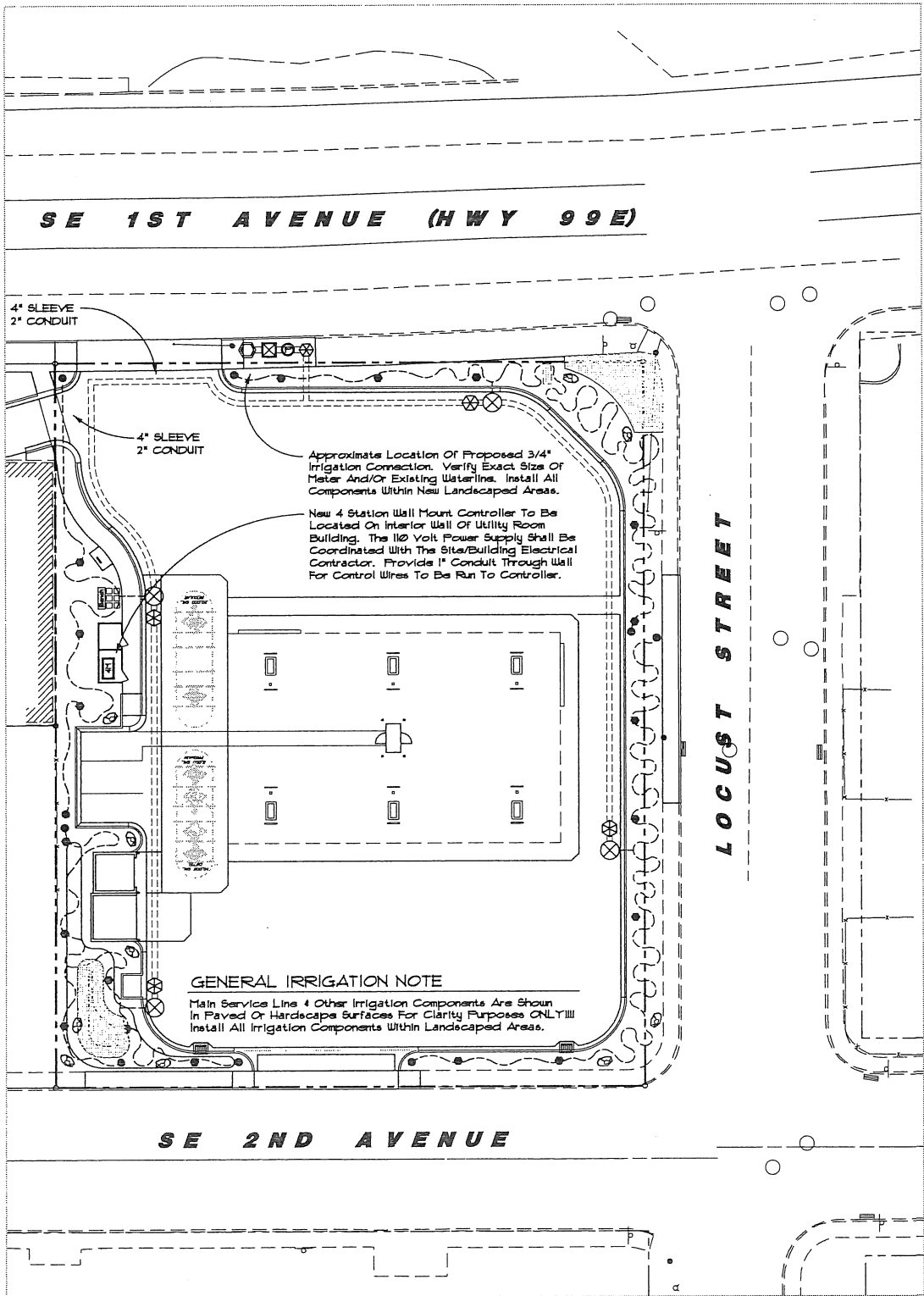
Fred Meyer Fuel - #651

369 SE 1st Avenue
Canby, Oregon 97013

27 Aug, 2012

SHEET NO.

L1.1



Irrigation Controller Valve Schedule

VALVE DATA				HYDRAULIC DATA			
•	Size	Sta. •	Head Type	Landscape Zone	Frec. Rate-Inch/yr	GPM	PSI
1	.75"	1	Drip	Misc. Plantings	Drip	4.0	30
2	.75"	2	Drip	Misc. Plantings	Drip	4.0	30
3	.75"	3	Drip	Misc. Plantings	Drip	4.0	30
4	.75"	4	Drip	Misc. Plantings	Drip	4.0	30

NOTE: Minimum static water pressure at the point of connection required is 50 psi. If water pressure is above 90 psi, install pressure reduction valve, and set to an operating pressure of 75 psi at connection point.

Sprinkler List

Symbol	Model-Number	Description	Remarks
•	New Tree Location	Provides Added Emitters	Added Emitters For Tree Type Specified
⊗	Reinbird XCL-6TB-PRF	Drip Control Zone Kit	3/4" Size In Control Valve Box With Gravel Sump
⊗	Reinbird 33DLRC	Quick Coupler Valve	3/4" Size In Control Valve Box With Gravel Sump
4	Reinbird ESP-4M	Solid State Controller	Multi-Program / 4 Station Modular Exterior Mount
⊗	Mueller Orisec Mark II	Stop & Waste Valve	3/4" Size / Install Inside Cast Iron Curb Box
⊗	Febco 825Y Series	3/4" RPA Backflow Preventer	Install Above Grade Per All Local Codes
⊗	Watts 223-HP Series	Pressure Regulator	3/4" Size Installed Per Detail
•	Reinbird ARV	Air Relief Valve (As Needed)	Install In Control Valve Box With Gravel Sump
—	Schedule 40 PVC	Irrigation Slewing	Sizes As Noted On Plan / 24" Bury Across Asphalt
—	Schedule 40 PVC	Main Service Line	1" Size Throughout/Rated ASTM D 1184
—	Schedule 40 PVC	Lateral Circuit Line	Pipe Sizes As Required For Guide / 1" Min. / Run Laterals To All Individual Planting Areas
—	125 P.S.I. Low Density Polyethelene Pipe	For Distribution To All Non-Tree Plantings	Size As Required For Flow / 3/4" Min. Size / After PVC Laterals To Be Run To All Planting Areas

Slewing Installation Notes

Contractor shall coordinate the installation of slewing with the installation of concrete flatwork and paving. All slewing is by contractor unless otherwise notes. Install slewing based on sizing guide below:

PIPE SIZE OR WIRE QUANTITY	REQUIRED SLEWING
3/4" - 1 1/2" Piping	1-2" PVC Slew
1 1/2" - 2" Piping	1-4" PVC Slew
1-25 Control Wires	1-2" PVC Slew

NOTE: Each length of sleeved pipe shown shall be routed through a separate sleeve.

Sprinkler Notes

- All main service lines and pipe slewing shall be buried minimum 18 inches below finish grade, all lateral circuit lines minimum 12 inches below finish grade. Backfill all lines with sand or lump free soil. All clean material shall be settled and compacted to proper finish grade. All piping shall be capable of winterization by the use of compressed air / "Blow Out".
- All control valves and quick coupler valves shall be installed in fiberglass control boxes with bolt down lids. Washed gravel shall be installed in the bottom to a depth of 8 inches.
- All sprayheads (if used) shall be installed using (2) 1/2" barbed ell, and 1/2" swing pipe cut to the appropriate length (12" min.-24" max.). Quick coupler valves shall be installed using the appropriate sized joint assembly, including 3 marlex ell, and (1) 1/2 inch schedule 80 PVC riser.
- The design and layout of all sprayheads shall provide for a minimum 60% DU (distribution uniformity).
- All sprayheads adjacent to landscape paving shall be spaced 1 to 3 inches away from paving.
- Control valve wire shall be #4 single conductor white for the common wire, and #4 single conductor for the hot wire. Use red for the hot wire on all lawn control valve zones and blue (2) as spares along the entire main service line. Spare wires shall be "home run" to the controller. All wiring shall be UF UL rated. All connections shall be made with watertight connectors, and contained in control valve boxes. Provide 36" extra wire length at each remote control valve in valve box. Install control wiring with service line where possible, taped to the underside of the pipe at regular intervals. Provide slack in control wires at all changes in direction.
- Coordinate the exact location of the irrigation controller with Owner and/or contractor. The 110 volt power supply shall be provided by others. Any exposed controller wiring shall be contained in steel rigid conduit.
- Install 3/4" manual drain valves at all low points along the main service line. Use a 2 inch schedule 40 PVC sleeve over the valve with a valve marker cap. Install a two cubic foot gravel sump at the valve bottom.
- All sprinkler lines passing under paved and other hard surfaces shall be installed in schedule 40 PVC sleeves a minimum of two sizes larger than the pipe size to pass through it. The sleeve depth shall be the same as the deepest pipe to pass through.
- Upon completion of the installation, provide the Owner with a complete set of "As-Built" drawings showing any and all deviations from the original plans. It shall also show the locations of main service lines, control valves, wire routes and manual drain valves.
- It shall be the responsibility of the sprinkler contractor to demonstrate to the Owner the proper winterization and start-up procedures for the entire system prior to final payment.
- The contractor shall comply with all state and local plumbing codes, and shall honor all warranties and guarantees set forth by the Owner.

General Notes

- The contractor shall verify the exact location of all existing and proposed utilities, and all site conditions prior to beginning construction. The contractor shall coordinate his work with the project manager and all other contractors working on the site.
- The contractor shall verify the exact location and size of the irrigation waterline stub, the available water pressure at the point of connection. Any conflicts from what is shown on the plans shall be brought to the attention of the engineer for resolution.
- The contractor shall be responsible for the installation of all irrigation slewings under paving and other hard surface areas. This shall also include the installation of electrical conduit(s) from the controller location on the building to the nearest planting area.
- The controller shall be hardwired to the available 110 volt power source, with all work being performed per state and local codes. The controller shall be located in a convenient location as determined by the Owner and site/building electrical contractor.
- The contractor shall provide all materials, labor and equipment required for the proper completion of all irrigation work as specified and shown on the drawings.

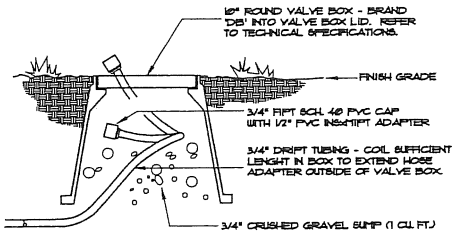
Submittal Requirements

- The contractor shall provide to the Owner/Engineer product data sheets of all irrigation materials such as control valves, control wire, quick coupler valves, control valve boxes, controller(s), PVC piping, drip tube piping, drip emitters & backflow prevention devices in order to obtain approval to be used on the project, and prior to any shipment to the site. Failure to provide this in a timely manner will in no way affect or delay the construction schedule and time for project completion.
- All irrigation materials shall be secured for this project a minimum of 60 days prior to shipment to the site. The contractor shall provide to the Owner/Engineer written confirmation of this a minimum of 30 days prior to planting of the project. No substitutions will be considered following this time period.

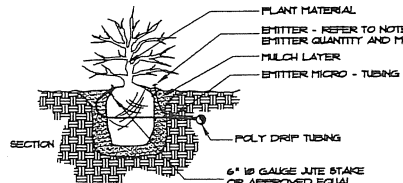
Emitter Installation Guide

PLANT SIZE	EMITTER DEVICE	QUANTITY
1 Gallon Material	XB-10 (1 Gal/Hr.)	One Each
5 Gallon Material	XB-10 (1 Gal/Hr.)	Two Each
15 Gallon Material	XB-10 (1 Gal/Hr.)	Three Each
24" Box/2" Caliper	XB-10 (1 Gal/Hr.)	Four Each

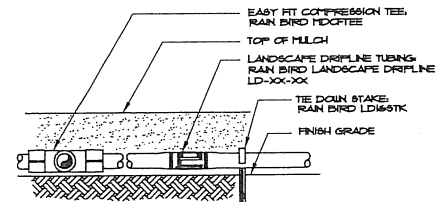
NOTE: The accompanying shall be used as a guide only! Final selection of type and quantity of emitters shall be the responsibility of the contractor.



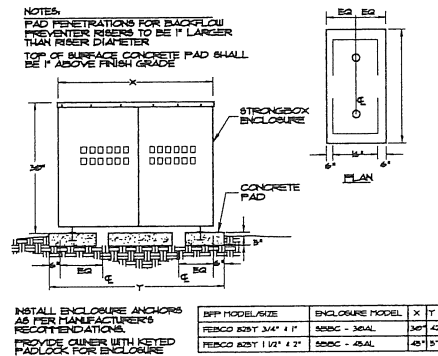
1 Compression Flush Cap
L2.1 N.T.S.



2 Drip Emitter
L2.1 N.T.S.



3 Landscape Dripline On Grade
L3.1 N.T.S.



4 Backflow Preventer Enclosure
L2.1 N.T.S.

Scale : 1" = 20'



Fred Meyer

3800 SE 22nd Avenue
Portland, Oregon 97242-0121
Telephone (503) 797-3509

#651

Canby, Oregon

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2010 North Redwood Road, P.O. Box 16747
Salt Lake City, Utah 84116
Salt Lake City (801) 521-8239 Ogden (801) 594-7288 Fax (801) 521-9551

Irrigation Plan

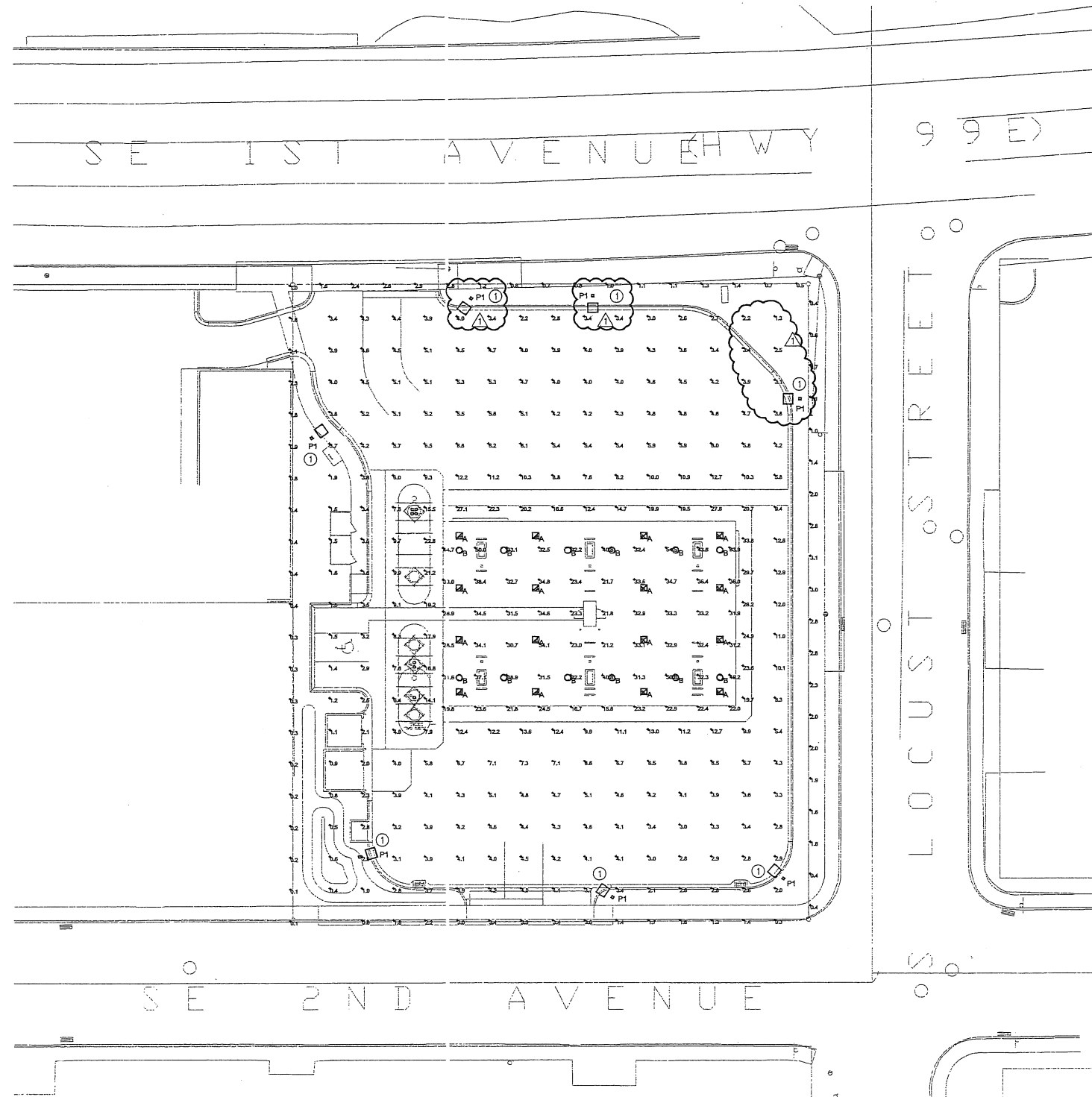
Fred Meyer Fuel - #651

369 SE 1st Avenue
Canby, Oregon 97013

27 Aug, 2012

SHEET NO.

L2.1



SITE PHOTOMETRIC PLAN
SCALE: 1"=20'-0"

Symbol	Label	Catalog Number	Description	Lamp	File	Lumens	LLF	Watts	Notes
	A (NIC)	LSI CROSSOVER CRS-SC-LED-84- HO-CW-UE	LED AMBIENT STANDARD CANOPY LIGHT (CRS) SS CW UE WHT	84 LEDS LUMEN OUTPUT 12300	CRS-SC-LED- 84-HO-CW- UE.ies	Absolute	1.00	147	8
	B (NIC)	CR03-FO-LED-30- CW-UE	WHITE PAINTED METAL HOUSING, THREE LED MODULES EACH, 10 PER BOARD W/ CLEAR FLAT LENS	THIRTY WHITE LIGHT EMITTING DIODES (LEDs), VERTICAL BASE- UP POSITION	CR03-FO-LED- 30-CW- UE.ies	Absolute	1.00	38.1	8
	P1	GSM-AM-250-4P- MT-SL-PG	MEDIUM ARCHITECTURAL AREA LUMINAIRE - SPILL LIGHT ELIMINATOR	250 WATT PULSE-START CLEAR ED-28 HORIZONTAL BURN	GSM-XX-250- MP-XX-SL- FG_us.ies	22000	0.81	283	1,2,3,4,5

FIXTURE NOTES:

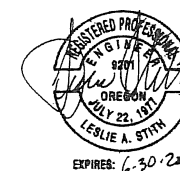
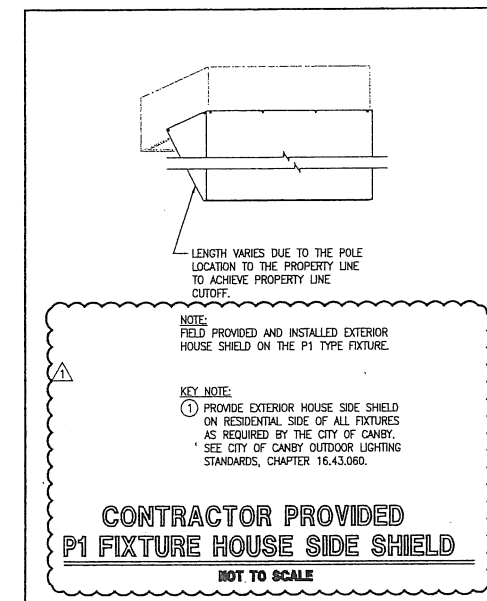
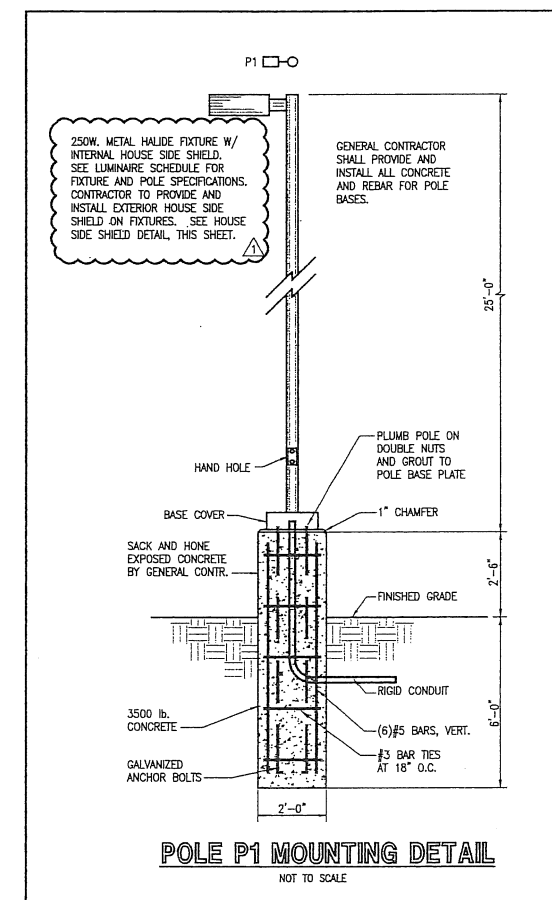
- LAMP PROVIDED WITH FIXTURE.
- PROVIDED THROUGH KROGER DIRECT BUY.
- POLE: COOPER NO. TR57A25SF-8Z W/ BASE COVER (25' ROUND TAPERED STEEL). SEE POLE MOUNTING DETAIL, THIS SHEET.
- FIXTURE COMPLIES TO THE CITY OF CANBY LIGHTING ZONE, SECTION 16.43.040 LZ.2.
- FIXTURE CONTROLLED THROUGH THE FUEL KIOSK LIGHTING MANAGER EMS SYSTEM.
- (NIC) NOT IN CONTRACT. SHOWN FOR REFERENCE ONLY.

NO APPROVED EQUALS:

PROVIDE AS SPECIFIED.

STATISTICS

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
3'-0" A.F.G. @ PROPERTY LINE	+	1.3 fc	3.1 fc	0.1 fc	31.0:1	13.0:1
CANOPY	+	36.0 fc	93.1 fc	15.6 fc	6.0:1	2.3:1
OVERALL AREA	+	6.4 fc	33.8 fc	0.3 fc	112.7:1	21.3:1



REV	DATE	DESCRIPTION

Designed by: RJB
Drafted by: RJB
Client Name:
Fred Meyer
FW651-SP/ 16N33

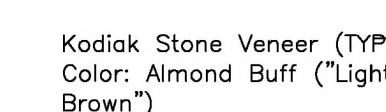
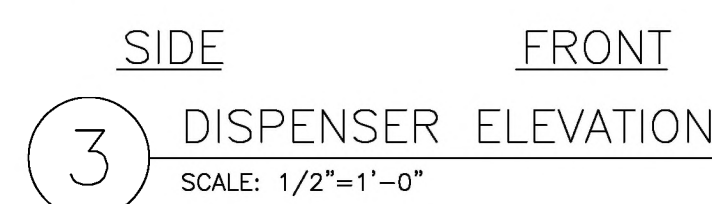
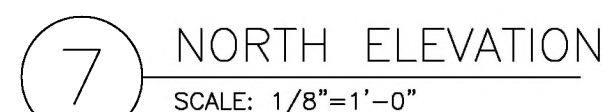
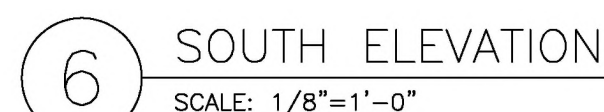
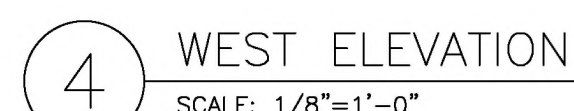
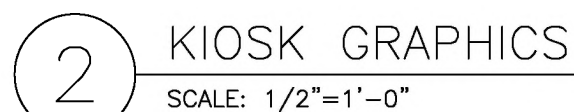
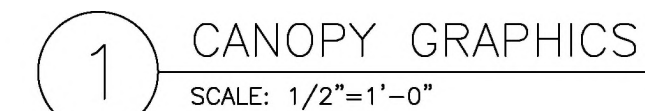
GREAT BASIN ENGINEERING - SOUTH
CONSULTING ENGINEERS and LAND SURVEYORS
2010 North Redwood Road, P.O. Box 16747
Salt Lake City, Utah 84116
Salt Lake City (801) 551-4529 Ogden (801) 334-7288 Fax (801) 551-4551

Electrical Site Plan
Fred Meyer Fuel #651 - Canby
369 SE 1st Avenue
Canby, Oregon 97013

SITE PHOTOMETRIC PLAN

JUNE 19, 2012
SHEET NO.

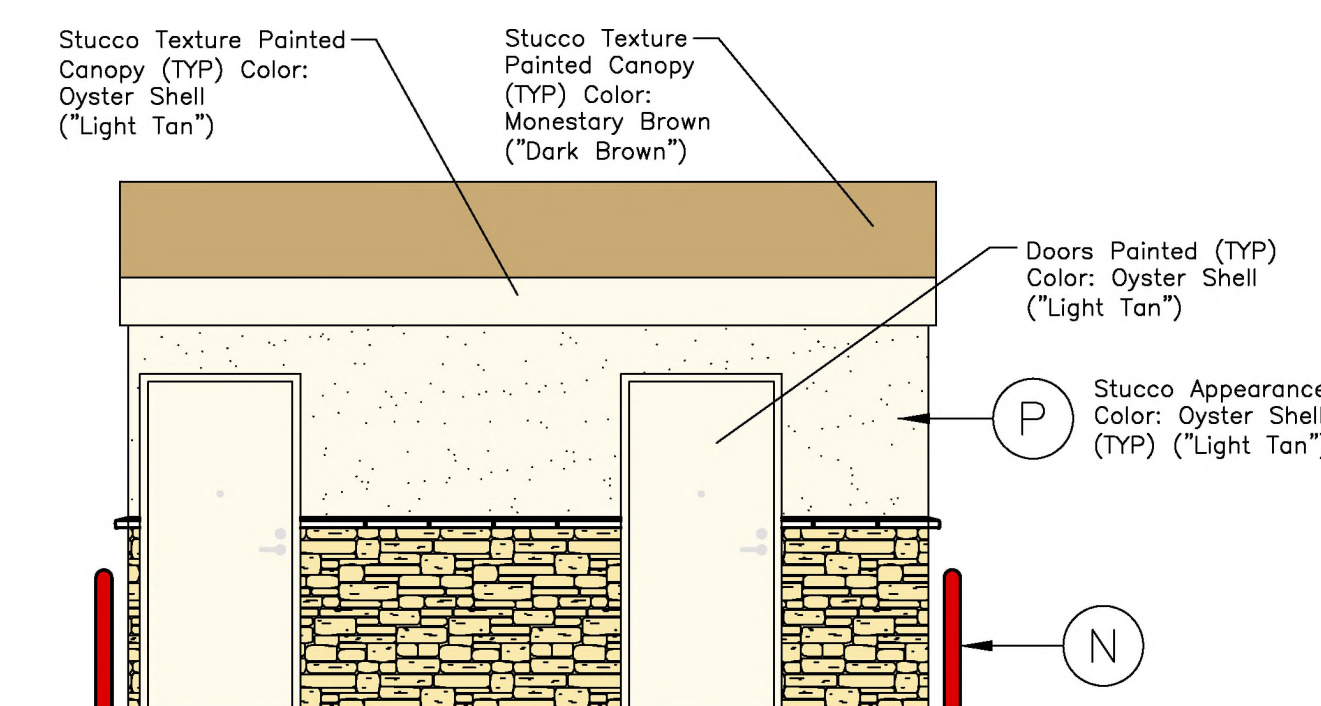
SE2.0



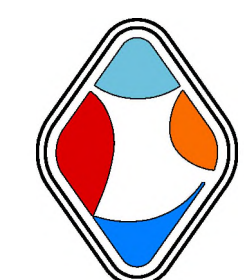
3'-6"

UNLEADED	MIDGRADE	PREMIUM	DIESEL
4.18 ⁹	4.28 ⁹	4.38 ⁹	4.88 ⁹

17'-4"



NOTE TO CONTRACTOR:
THIS SET OF DRAWINGS AND DOCUMENTS IS INTENDED AS A SET OF GUIDELINES FOR THE PROJECT AND ARE INTENDED TO BE USED IN CONJUNCTION WITH THE SPECIFICATIONS, REQUIREMENTS AND CONDITIONS GOVERNING THE SUBMITTAL OF REAL PROPERTY TO ANY APPLICABLE FEDERAL, STATE, AND LOCAL CODES INCLUDING FEDERAL A.D.A. REQUIREMENTS. THIS SET ASSUMES THAT THERE ARE NO UNUSUAL SOIL CONDITIONS OR WIND LOADS. THE FAILURE OF THIS CONDITION MAY REQUIR SIGNIFICANT CHANGES TO THE DOCUMENT. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO CONFIRM TO ALL APPLICABLE CODES AND TO INFORM THE OWNERS/ARCHITECTS OF ANY QUESTIONS OR CLARIFICATIONS WHICH ARE DESIRED. CONTRACTORS SHALL ALSO VISIT THE BUILDING SITE BEFORE BIDDING. CONTRACTORS ARE REQUIRED TO KNOW ALL OBSERVABLE CONDITIONS AND APPLICABLE CODES.

[illegible]

Project #:	#651 - Canby
Designed By:	DI
Drawn By:	JM
Checked By:	DI
Date:	12 Aug 2011
Scale:	FULL
Disk File:	FM651 Canby.dwg
Model:	Oregon
Address:	SWC of HWY 99E & S Locust St Canby, Oregon

EXTERIOR ELEVATIONS
AND SIGNAGE

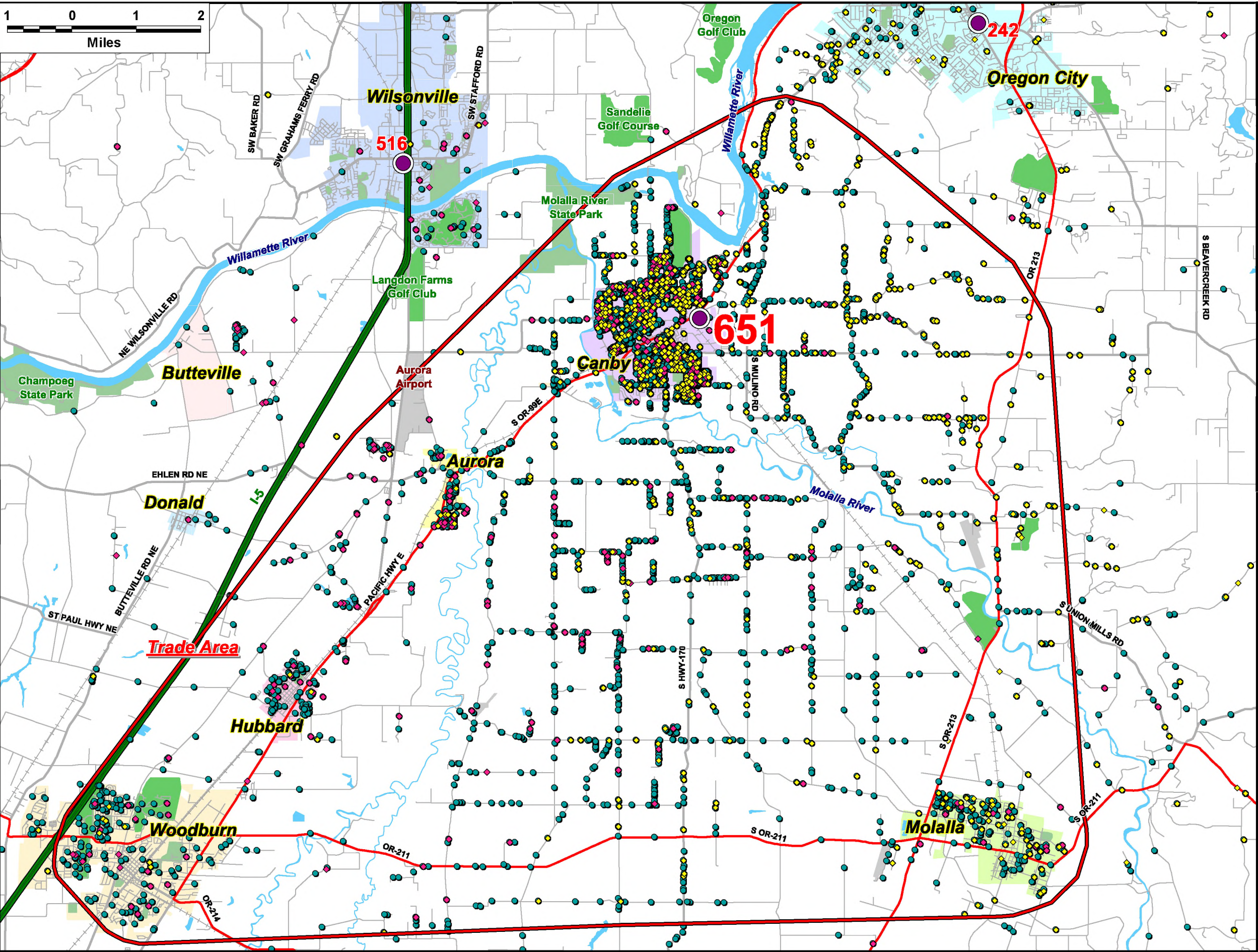
Drawing No.

A

Customer Spotting Map - Fred Meyer #651

SC Hwy 99E & Sequoia Pkwy, Canby, OR

Address Date From: Period 4, 2012



Fred Meyer

Legend

- Limited Access Highways
- Primary Highways
- Secondary Highways
- Major Roads
- Streets
- Railroads
- Lakes, Rivers and Oceans
- Cemetaries, Golf Courses
- Parks
- Airports, Airfields, & Airparks
- Military Installations

Trade Area

80.99% live within
87.70% spent within
142.3 sq. mi.

9,369 Addresses Plotted

Distribution by City

Canby	66%
Aurora	6%
Molalla	5%
Oregon City	5%
Woodburn	3%
Other OR cities	14%
Out of State	1%

Note: These percentages come from mailing addresses, therefore they do not necessarily reflect the municipality in which customers live.

Map Key

- = Open ◇ = U.C. □ = Planned
- ◇ = Fred Meyer #242 Fuel Customers
- ◇ = Fred Meyer #516 Fuel Customers
- = Fred Meyer #651 Grocery Customers

● Fred Meyer

realestate
IMAGING THE POSSIBILITIES
Corporate Development Research Department



GROUP MACKENZIE

July 6, 2012

City of Canby
Attention: Bryan Brown
182 N. Holly Street
PO Box 930
Canby, Oregon 97013

Re: **Fred Meyer Canby Fuel Facility**
On-Site Queuing Review
Project Number 2120130.00

Dear Mr. Brown:

This letter has been prepared in response to the June 14, 2012, memorandum from DKS Associates (Chris Maciejewski and Steve Boice) to the City of Canby (Bryan Brown) and the June 27, 2012, letter from the Oregon Department of Transportation (Mike Strauch) to Fred Meyer Stores (James Coombes). Both documents requested review of on-site vehicle stacking/queuing conditions in addition to the information presented in the May 17, 2012, Transportation Impact Analysis (TIA). Current queue conditions at an operational Fred Meyer fuel facility were reviewed to estimate potential queues at the proposed Canby facility.

OBSERVATIONS

Digital videos were recorded during the PM peak period Thursday, June 21, and during the AM peak period Friday, June 22, at the Fred Meyer fuel facilities in Oak Grove and Sandy, Oregon. As identified in the TIA, these facilities were selected based on their characteristics similar to those at the Canby site. Videos were reviewed to identify peak queue conditions between the hours of 4:00-6:00 PM and 7:00-9:00 AM.

Peak or maximum, fuel demand conditions were determined as the times at which the most vehicles were present on the site, whether actively fueling or waiting for fuel service, either at or behind the dispensers. Vehicles larger than a typical passenger vehicle, such as recreational vehicles or trucks pulling trailers, were counted as occupying the equivalent of two passenger vehicle spaces. As shown on the attached exhibits, there are 8 service lanes approaching each fuel facility, and both operate with one-way traffic flow.

In addition to the peak queues described below, the queue conditions were recorded at 5-minute intervals during the 2-hour peak periods. The numbers of vehicles on-site at each interval were tabulated; results are attached for reference.

RiverEast Center | 1515 SE Water Avenue, Suite 100 | Portland, OR 97214

P.O. Box 14310 | Portland, OR 97293

Tel: 503.224.9560 Web: www.grpmack.com Fax: 503.228.1285

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Morning Peak

At Oak Grove the maximum morning queue occurred twice. At approximately 7:56 AM there were 6 vehicles on site. One was a truck pulling a trailer, so they occupied the equivalent of 7 spaces. Two lanes had 1 vehicle waiting behind the dispensers, and six lanes had 0 vehicles waiting. At approximately 8:07 AM there were 7 vehicles on site. None were large vehicles or trailers, so they occupied the equivalent of 7 spaces. The attached sketch exhibits depict the peak morning queues on the site layout.

At Sandy the maximum morning queue occurred once at approximately 8:27 AM, when 9 vehicles were on site. None were large vehicles or trailers, so they occupied the equivalent of 9 spaces. Four lanes had 1 vehicle waiting behind the dispensers, and four lanes had 0 vehicles waiting. The attached sketch exhibit depicts the peak morning queue on the site layout.

Afternoon Peak

At Oak Grove the maximum afternoon queue occurred at approximately 5:24 PM, when 18 vehicles were on site. None were large vehicles or trailers, so they occupied the equivalent of 18 spaces. Three lanes had 2 vehicles waiting behind the dispensers; two lanes had 1 vehicle waiting; and three lanes had 0 vehicles waiting. The attached sketch exhibit depicts the peak afternoon queue on the site layout.

At Sandy the peak afternoon queue occurred at approximately 4:43 PM, when 19 vehicles were on site. Three were recreational vehicles, and two were trucks pulling trailers, so they occupied the equivalent of 24 spaces. One lane had 3 equivalent vehicles waiting behind the dispensers; three lanes had 2 equivalent vehicles waiting; two lanes had 1 equivalent vehicle waiting; and two lanes had 0 equivalent vehicles waiting. The attached sketch exhibit depicts the peak afternoon queue on the site layout.

EVALUATION

As depicted on TIA Figure 2 and on the civil engineering plans provided by Great Basin Engineering, the proposed Fred Meyer Canby fuel facility will provide 6 service lanes, each with space for 2 vehicles at the dispensers plus queuing space for 2 equivalent vehicles behind the dispensers for a total of 24 equivalent vehicle spaces without constraining on-site movements. A third queued vehicle behind the dispensers on the Highway 99E side of the canopy could constrict on-site maneuvering and a third queued vehicle on the SE 2nd Avenue side of the canopy could obstruct driveway movements.

Morning Peak

The video observations in Oak Grove and Sandy show a maximum of 10 vehicles and 10 vehicle equivalents were on site. No more than 1 vehicle equivalent was queued behind the dispensers in any lane during the morning peak condition. The 5-minute interval observations indicate a 50th percentile of 4 vehicles (4 vehicle equivalents) on site and an 83rd percentile of 10 vehicles (10 vehicle equivalents) on site.

Assuming identical demand, the proposed Canby facility can accommodate these volumes and equivalents. Therefore the morning peak queue condition presents no potential for queues to extend off-site and impede public roadway movements in Canby.

Afternoon Peak

The video observations in Oak Grove and Sandy show a maximum of 19 vehicles and 24 vehicle equivalents were on site. A maximum of 3 vehicle equivalents were queued behind the dispensers in one lane during the afternoon peak condition. The 5-minute interval observations indicate a 50th percentile of 12 vehicles (12 vehicle equivalents) on site and an 83rd percentile of 18 vehicles (21 vehicle equivalents) on site.

Assuming identical demand, the proposed Canby facility can accommodate these volumes and equivalents. Therefore the afternoon queue condition presents no potential for queues to extend off-site and impede public roadway movements in Canby.

It should be noted vehicle characteristics at Canby are more likely to follow those at Oak Grove. The Sandy facility is located along the Mt. Hood Highway (US 26), which serves a high volume of recreational traffic, unlike Highway 99E in Oak Grove or Canby. The Canby facility customers are more likely to drive standard passenger vehicles. If, again identical maximum demand is assumed at Canby based on the Oak Grove and Sandy observations, a maximum of 19 vehicles, including 5 larger vehicles such as recreational vehicles or trucks pulling trailers, could be accommodated at the Canby site.

Furthermore, the two-way traffic flow past the dispensers in Canby will allow customers additional opportunities to select the service lane with the shortest wait time as contrasted with the one-way traffic flow at Oak Grove and Sandy. Most customers prefer to fuel their vehicle with the dispenser to the left of the vehicle, and this pattern was corroborated by the video observations as the lanes with dispensers to the right of the vehicle saw notably less traffic. The two-way flow at Canby will generally tend to keep queues shorter since customers may choose to drive around to the opposite side if they anticipate longer wait times than they desire.

City of Canby
Fred Meyer Canby Fuel Facility
Project Number 2120130.00
July 6, 2012
Page 4

SUMMARY

Queues were observed at the Fred Meyer Sandy fuel facility to estimate the potential queues at the proposed Fred Meyer Canby fuel facility. Based on the observations, on-site vehicle queues from the fuel dispensers are not anticipated to extend off-site, to impede driveway movements, or to impede public roadway movements.

If you have any questions regarding this review, please contact me directly.

Sincerely,



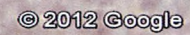
Brent Ahrend, P.E.
Senior Associate | Transportation Engineer

Enclosures: Queue Exhibits, 5-Minute Interval Summaries

- c: Loretta Kieffer – Oregon Department of Transportation
Jake Tate – Great Basin Engineering
James Coombes – Fred Meyer
Chris Maciejewski, Steve Boice - DKS



7:56 AM



Google™ earth

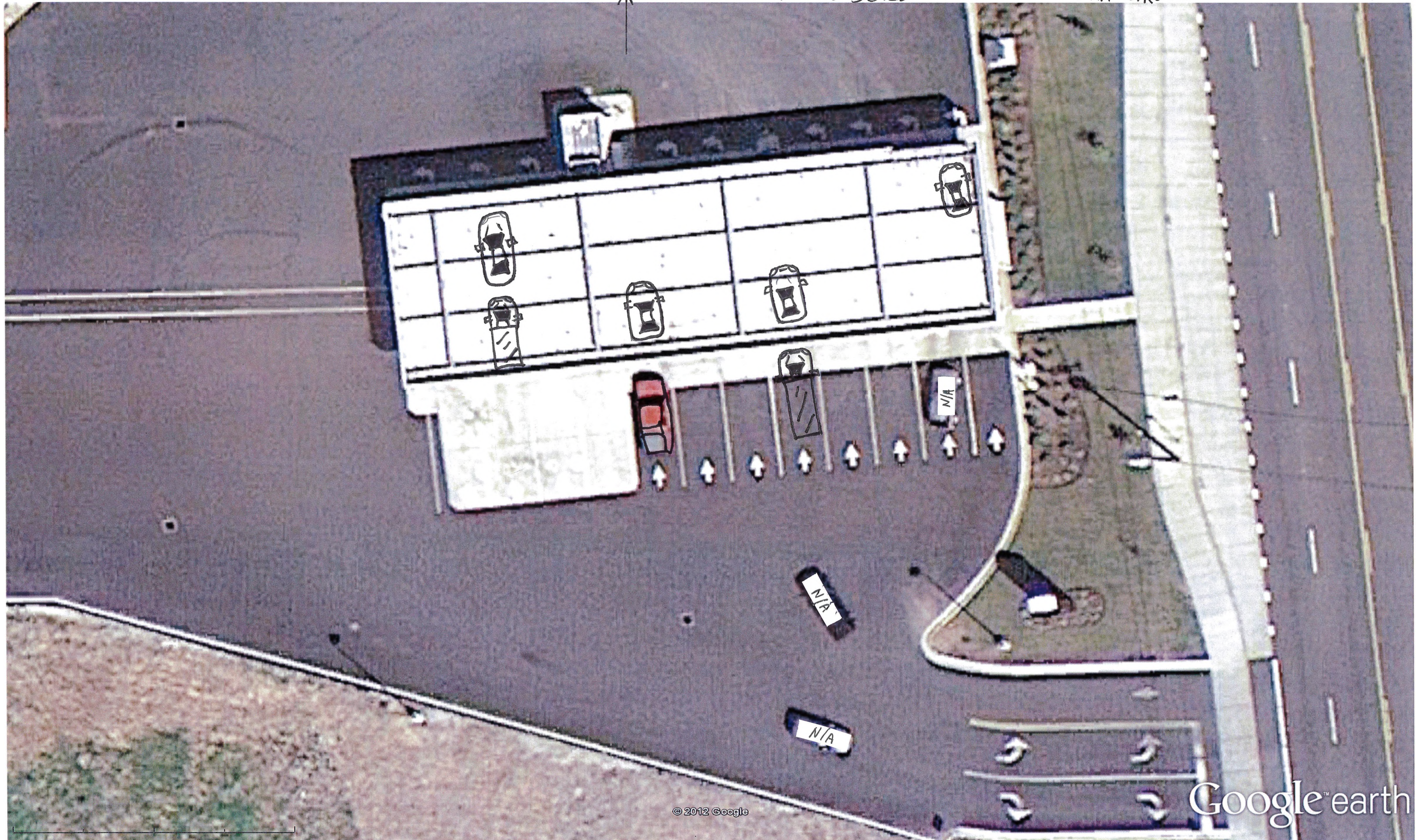


NORTH

NOT TO SCALE

OAK GROVE

8:07 AM



© 2012 Google

Google earth

Google Earth Pro

feet
meters

200

70
City Council Packet Page 86 of 280

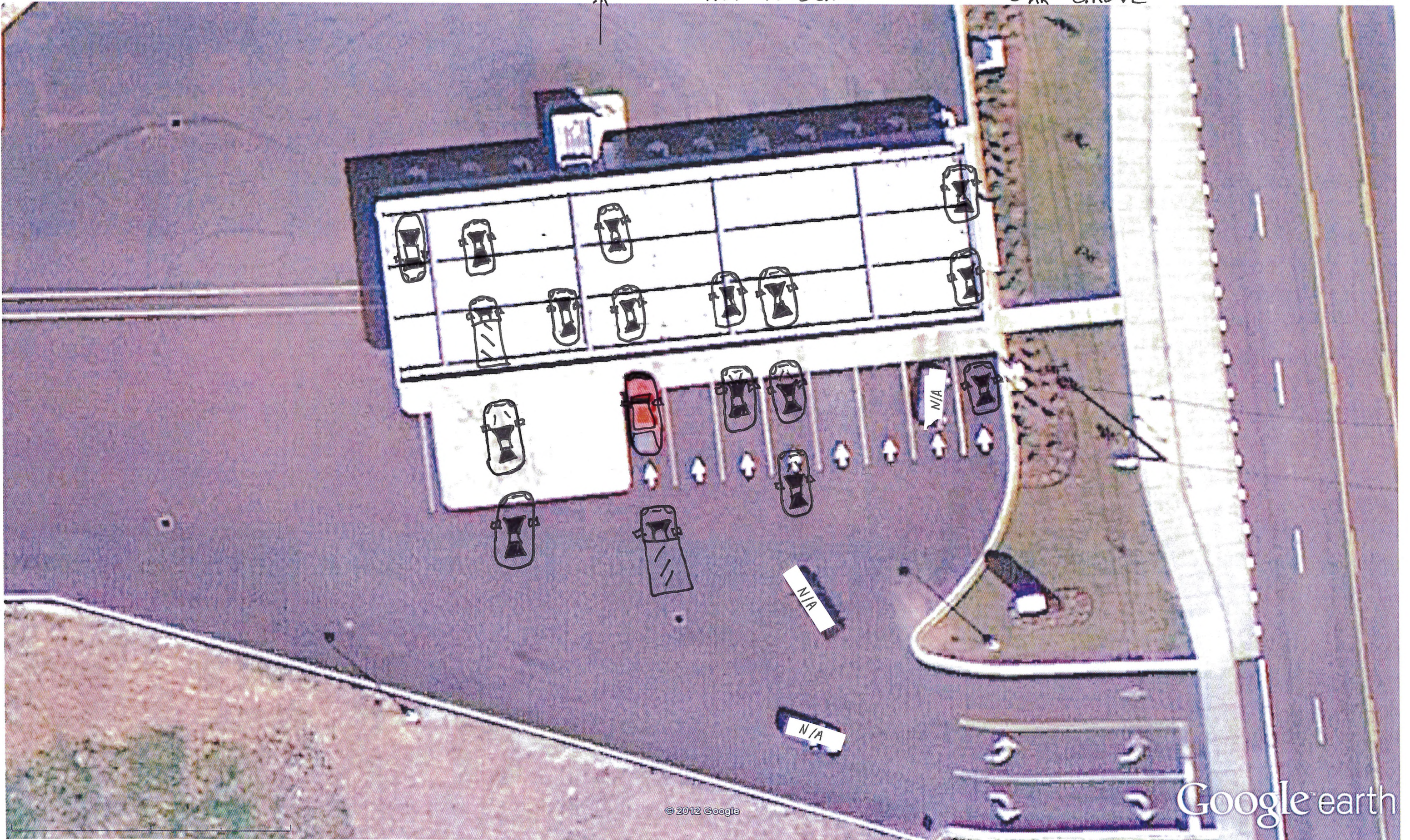


NORTH

NOT TO SCALE

OAK GROVE

5:24 PM

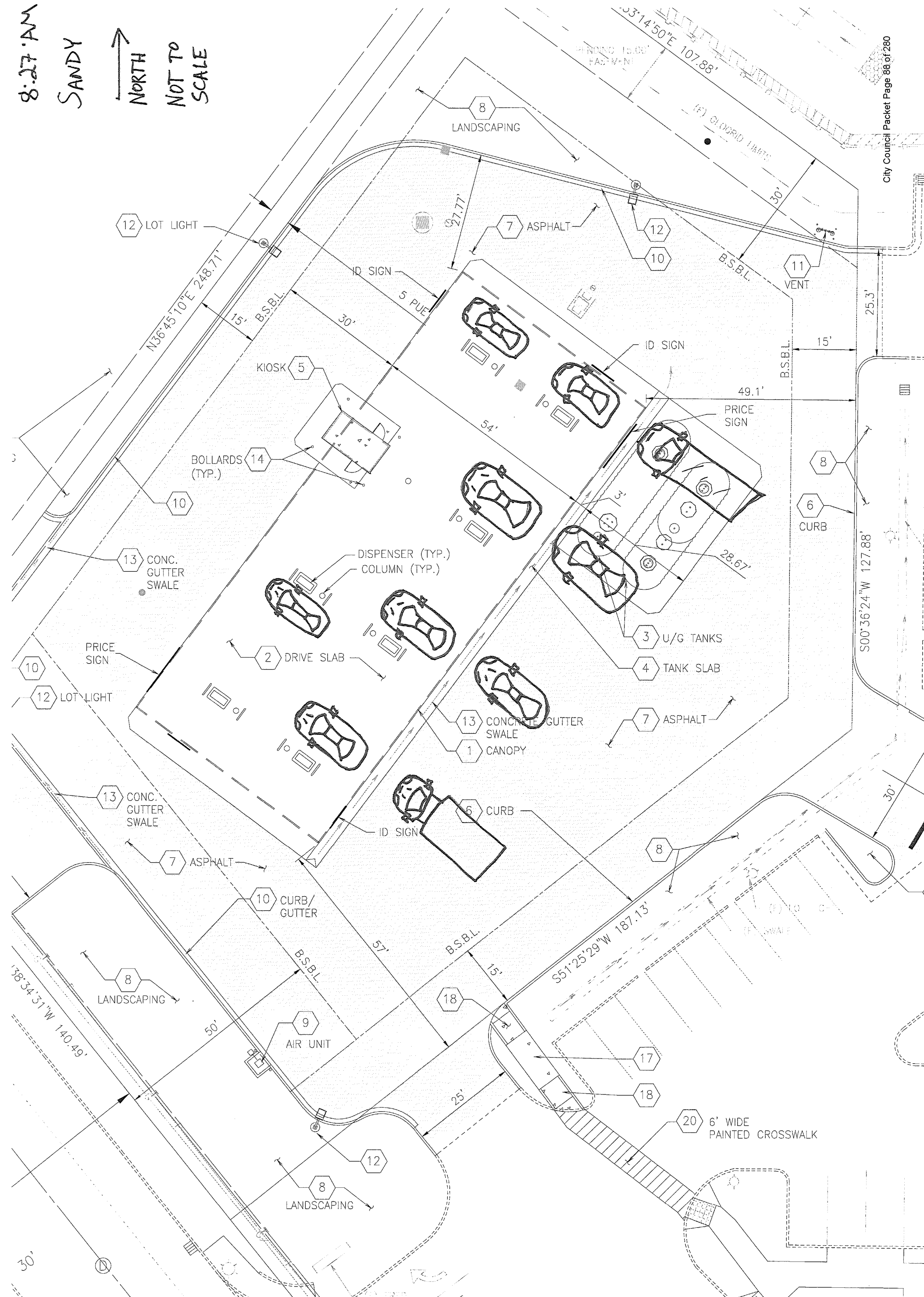


8:27 AM

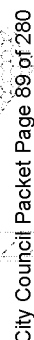
SANDY



NOT TO
SCALE



NOT TO
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QUEUES AT FRED MEYER FUEL FACILITIES

AM Oak Grove

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Longest Queue
7:00 AM	2		0	2	
7:05 AM	3		0	3	
7:10 AM	4		0	4	
7:15 AM	5		0	5	
7:20 AM	6		0	6	
7:25 AM	4		0	4	
7:30 AM	5		0	5	
7:35 AM	4		0	4	
7:40 AM	4		0	4	
7:45 AM	4		1	5	
7:50 AM	3		0	3	
7:55 AM	5	(1 w/trailer)	1	6	
8:00 AM	2		0	2	
8:05 AM	4		0	4	
8:10 AM	5		0	5	
8:15 AM	5		0	5	
8:20 AM	5		0	5	
8:25 AM	6		0	6	
8:30 AM	5		0	5	
8:35 AM	7		1	8	
8:40 AM	3		0	3	
8:45 AM	2	(1 small semi)	0	2	
8:50 AM	2		0	2	
8:55 AM	7		1	8	
9:00 AM	2		0	2	

AM Longest Queue

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Notes about Queue
7:56 AM	4	1 truck w/ trailer	2	6	2 lanes, one car each
8:07 AM	5		2		2 lanes, one car each

QUEUES AT FRED MEYER FUEL FACILITIES

PM Oak Grove

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Longest Queue
4:00 PM	7		2	9	
4:05 PM	5		2	7	
4:10 PM	11	(1 RV)	5	16	
4:15 PM	10	(1 RV)	8	18	
4:20 PM	6		6	12	
4:25 PM	10		4	14	
4:30 PM	7		3	10	
4:35 PM	7	(1 Large truck)	2	9	
4:40 PM	3		0	3	
4:45 PM	6		1	7	
4:50 PM	4		0	4	
4:55 PM	4		1	5	
5:00 PM	0		0	0	
5:05 PM	4		1	5	
5:10 PM	4		1	5	
5:15 PM	9		6	15	
5:20 PM	6		3	9	
5:25 PM	10		8	18	
5:30 PM	8		7	15	
5:35 PM	9		6	15	
5:40 PM	5		4	9	
5:45 PM	6		3	9	
5:50 PM	8		0	8	
5:55 PM	5		3	8	
6:00 PM	5	(1 w/trailer)	3	8	

PM Longest Queue

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Notes about Queue
5:24 PM	10		8	18	

QUEUES AT FRED MEYER FUEL FACILITIES

AM Sandy

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Longest Queue
7:00 AM	1		0	1	
7:05 AM	4		0	4	
7:10 AM	2		0	2	
7:15 AM	0		0	0	
7:20 AM	2		0	2	
7:25 AM	6		0	6	
7:30 AM	1		0	1	
7:35 AM	2		0	2	
7:40 AM	5		0	5	
7:45 AM	6		0	6	
7:50 AM	3		0	3	
7:55 AM	2		0	2	
8:00 AM	3		0	3	
8:05 AM	5		0	5	
8:10 AM	4		0	4	
8:15 AM	6		0	6	
8:20 AM	9		2	11	
8:25 AM	6		2	8	
8:30 AM	6		2	8	
8:35 AM	5		1	6	
8:40 AM	9		0	9	
8:45 AM	4		0	4	
8:50 AM	3	(1 w/trailer)	0	3	
8:55 AM	6	(1 w/trailer)	0	6	
9:00 AM	3		1	4	

AM Longest Queue

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Notes about Queue
8:27 AM	6		4	10	1 small semi waiting

QUEUES AT FRED MEYER FUEL FACILITIES

PM Sandy

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Longest Queue	Notes
4:00 PM	10		2	12		
4:05 PM	9		6	15		
4:10 PM	4		5	9		
4:15 PM	8		2	10		
4:20 PM	7	(1 w/trailer)	5	12		
4:25 PM	5	(1 tour bus, 1 semi)	5	10		
4:30 PM	9	(1 RV, 1 tour bus)	3	12		
4:35 PM	11	(1 tour bus, 1 RV, 1 w/Boat)	3	14		
4:40 PM	10		3	13		
4:45 PM	9	(2 RV, 1 w/trailer)	4	13		
4:50 PM	9	(2 RV, 1 w/trailer)	9	18		
4:55 PM	12	(1 RV)	5	17		
5:00 PM	9		9	18		
5:05 PM	8	(1 w/trailer)	5	13		
5:10 PM	11		3	14		
5:15 PM	5		7	12		
5:20 PM	10		7	17		
5:25 PM	7		5	12		
5:30 PM	10		2	12		
5:35 PM	9		5	14		
5:40 PM	6		3	9		
5:45 PM	8		7	15		(fuel truck delivery- blocking 2 lanes)
5:50 PM	8		3	11		(fuel truck delivery- blocking 2 lanes)
5:55 PM	6		4	10		(fuel truck delivery- blocking 2 lanes)
6:00 PM	6		1	7		(fuel truck delivery- blocking 2 lanes)

PM Longest Queue

	# of Vehicles at Pumps	Notes	# of Vehicles Waiting	Total Vehicles	Notes about Queue
4:43 PM	11	2 RV's and 1 truck w/trailer	8	19	1 truck with trailer



720 SW Washington St.
Suite 500
Portland, OR 97205
503.243.3500
www.dksassociates.com

MEMORANDUM

DATE: June 14, 2012

TO: Bryan Brown, City of Canby

FROM: Chris Maciejewski, PE, PTOE
Steve Boice, EIT

SUBJECT: Canby Fredy Meyer Fuel Facility TIS Review

P#11010-016-000

Per your request, we have reviewed the transportation impact analysis submitted for the proposed Fred Meyer Fuel Facility¹ in Canby, Oregon to determine if the study provided adequate information to comply with the required transportation impact study scope². Based upon our review, we found that the study has not adequately addressed the required scope items needed to assess the impacts of the proposed development. We have coordinated with ODOT and they agree with our findings³. We recommend that the following items be included as part of the study:

- Collect video recordings during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods at a similar land use site to assist with estimating vehicle stacking within the proposed site (Task 4).

If you have any questions, please feel free to call me.

¹ Fred Meyer Canby Fuel Facility Transportation Impact Analysis, Group Mackenzie, May 17, 2012

² Canby Fred Meyer Fuel Station Transportation Impact Study Scope, DKS Associates, March 29, 2012.

³ Phone conversation with Douglas Baumgartner, ODOT Region 1, June 14, 2012.



City of Canby

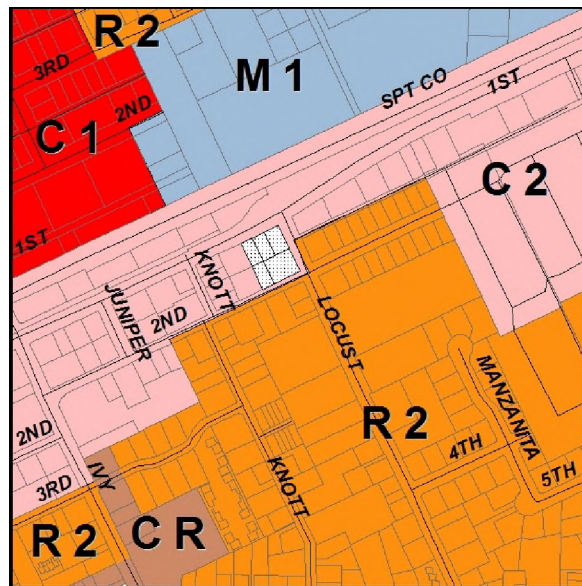
TEXT AMENDMENT/ZONE CHANGE STAFF REPORT

FILE #: TA 12-01/ZC 12-02

(Revised from Original Text Amendment Staff Report #TA 12-01 Presented at the 7/23/12 Planning Commission Meeting)

LOCATION: 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2nd Ave (Shaded area in map below)

ZONING: C-2 Highway Commercial (below). The site is also in the Core Commercial subarea of the Downtown Overlay Zone (the applicant is proposing this Text Amendment/Zone Change so that the above properties are within the Outer Highway Commercial subarea of the Downtown Overlay Zone).



TAXLOT(S): 3S1E33DC00100, 00200, 00300, 02200 & 02300

LOT SIZE: The area of the above lots combined is 32,466 square feet

OWNER: Oliver & Lang LLC

APPLICANT: Fred Meyers Stores, Inc.

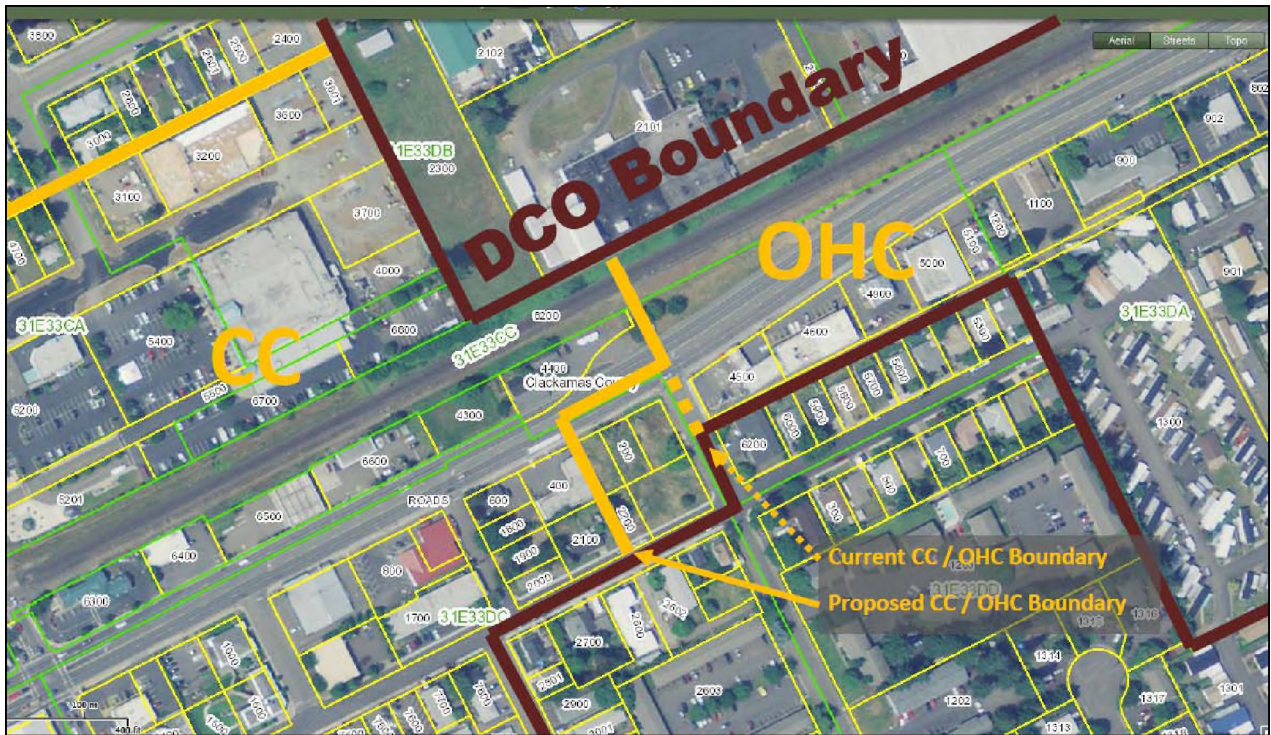
APPLICATION TYPE: Text Amendment/Zone Change (Type IV)

CITY FILE NUMBER: TA 12-01/ZC 12-02

I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

The applicant is requesting a Text Amendment/Zone Change of the Canby *Land Development and Planning Ordinance/Zoning Map* to shift the subarea boundary of the Downtown Canby Overlay Zone at this site from Core Commercial (CC) to Outer Highway Commercial (OHC). This change would accommodate the applicant's proposed Fred Meyer Fuel Station on the subject taxlots (see below for an illustration of the revised boundary). Files TA 12-01 and ZC 12-02 are Type IV processes that must be approved by City Council Ordinance. The Design Review portion of this proposal is a Type III process only requiring approval by the Planning

Commission. Therefore, the Design Review portion of this project is being processed as a separate file. Refer to the Design Review application/staff report for file #DR 12-03 for more information.



II. ATTACHMENTS

- A. Citizen and Agency Comments: Refer to the comments attached to the Staff Report for file #DR 12-03
- B. Application narrative
- C. Proposed map changes/text amendments

III. APPLICABLE CRITERIA & FINDINGS

Major approval criteria used in evaluating this application were the following Chapters from the *City of Canby's Land Development and Planning Ordinance* (Zoning Code):

- 16.08 General Provisions
- 16.28 C-2 Zone
- 16.41 Downtown Overlay Zone
- 16.88 General Standards & Procedures
- 16.89 Application and Review Procedures

Excerpts from the code are highlighted below in **gray**, with findings and discussion after the citations. If not discussed below, other standards from the Code are either met fully, not applicable, and/or do not warrant discussion.

Chapter 16.08 General Provisions

16.08.150 Traffic Impact Study (TIS)

A. Determination. Based on information provided by the applicant about the proposed development, the city will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

Findings: A traffic study was required because the proposal meets the above criteria.

16.08.150 Traffic Impact Study (TIS), continued

If a residential street is significantly impacted, mitigation shall be required. Thresholds used to determine if residential streets are significantly impacted are:

1. Local residential street volumes should not increase above 1,200 average daily trips
2. Local residential street speeds should not exceed 28 miles per hour (85th percentile speed).

I. Mitigation. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. Mitigation measures may be suggested by the applicant or recommended by ODOT or Clackamas County in circumstances where a state or county facility will be impacted by a proposed development. The city shall determine if the proposed mitigation measures are adequate and feasible. ODOT must be consulted to determine if improvements proposed for OR 99E comply with ODOT standards and are supported by ODOT. The following measures may be used to meet mitigation requirements:

1. On-and off-site improvements beyond required standard frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction, if construction is not feasible.
4. Correction of off-site transportation deficiencies within the study area that are substantially exacerbated by development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

J. Conditions of Approval. The city may deny, approve, or approve with appropriate conditions a development proposal in order to minimize impacts and protect transportation facilities.

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.
2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, traffic

channelization, construction of sidewalks, bikeways, accessways, paths, or street that serve the proposed use may be required.

3. The city may require the development to grant a cross-over access easement(s) to adjacent parcel(s) to address access spacing standards on arterials and collector roadways or site-specific safety concerns. Construction of shared access may be required at the time of development if feasible, given existing adjacent land use. The access easement must be established by deed.

K. Rough Proportionality Determination. Improvements to mitigate impacts identified in the TIS shall be provided in rough proportion to the transportation impacts of the proposed development.

1. The TIS shall include information regarding how the proportional share of improvements was calculated, using the ratio of development trips to growth trips and the anticipated cost of the full Canby Transportation System Plan. The calculation is provided below:

$$\text{Proportionate Share Contribution} = [\text{Net New Trips} / (\text{Planning Period Trips} - \text{Existing Trips})] \times \text{Estimated Construction Cost}$$

a. Net new trips means the estimated number of new trips that will be created by the proposed development within the study area.

b. Planning period trips means the estimated number of total trips within the study area within the planning period identified in the TSP.

c. Existing trips means the estimated number of existing trips within the study area at the time of TIS preparation.

d. Estimated construction cost means the estimated total cost of construction of identified improvements in the TSP.

16.08.160 Safety and Functionality Standards.

The City will not issue any development permits unless the proposed development complies with the city's basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have the following:

A. Adequate street drainage, as determined by the city.

B. Safe access and clear vision at intersections, as determined by the city.

C. Adequate public utilities, as determined by the city.

D. Access onto a public street with the minimum paved widths as stated in Subsection E below.

E. Adequate frontage improvements as follows:

1. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.

2. For collector and arterial streets, a minimum paved width of 20 feet along the site's frontage.

3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.

F. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies.

Findings: Refer to the city traffic engineer's recommendations attached to the staff report for the Design Review file #DR 12-03.

Chapter 16.28 C-2 Highway Commercial Zone

16.28.010 Uses permitted outright.

C. Automobile, motorcycle, boat or truck sales, service, repair, rental, storage or parking

Findings: A retail fuel station is permitted within the C-2 zone. The site is also located within the Core Commercial (CC) area of the Downtown Overlay Zone. A fuel station could be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea, therefore not conflicting with the base C-2 Zone's permitted fuel station use.

However, because the proposed auto-oriented fuel station does not meet the intent of the CC subarea, the applicant is requesting a Text Amendment/Zone Change to alter the subarea boundaries so that the site would lie in the Outer Highway Commercial (OHC) subarea, which is intended for more auto-oriented uses. See the remainder of this staff report for more discussion.

16.41 Downtown Overlay Zone

16.41.010 Purpose.

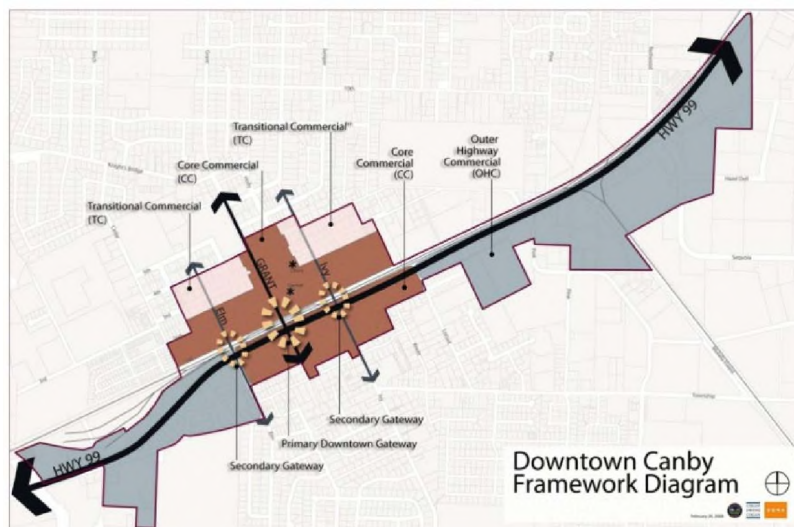
The purpose of the Downtown Canby Overlay (DCO) zone is to:

- A.** *Encourage more intense development in the Core Commercial area and allow for more intensive development in the Transitional Commercial area over time. Intensity of development and the relationship between setbacks, lot coverage and floor area ratio address this objective. Floor area ratios (FAR) are intended to work with building height and setback standards to control the overall bulk of the building. The proposed FAR in conjunction with the maximum lot coverage ensures that the development will be a minimum of two floors along the street in the C-1 portion of the Core Commercial area.*
- B.** *Create a pedestrian friendly environment in the Core Commercial and Transitional Commercial areas while allowing for a more auto-oriented focus in the Outer Highway Commercial area. A comfortable pedestrian-oriented environment and limited setbacks are important in the Core Commercial and Transitional Commercial areas. In the Outer Highway Commercial area, a portion of development should be closer to the road to provide visual connection and signal that drivers are entering an urban area. Larger setbacks in the Outer Highway Commercial area also allows for more landscaping, access and other improvements between buildings and street.*
- C.** *Ensure that building sizes reflect desired uses in the Core Commercial and Transitional Commercial areas. Requirements limit the size of the building footprint to 40,000 square feet in these areas. For the purpose of understanding the scale of development, the proposed maximum allows for the creation of a high end grocery store (e.g., New Seasons, Whole Foods or Zupans). The proposed maximum differentiates developments in this area from those in the Outer Highway Commercial area. Maximum building footprints are much larger in the Outer Highway Commercial area.*

16.41.020 Applicability.

- A.** *It is the policy of the City of Canby to apply the DCO zone to all lands located within the boundaries illustrated on the Downtown Canby Framework Diagram; the boundaries of the overlay district, and boundaries of the three sub-areas, are as shown in this chapter, Figure 11. The three sub-areas are established as follows:*

1. *Core Commercial Area. This area straddles Highway 99E and includes portions of both the C-1 and C-2 zones and forms the densest commercial area of the city, as well as the city's primary community facilities – city hall, police station, library, etc.*



3. *Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of Locust Street. This area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.*
- B.** *The DCO zone has the following effect with regard to other chapters of this ordinance:*
1. *Permits land uses which are permitted by the underlying zone districts*
 2. *Replaces selected development standards in the underlying zone districts, as set forth in Section 16.41.050.*

Findings: The above standards state that any use that is permitted in the base zone (in this case the C-2 Zone) is permitted in the Canby Downtown Overlay Zone. The C-2 Zone allows fuel stations. A fuel station could be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea, therefore not conflicting with the base C-2 Zone's permitted fuel station use. However, because the proposed auto-oriented fuel station does not meet the intent of the CC subarea, a Text Amendment /Zone Change is proposed to change the subject lots from CC to OHC.

16.88 General Standards and Procedures

16.88.160 Amendments to text of title.

A. Authorization to Initiate Amendments. *An amendment to the text of this title may be initiated by the City Council, by the Planning Commission or by the application of a property owner or his authorized agent. The Planning Commission shall, within forty days after closing the hearing, recommend to the City Council, approval, disapproval, or modification of the proposed amendment.*

Findings: The applicant has initiated amendments to the text and zoning map of the *Canby Land Development and Planning Ordinance*. The Canby Planning Commission shall make a recommendation to the Canby City Council after their Public Hearing. The City Council shall also conduct a public hearing before making a final decision on this proposed Text Amendment /Zone Change application.

D. Standards and Criteria. *In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:*

- 1.** *The Comprehensive Plan of the city, 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;*

Applicable Comprehensive plan Elements and goals:

Urban Growth Element

Goals:

- 1) To preserve and maintain designated agricultural and forest lands by protecting them from urbanization.*
- 2) To provide adequate urbanizable area for the growth of the city, within the framework of an efficient system for the transition from rural to urban land use.*

Land use element

Goal: to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another.

Environmental concerns element

Goals:

- To protect identified natural and historical resources.*
- To prevent air, water, land, and noise pollution.*
- To protect lives and property from natural hazards.*

Transportation element

Goal: To develop and maintain a transportation system which is safe, convenient and economical.

Public facilities and services element

Like other cities, Canby must be able to provide adequate public facilities and services to support the community's growth and quality of life

Economic element

Goal: to diversify and improve the economy of the city of Canby

Housing element

Goal: to provide for the housing needs of the citizens of Canby

Energy conservation element

Goal: to conserve energy and encourage the use of renewable resources in place of non-renewable resources.

Findings: The Code is an implementation tool of the Comprehensive Plan, and therefore by default any development that is in conformance with the Code is concurrently in conformance with the Comprehensive Plan. Therefore, the proposal is consistent with the policies of the Comprehensive Plan, including the elements and goals listed above.

For traffic issues, refer to the city traffic engineer's recommendations attached to the staff report for the Design Review file #DR 12-03. In addition, refer to the applicant's supplemental supporting the Text Amendment, Zone Change, and Design Review applications (attached to this packet).

2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;

Findings: When considering the public need, whether the change will serve the public need, and whether the change will preserve the health, safety, and general welfare of the community, the Planning Commission and City Council must consider the arguments for and against a Text Amendment/Zone Change, which, in turn all contain attributes that affect public need, serving the need, public health, public safety, and public welfare. The Planning Commission and City Council must consider what the proper boundary for Canby's Core Commercial/Downtown Canby is and where the proper beginning/end of Downtown Canby is along the eastern portion of 99E. If this Text Amendment/Zone Change is not approved, the Design Review application in conjunction with the proposed fuel station is not valid because the proposal does not meet the intent of the CC subarea of the Downtown Overlay Zone. In addition, refer to the applicant's supplemental supporting the Text Amendment, Zone Change, and Design Review applications (attached to this packet).

The arguments for and against a Text Amendment/Zone Change from Core Commercial to the Outer Highway Commercial subarea of Canby's Downtown Overlay Zone are as follows:

ARGUMENTS FOR A TEXT AMENDMENT/ZONE CHANGE (CC TO OHC BOUNDARY CHANGE):

- The base C-2 Zone allows fuel stations.
- Canby's *OR 99E Corridor and Gateway Plan Conceptual Designs* proposes a crosswalk at Locust, seemingly incompatible with an auto-oriented fuel station. However, this proposal would not necessarily impede a crosswalk at Locust; there are many configurations that would accommodate both the crosswalk and the proposed fuel station.
- A boundary change would help create a slightly more aligned north/south CC boundary (see map page 2).
- When the boundaries of the overlay were drawn, they were not precise. Some of the boundaries of the zone cut through properties; this indicates that the boundaries were not given considerable thought.
- The City benefits from gas tax profits that this development would generate.
- Approving a boundary change would allow a new business in Canby that offers competitive gas prices in a competitive market economy.

- There are other similar auto-oriented businesses in the area, including gas stations.
- ODOT's eastern 99E Special Transportation Area (STA) boundary, which allows more pedestrian-oriented designs when an area is designated as an STA, is at Locust. An auto-oriented fuel station conflicts with this designation. However, this STA designation is not contingent on Canby's Downtown Overlay boundaries (per ODOT).
- The development would give the community access to affordable gas.

ARGUMENTS AGAINST A TEXT AMENDMENT/ZONE CHANGE (NO CC TO OHC BOUNDARY CHANGE):

- The base C-2 zone allows fuel stations, however a fuel station can be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea.
- Canby's *OR 99E Corridor and Gateway Plan Conceptual Designs* proposes crosswalk at Locust which may result in auto-pedestrian conflicts if the fuel station is built.
- The revised boundary would be slightly jagged because of the parcel shape to the north of the subject taxlots (see illustration page 2).
- A new fuel station may displace existing fuel station businesses.
- The existing CC subarea encourages a safer, less automobile oriented environment for the residential communities abutting the site to the east and south, which is an existing high pedestrian traffic area.
- There is an existing "Welcome to Canby" sign across the street from the proposed development, indicating that this point along the highway may be the appropriate entrance to Downtown Canby.
- The existing STA boundary at Locust Street aligns with the downtown Core Commercial subarea; if boundary is altered it will create a disconnect with the STA boundary and the CC boundary.
- Amendment of the Downtown Overlay Zone boundary sets precedent to further amendments of the Downtown Overlay Zone.

5. Statewide planning goals.

Findings: This proposal is not in conflict with statewide planning goals. The Oregon Department of Land Conservation and Development (DLCD) was notified of this proposal and have not commented. In addition, refer to the applicant's supplemental supporting the Text Amendment, Zone Change, and Design Review applications (attached to this packet).

16.88.190 Conformance with Transportation System Plan and Transportation Planning Rule

A. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with the Transportation Planning Rule (OAR 660-012-0060). A plan or land use regulation amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. As measured at the end of the planning period identified in the adopted plan:
 - a. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
 - b. Would reduce the performance of the facility below the minimum acceptable performance standard identified in the Transportation System Plan;

- c. Would worsen the performance of a facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan.
- B. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards (e.g., level of service, volume to capacity ratio, etc.) of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 2. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section – 0060 of the TPR. Such amendments shall include a funding plan or other mechanism so that the facility, improvement or service will be provided by the end of the planning period.
 3. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 4. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
 5. Providing other measures as a condition of development, including transportation system management measures, demand management or minor transportation improvements.
- C. A Traffic Impact Study may be required by the City in accordance with Section 16.08.150.

Findings: Refer to the city traffic engineer's recommendations attached to the staff report for the Design Review file #DR 12-03.

16.89 Application and Review Procedures

Findings: This Text Amendment/Zone Change application is Type IV process, with final approval required by City Council by Ordinance. Therefore, the Planning Commission will make a recommendation to City Council on their recommendation (approval or denial) of this application. Approval of the Site and Design Review file #DR 12-03 is contingent upon the approval of this Text Amendment/Zone Change file. See the staff report for file #DR 12-03 for more discussion.

Proper notice of this application and this hearing was mailed to owners of lots within 500 feet of the subject development, and applicable agencies, including ODOT. Notice of public hearing was posted at the Development Services Building, published in the *Canby Herald*, and a neighborhood meeting was held within the parameters of 16.89.070. All public hearing, application requirements, and Type IV application procedures are being met.

IV. PUBLIC TESTIMONY

Notice of this application and opportunity to provide comment was mailed to owners of lots within 500 feet of the subject properties and to all applicable public agencies. As of the date of this Staff Report, the following comments were received by City of Canby from the following persons/agencies:

- Hassan Ibrahim, Consulting City Engineer: Provided comments regarding stormwater

- treatment, sanitary sewer configurations, access, ADA compliance, and right of way
- Chris Maciejewski and Steve Boice, Consulting City Traffic Engineers: Provided comments regarding traffic issues
- Jennifer Wood, NW Natural, stating no issue
- K. Ellis, Canby citizen, stating support for the project
- Oral and written testimony presented at the 7/23/12 Planning Commission meeting

V. CONDITIONS OF APPROVAL

Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #TA 12-01/ZC 12-02, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Co-de. Staff has no recommended conditions of approval for this Zone Change/Text Amendment application; refer to the Conditions for DR 12-03 for specific design and procedural conditions associated with this project.

VI. Decision

Based on the application submitted and the facts, findings, and conclusions of this report, staff recommends that the Planning Commission recommend **approval** to the Canby City Council Text Amendment /Zone Change File# TA 12-01/ZC 12-02.

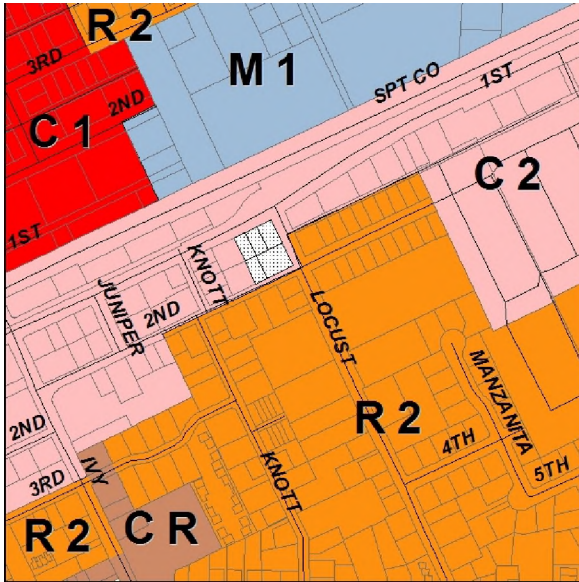


City of Canby

NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The purpose of this notice is to invite you to comment on the Design Review for a Fred Meyer fuel station and a Text Amendment to change the subarea boundaries of the Downtown Canby Overlay Zone.

Comments due—Any written comments desired to be distributed to the Planning Commission prior to the public hearing are due to staff by 3 PM on Wednesday, July 11 2012, and prior to the City Council public hearing by 3 PM on Monday, August 15, 2012.



Location: 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2nd Ave.

Tax Lots: 3S1E33DC00100, 00200, 00300, 02200 & 02300

Lot Size and Zoning: 32,466 sq. ft. of land in tax lots. Existing Comprehensive Plan: Highway Commercial (HC) City of Canby. Existing Zoning: Highway Commercial (C2).

Owner: Oliver Lang LLC

Applicant: Fred Meyers Stores, Inc.

Application Type: (1) Site and Design Review Downtown Canby Overlay, Type III (2) Text Amendment - Change the Downtown Canby Overlay subarea boundary, Type IV.

City File Number: DR 12-03/TA 12-01

Contact: Angie Lehnert at 503-266-7001

What is the Decision Process? The Canby Planning Commission will make a decision on the Design Review application, unless it is appealed to City Council. The Canby Planning Commission will make a recommendation to City Council after reviewing the Text Amendment application for Canby City Council's decision.

Where can I send my comments? Written comments can be submitted up to the time of the public hearings, and may also be delivered in person to the Planning Commission and/or City Council during the Public Hearing. (Please see *Comment Form*). Comments can be mailed to the Planning Department, P O Box 930, Canby, OR 97013; in person at 111 NW Second Avenue; or emailed to lehnera@ci.canby.or.us.

How can I review the documents and staff report? Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, July 13, 2012 at the Canby Planning Department or on the City's website. Copies are available at \$0.25 per page or can be emailed to you upon request.

Applicable Criteria: Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.28 C-2 Highway Commercial Zone
- 16.41 Downtown Canby Overlay (DCO) Zone
- 16.42 Signs
- 16.43 Outdoor Lighting Standards
- 16.46 Access Limitations
- 16.49 Site and Design Review
- 16.88 General Standards and Procedures
- 16.89 Application and Review Procedures

(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 Planning Commission or City Council Public Hearing, you may submit written comments on this form or in a letter addressing the Planning Commission and City Council. Please send comments to the City of Canby Planning Department.

By mail: Planning Department, PO Box 930, Canby, OR97013
In person: Planning Department at 111 NW Second Street
E-mail: lehnerta@ci.canby.or.us

Written comments for Planning Commission are due by 7:00 PM on July 23, 2012;

Written comments for City Council are due by 7:30 PM on August 15, 2012.

COMMENTS:

1. Prior to the start of construction, the developer's engineer shall submit a utility plan to include provisions on how the storm drainage will be disposed on-site in accordance with City Standards and Clackamas County Plumbing requirements.
2. The fueling area under the canopy needs to be directed into a petroleum scavenge device or a valved oil/water separator, then into the sanitary sewer.
3. The fueling area under the canopy shall be hydraulically isolated by means of surface grading or gutters, the remaining site can be discharged on-site into an approved storm drain system.
4. The Demo the existing driveway on Locust Street and replace with a new curb and sidewalk.
5. Conform with the vision triangle requirements (30'x30') at the NE corner of Locust and Hwy 99E.
6. All new driveways shall be ADA compliance.
7. Dedicate any needed right-of-way at the SE and NE corners of the site.
8. Ensure all the ADA ramps are in compliance with the current ADA standards.

YOUR NAME:Hassan Ibrahim

ORGANIZATION or BUSINESS (if any):Curran-McLeod Consulting Engineers

ADDRESS:6655 SW Hampton St, Ste 210 Portland, OR 97223

PHONE # (optional):504-684-3478

DATE: June 18, 2012

Thank you!

From: [Laney Fouse](#)
To: [Angeline Lehnert](#)
Subject: FW: Notice of Public Hearing/Comment Form
Date: Monday, June 25, 2012 2:59:46 PM
Attachments: [Hearing Notice PC DR 12-03,TA 12-01 Fred Meyer Fuel Station.docx](#)

Angie,
I filed this electronically.
Laney

From: Wood, Jennifer [mailto:jaw@nwnatural.com]
Sent: Monday, June 25, 2012 2:53 PM
To: Laney Fouse
Subject: Notice of Public Hearing/Comment Form

Hi Laney,

We have no conflicts with this proposal.

Thanks,

Jennifer Wood
NW Natural

PUBLIC RECORDS LAW DISCLOSURE

This email is a public record of the City of Canby and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This email is subject to the State Retention Schedule.

CITY OF CANBY –COMMENT FORM

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

By mail: Planning Department, PO Box 930, Canby, OR97013
In person: Planning Department at 111 NW Second Street
E-mail: lehnerta@ci.canby.or.us

Written comments for Planning Commission are due by 7:00 PM on July 23, 2012;
Written comments for City Council are due by 7:30 PM on August 15, 2012.

COMMENTS:

Please allow the station
It's about time in your delivery Canby
you allow something that will save me
money instead of a way to spend more money
which makes me pay more taxes (Federal grant
are tax money!)

Thanks

YOUR NAME:

KAREN ELLIS

ORGANIZATION or BUSINESS (if any):

ADDRESS:

282 NE 10th Ave CANBY

PHONE # (optional):

DATE:

7/11/12

Thank you!

CITY OF CANBY - COMMENT FORM

If you are not able to attend the Planning Commission or Council Public Hearing, you may submit written comments on this form or in a letter addressing the Planning Commission and City Council. Please send comments to the City of Canby Planning Department.

By mail: Planning Department, PO Box 930, Canby, OR97013
In person: Planning Department at 111 NW Second Street
E-mail: lehnerta@ci.canby.or.us

Written comments for Planning Commission are due by 7:00 PM on September 24, 2012;
Written comments for City Council are due by 7:30 PM on October 17, 2012.

COMMENTS: I AM VERY CONCERNED WITH THE PLAN FOR THE FUELING STATION AS REFLECTED IN THE ATTACHED DRAWING. IF THIS PLAN WERE APPROVED, I WOULD BELIEVE THERE WILL BE A MAJOR PROBLEM IN THE FLOW OF TRAFFIC IN THE CENTER TURN LANE. THERE WILL BE A MAJOR CONFLICT BETWEEN THOSE WISHING TO TURN INTO HULBERTS AND THE FUELING STATION. ADD IN THOSE WISHING TO TURN LEFT OUT OF HULBERTS AND THOSE ENTERING 99E FROM LOGUST AND I BELIEVE THIS COULD LEAD TO GRIDLOCK AND A MAJOR SAFETY CONCERN.

I BELIEVE ACCESS TO THE FUELING STATION MUST COME OFF OF LOGUST MUCH LIKE IS SEEN AT FRED MEYER, CANBY PLACE, AND WALGREENS
YOUR NAME: CURTIS HOULAND

ORGANIZATION or BUSINESS (if any): HULBERTS FLOWERS

ADDRESS: 334 SE 1ST CANBY

PHONE # (optional): 503-266-2282

DATE: 9/24/12

Thank you!

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.

LOCUST STREET

SE 2ND AVENUE



To: Canby Planning Commission

October 1, 2012

From: Curt Hovland Representing Hulberts Flowers

Subject: Proposed Development of Fueling Station

I previously submitted a comment on the subject of traffic congestion and dangers that may result from the current plan for the subject development. I attended the public hearing held before the Planning Commission on Monday 24 Sep. 2012 with the hope that my concerns would be addressed and if possible mitigated. I was disappointed to find that the traffic analyses mentioned in passing did not seem to be sophisticated enough to address my concerns. I continue to believe that the current design for a fueling station will have a profound impact on the traffic in the center lane which would be shared by Hulberts and the Fred Meyer fueling station. A proper analysis of the situation in the center lane must consider the time variable nature of the inputs to the problem. Let me illustrate my concerns by developing several simple traffic scenarios which have a significant probability of occurring.

Scenario 1: Imagine two cars approaching the center lane at the posted speed of 35 MPH. One approaching from the East wanting to go into the fueling station and one approaching from the West wanting to enter Hulberts. Traffic in both directions is heavy. If they are able to stop in time they will be sitting there face to face. Neither car has the right-of-way and each car is preventing the other from reaching its destination. The only solution is for one of the two vehicles to reenter the inside through lane and permit the other vehicle to advance and the go back into the turn lane. This represents a maneuver with risk.

Scenario 2: Imagine a situation where traffic is heavy and a car is waiting in the center lane to get into Hulberts. A tanker truck is approaching from the East wanting to enter the fueling station. He can't get into the center lane so what does he do. He might choose to go around to side street and enter the fueling station from 2nd Ave. The side streets are not well configured to handle a tanker. Or he may choose to sit in the through lane and wait for an opening. A very frightening situation.

Scenario 3: Imagine the center turn lane to be temporarily filled by cars wishing to enter Hulberts. A car approaches from the East wanting to go into the fueling station has to decide what to do. He could wait for the center lane to clear enough so that he can enter to go to the fueling station thus creating a danger of rear end collision. Or he could choose to go around and enter through the 2nd Ave entrance. It would seem that most people would take the second option. You might be tempted to think that this scenario could not happen. I believe it could on a day such as PROM Day this last year where we had 294 separate orders to be picked up within a time window of about 3 hours.

Scenario 4: Imagine the center turn lane to be filled with cars heading for the fueling station. A customer driving East and wanting to enter Hulberts parking lot is blocked from entering the left turn lane. His options are to wait for a opportunity to get into the turn lane there-by blocking the the inside through lane or continue down the highway. He however has no back entrance to Hulberts. He must find a place to turn around and approach Hulberts from the East. This will impact the Pine street intersection.

Scenario 5: Complicate all of these simple scenarios by adding in those vehicles wishing to make a left turn out of Hulberts, Plus those vehicles wishing to make a left turn out of the fueling station, plus those vehicles wishing to make a left turn from Locust onto the highway and pedestrians trying to cross the highway on Locust and you could see a chaotic mess. When a driver is faced with a very frustrating situation such as waiting for an opportunity to turn left, he is more likely to take a chance that can end in a serious accident. The other fact to remember is the situation will only get worse with time.

One could take the position that these scenarios don't represent very likely situations. During my career of analyzing and designing very complex aerospace systems, I have become a believer in Murphy's Law. If a system can fail it will, and at the very worst time.

My purpose in writing this letter is to only address the traffic issue. I personally believe that a better location could have been chosen for a fueling station. I will leave it to others to argue the merits of that case. If a decision is made to proceed with this development, I strongly urge you to limit the highway access to a right turn in and a right turn out of the fueling station. This would substantially reduce the conflicts in the center turn lane. I would believe that configuration would have only a minor impact on the fuel station business. Their customers will learn the easiest ways to gain access to discount gas. There is precedence for such a decision at the Fred Meyer complex and also to a lesser extent at Canby Place and at Walgreen's. A decision to limit highway access is also made easier by the stated position that the ODOT permit currently in the hands of the applicant would apply if a restricted access were to be incorporated in the site design. I would also raise a possible issue of City liability if a less safe approach were to be approved while a safer approach was available.

The idea of granting full access for now and looking at accident history that develops to support a later restriction to the access was mentioned at the public hearing. I would consider this approach to be a cavalier way to deal with a public safety issue.

Thank you for your careful consideration of this important issue.



Curtis A. Hovland

President of CRACO Inc. DBA Hulberts Flowers



MEMORANDUM

DATE: July 17, 2012

TO: Bryan Brown, City of Canby

FROM: Chris Maciejewski, PE, PTOE
Steve Boice, EIT

SUBJECT: Canby Fredy Meyer Fuel Facility TIS Review and Recommendations

P#11010-016

Per your request, we have reviewed the transportation impact analysis submitted for the proposed Fred Meyer Fuel Facility¹, including the supplemental on-site queuing analysis², to determine if the study provided adequate information to comply with the required transportation impact study scope³. Based upon our review, we find that between the two documents the study adequately addressed the required scope items to assess the impacts of the proposed development.

We agree with the findings of the study related to site trip generation, study area crash history, intersection operations, site circulation, and sight distance. As requested, the study included an access management plan to evaluate the proposed deviation of access spacing standards to allow access to OR 99E (to comply with the City's access spacing standards, access to the site should be provided via S Locust Street or SE 2nd Avenue). We do have several comments related to the site access and the access management plan evaluation, including:

- For the required study scenario of no direct access to OR 99E, the study sites the City's policy for a Neighborhood Through Trip Study, which establishes a threshold of 1,200 vehicles per day. The study finds that providing access only to SE 2nd Avenue would cause traffic volumes on SE 2nd Avenue to exceed this threshold. As the south side of SE 2nd Avenue is zoned for high density residential use, the Neighborhood Through Trip Study policy does apply to this location. Therefore, the finding supports providing an alternate site access in addition to the proposed SE 2nd Avenue access.
- While the study does not examine a scenario with access to S Locust Street, it appears from the site layout that access to S Locust Street could be problematic with the proposed fueling station use (i.e., circulation with the fueling stations may not work well with the shape of the parcel if access were

¹ Fred Meyer Canby Fuel Facility Transportation Impact Analysis, Group Mackenzie, May 17, 2012

² Fred Meyer Canby Fuel Facility On-Site Queuing Review, Group Mackenzie, July 6, 2012

³ Canby Fred Meyer Fuel Station Transportation Impact Study Scope, DKS Associates, March 29, 2012.



provided to S Locust Street). Therefore, access to OR 99E appears to be a reasonable alternative if adequate safety can be provided and if ODOT will permit the access.

- Safety for the potential access to OR 99E was reviewed in terms of conflict with other nearby access points and the potential for inbound site traffic to queue back onto OR 99E. The study found that traffic volumes at other nearby driveways are low enough that conflicts between vehicles utilizing the two-way-center-turn-lane would not be frequent and adequate safety should be provided. In addition, the study included a detailed on-site queueing evaluation (including surveys from other Fred Meyer Fuel Locations), which found that the proposed site plan provides adequate queue storage to meet 95th percentile queue lengths without spilling back onto OR 99E. However, this findings appears to depend upon either a mix of traffic entering the site from SE 2nd Avenue in addition to OR 99E (i.e., vehicles would queue from the fueling positions in both directions) or that adequate site circulation space is provided so that vehicles entering from OR 99E could circle the site and approach the pumps in the northbound direction. In addition, the finding assumes that all fueling positions will be open during peak operating periods (i.e., this implies that a fueling truck will not be on-site during peak periods).

While the analysis and findings of the safety of the site access comply with our requested analysis scope, the potential for queueing onto OR 99E should be monitored over time to assure that safety issues are not created if travel patterns or the amount of peak traffic demand changes. If queueing issues are found to exist, it appears that the site access to OR 99E could be modified to right-in/right-out movements only, which should divert some traffic to the SE 2nd Avenue access and still provide adequate access for fueling trucks via S Locust Street to SE 2nd Avenue.

- Beyond the existing conditions of OR 99E related to site access, the City's Transportation System Plan includes an enhanced pedestrian crossing of OR 99E in the vicinity of the site. As part of the current efforts to clarify the highway design in the Canby OR 99E Corridor and Gateway Design Plan⁴, the location for the enhanced pedestrian crossing was determined to be at S Locust Street and would include a pedestrian refuge island on the west leg of the OR 99E/S Locust Street intersection. While this refined plan is not yet adopted, it is consistent with and clarifies the City's adopted Transportation System Plan. A pedestrian refuge island on OR 99E at S Locust Street would be located within the two-way-center-turn-lane and would likely be located less than 100 feet from the proposed Fred Meyer Fuel Facility access to OR 99E. The resulting spacing would limit the ability for westbound vehicles on OR 99E turning left into the site to maneuver from the through lane into the two-way-center-turn-lane (i.e., there would be inadequate deceleration space). Therefore, construction of the pedestrian refuge island may also trigger the need to convert the proposed site access to right-in/right-out.

⁴ Canby OR 99E Corridor and Gateway Design Plan, June 2012.

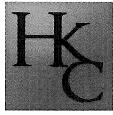


- The proposed site plan includes an access to OR 99E that is shared with the property to the west. Our understanding is that ODOT has reviewed and will support this configuration, as it reduces the number of direct access points onto OR 99E. This finding should be confirmed in writing with ODOT.

Based on the review discussed above, we recommended that ODOT's support of the proposed shared site access to OR 99E be confirmed in writing. In addition, we recommend the following condition of approval be included with the proposed project:

- Ensure adequate sight distance at the site driveways by restricting landscaping or any potential obstructions on the project frontage within sight distance triangles.
- Condition the site so that if future ODOT monitoring, evaluation, or design review of improvements to OR 99E find that the full access to OR 99E has safety issues related to queuing onto the highway, or crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island (e.g., inadequate deceleration space or queuing conflicting with safe crossing conditions for pedestrians), the owner/operator of the site will accept the access being restricted to right-in/right-out maneuvers. This condition should be placed upon the property such that it carries from one owner to another (to be effective if the property ownership changes in the future).

If you have any questions, please feel free to call me.



**Hathaway Koback
Connors LLP**

520 SW Yamhill St.
Suite 235
Portland, OR 97204

E. Michael Connors
503-205-8400 main
503-205-8401 direct

mikeconnors@hkcllp.com

HAND DELIVERY

July 23, 2012

Planning Commission
City of Canby
PO Box 266-9404
Canby, OR 97013

Re: Fred Meyer Fuel Station
Application Nos. DR 12-03/TA 12-01
Save Downtown Canby – Comment Letter

Dear Commissioners:

This firm represents Save Downtown Canby (“SDC”), a group of local business owners concerned about the above-referenced Text Amendment and Site and Design Review applications filed by Fred Meyer Stores, Inc. (the “Applicant”) for a new Fred Meyer fuel center. SDC is particularly concerned about the Applicant’s request to significantly change the recently adopted Downtown Canby Overlay (“DCO”) zone solely to accommodate a fuel station. Allowing such a major change to the DCO solely to accommodate a single use that cannot comply with the existing overlay standards would completely undermine the DCO as a whole.

Moreover, the applications are woefully deficient. The Applicant failed to file all of the required applications, failed to address numerous approval standards, failed to provide crucial information necessary to demonstrate compliance with important approval standards, and acknowledged that it does not and cannot satisfy certain approval criteria. The Applicant changed the Text Amendment proposal as part of its July 12th supplemental submittal approximately one week before the Planning Commission hearing. The Planning Commission simply cannot approve or recommend approval of applications that do not even satisfy basic requirements.

Accordingly, SDC request that the Planning Commission deny or recommend denial of the applications. We provided a detailed explanation of why the Planning Commission should deny or recommend denial of the applications below, but please keep in mind that we are still reviewing applications and learning more about the proposal, and therefore may well uncover additional flaws during the application process.

1. The Applicant is proposing a major change to the DCO Overlay that will undermine the entire DCO policy.

The Planning Commission should not recommend approval of the Text Amendment because it constitutes a major change to the recently adopted DCO zone solely to accommodate a single use. The DCO was recently adopted after an extensive planning and public process as a critical means of achieving the City's economic development goals for the downtown area and the City as a whole. The Applicant is proposing a major change to the DCO solely to accommodate Fred Meyer's desire to site a fuel station on one particular site of the larger subject property. If the City approves a major change to the DCO solely to accommodate a single proposed use, it will undermine the entire DCO by establishing a precedent that the DCO can be amended to accommodate individual development proposals, even if they are out of character with the existing overlay zone.

- a. The DCO is critical to the City's economic development goals.

The DCO was adopted to implement the Canby Downtown Plan after an extensive planning and public process. The DCO originated from the work of the Design Standards Project, which consisted of a task force comprised of key City officials, stakeholders and hired consultants with the objective of developing new design and development standards to encourage economic vitality and revitalize Canby's downtown center. After numerous project group meetings and several workshops before the Planning Commission in 2007 and 2008, the Design Standards Project proposed the DCO concept. After numerous public hearings before the Planning Commission and City Council meetings from April through October of 2008, the Planning Commission unanimously recommended approval and the City Council unanimously adopted the DCO pursuant to Ordinance No. 1296 on October 1, 2008. We have attached as Exhibit A copies of the key documents related to Ordinance No. 1296, including the City Council's Findings, Conclusions & Order, the proposed amendments and the Map of the Overlay Zone.

As this Commission surely understands, the DCO plays a critical role in achieving the City's economic development goals for the downtown area and the City as a whole. The Canby Downtown Plan, which the DCO implements, recognized the need to create a more attractive downtown area that will spur more economic growth and opportunities. The DCO achieves these goals in part by adopting new design standards that will improve the development, redevelopment, economic viability and livability of the downtown area. Exhibit A, p.1-2, 4, 8-13.

The Core Commercial overlay where the subject property is located plays a key role in implementing the DCO goals. The particular Core Commercial overlay area where the subject property is located "serves as a 'gateway' from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses." Canby Municipal Code ("CMC") 16.41.060(B)(2)(a). The purpose of the DCO is to "encourage more intense development in the Core Commercial area," "create a pedestrian friendly environment in the Core Commercial" area and "ensure that building sizes reflect desired uses in the Core Commercial" area. CMC 16.41.010(A)-(C).

b. The Applicant is proposing a major change to the DCO solely to accommodate a fuel station.

There is no question that the Applicant is proposing a major change to the DCO. The subject property consists of several properties that make up more than one-half of a City block. The proposed Outer Highway Commercial overlay is very different from the Core Commercial overlay. The DCO notes that the Outer Highway Commercial area “is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation” and “the design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.” CMC 16.41.020(A)(3). Therefore, the proposal to change the DCO of more than one-half of a City block to a very different overlay is a major change to the recently approved DCO.

The Applicant is proposing this major change to the DCO solely to accommodate Fred Meyer’s desire to site a fuel station on one particular parcel of the subject property. It is clear from the applications that the primary purpose for the Text Amendment is to allow Fred Meyer’s proposed fuel station since it cannot be sited under the Core Commercial overlay standards. This intent is further supported by the pre-application memorandum and meeting minutes for the Fred Meyer fuel station proposal, copies of which are attached as Exhibit B, which indicated that the Applicant would be required to pursue a Text Amendment because the fuel station could not be approved under the Core Commercial overlay. The Applicant does not even attempt to justify the change based on a mistake in the original DCO designation, change in circumstances or any other policy based justification. To the extent the Applicant attempts to justify the change to the other site located on the subject property, the Applicant focuses exclusively on the existing uses. The DCO is not designed simply to accommodate existing uses, but rather it is primarily intended to encourage and influence the redevelopment of the downtown area. The City should not approve a major change to the DCO of more than one-half of a City block solely to accommodate a single use on a small portion of the subject property.

c. The City will undermine the entire DCO if it approves the Text Amendment.

If the City approves a major change to the DCO solely to accommodate a single use, it will completely undermine the DCO. The integrity of the DCO is dependent on the City upholding the principles and policies recently adopted after the extensive public process. If the City allows a major change to the DCO simply to accommodate a fuel station, other property owners will be encouraged to propose amendments to the DCO and expect the same treatment if they cannot comply with the existing standards. The City will establish a bad precedent that the DCO is not intended to be strictly imposed and can be amended to accommodate individual development proposals.

In fact, the Applicant attempts to justify the Text Amendment on the grounds that the DCO has failed to achieve its intended results. The Applicant argues that “the proposed change is necessary because the regulations currently applicable to the Subject Property have not fostered economic development and productive use of the site since the time of their adoption.” Applicant’s July 12th Text Amendment Supplemental Submittal, p.4. The mere fact that the subject property has not been redeveloped in less than four years since the DCO was adopted is

not a basis for concluding that the DCO has failed. The DCO is a long-term plan that cannot be expected to be fully carried out over the short term. If the Applicant's argument is endorsed, the same argument can be used to undermine the DCO in other areas where the long-term goals have not yet been achieved.

The Planning Commission needs to determine what is more important to the City's long-term economic development for the downtown area and the City as a whole: (1) maintaining the integrity of the DCO; or (2) accommodating a Fred Meyer fuel station? The answer is obvious. The Planning Commission must maintain the integrity of the DCO and deny the Text Amendment.

2. The Applicant failed to adequately address the Comprehensive Plan amendment approval standards.

The Applicant bears the burden of demonstrating compliance with all applicable approval standards. *Rochlin v. Multnomah Co.*, 35 Or LUBA 333(1998) (citing *Fasano v. Washington Co. Comm.*, 264 Or 574, 586 (1973)). In order to approve the Text Amendment, the Applicant must demonstrate compliance with the approval standards set forth in CMC 16.88.160(D). CMC 16.88.160(D) provides:

"In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

1. The Comprehensive Plan of the city, 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;
2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
5. Statewide planning goals."

As explained in the subsections below, the Applicant's responses to CMC 16.88.160(D) are wholly inadequate and demonstrate that the Applicant cannot comply with these approval standards. Moreover, the Staff Report demonstrates that the Text Amendment is not justified.

a. The Applicant failed to address the applicable Comprehensive Plan policies.

The Applicant's response to CMC 16.88.160(D)(1) claims that it is a minor change and the proposed fuel station is a permitted use in the C-2 zone, and therefore the Text Amendment is compatible with the Comprehensive Plan. The Text Amendment is a significant change to the DCO, not a minor change. The Text Amendment proposes a change to the DCO overlay zone, not the underlying zone. Nor is the Text Amendment limited to a specific use. Rather, the Text Amendment proposes to change the DCO over an entire one-half City block. Therefore, the Applicant failed to address the change actually proposed by the Text Amendment.

There are numerous Comprehensive Plan policies that are relevant to the Text Amendment. The Staff Report lists a number of applicable Comprehensive Plan policies. The Canby Downtown Plan, which the DCO implements, is implemented as part of the Comprehensive Plan and therefore must be addressed. At a minimum, the Applicant must address the same Comprehensive Plan policies addressed by the City when it initially adopted the DCO pursuant to Ordinance No. 1296.

The Staff Report attempts to compensate for the Applicant's failure to address the Comprehensive Plan policies by suggesting that the Text Amendment complies with these policies because "any development that is in conformance with this Code is concurrently in conformance with the Comprehensive Plan." Staff Report, p.7. There are two problems with Staff's suggestion. First, the Text Amendment is an amendment to the Comprehensive Plan and therefore must demonstrate compliance with the applicable Comprehensive Plan policies regardless of whether or not the proposed development conforms to the Code. Second, the proposed fuel station does not and cannot conform to the Code. The Applicant is pursuing the Text Amendment precisely because the fuel station is not consistent with the purpose and requirements of the existing DCO standards.

b. The Applicant failed to demonstrate that there is a public need for the Text Amendment.

The Applicant's initial response to CMC 16.88.160(D)(2) is limited to the proposed fuel station rather than the Text Amendment. The Applicant's claim that there is a public need for another fuel station does not address the public need to change the DCO overlay zone for the subject property. The Applicant does not even acknowledge that the proposed fuel station will encompass only a portion of the subject property.

Moreover, the Applicant's claim that there is a public need for another fuel station in this area is unsubstantiated. There are four fuel stations within five blocks of this site and another one within one mile of the site. There clearly is not a public need for another fuel station in this area. The Applicant's claim that it will offer a more affordable option for gas is completely speculative and is not supported by any evidence.

The Applicant's supplemental submittal attempts to justify the Text Amendment on the grounds that the DCO has failed to achieve its intended results and second-guesses the designation of the subject property as Core Commercial. The DCO overlay boundaries were established after an extensive planning process with substantial public input, a far more thorough a reliable process than the Applicant's self-serving conclusions. The Applicant's statement that more desirable development in this area may detract from development in the downtown core area fails to appreciate the fact that this Core Commercial area "serves as a 'gateway' from Highway 99E into the traditional downtown." CMC 16.41.060(B)(2)(a).

c. The Applicant's explanation why the Text Amendment will better serve the public need than any other change undermines its own case.

In its initial response to CMC 16.88.160(D)(3), the Applicant notes that "other more extensive revisions to the code could be researched, however, extensive code changes in an attempt to

accommodate an individual use is not preferable or practical.” There are two problems with this statement. First, the Text Amendment is an extensive code change. It proposes to significantly change the DCO of an entire one-half City block solely to accommodate the fuel station. Second, the Applicant’s assumption that other options “could” be researched is inadequate. The Applicant cannot demonstrate that other changes would not better serve the public need when it admits that other options have not been fully researched.

The Applicant’s supplemental submittal lists alternatives for accommodating the proposed fuel station, acknowledging the purpose for the Text Amendment is simply to accommodate this specific use. The public need that must be considered is the public need for the Text Amendment, not the fuel station.

- d. The Applicant failed to demonstrate that the Text Amendment will preserve and protect the health, safety and general welfare of the residents in the community.

The Applicant’s initial response to CMC 16.88.160(D)(4) is limited to the proposed fuel station rather than the Text Amendment. The mere fact that the fuel station is a permitted use in the C-2 zone does not address the proposal to significantly change to the DCO overlay zone. The Applicant’s supplemental submittal is nothing more than a self-serving statement second-guessing the DCO boundaries in order to justify the fuel station.

One of the key purposes of the DCO is to protect the health, safety and general welfare of the residents in the community. CMC 16.41.060(A)(1) provides: “The City Council finds that physical appearance and design of buildings in the city’s primary commercial areas has a strong impact on the community’s economic well-being, quality of life and sense of character and identity. High-quality design of these buildings, with special attention to the relationship between buildings, people and the surrounding physical space will help spur investment in the city; enhance use and value of land and improvements; improve the stability and value of property; and generally improve the experience of residents and visitors who use these commercial areas.” The Applicant must demonstrate why the proposed change from the pedestrian-oriented Core Commercial to the auto-oriented Outer Highway Commercial in an area considered the “gateway” to the downtown center will not undermine these health, safety and general welfare goals.

- e. The Applicant failed to adequately address the Statewide Planning Goals.

The Applicant’s initial response acknowledges that the “exact statewide planning goals are unknown to the applicant at this time,” clearly not a legitimate excuse for failing to address this approval standard. Moreover, the Applicant’s response is again limited to the proposed fuel station rather than the Text Amendment. While the Applicant’s supplemental submittal attempts to address the applicable Statewide Planning Goals, the responses are conclusory and wholly inadequate.

- f. The Staff Report demonstrates that the Text Amendment is not justified under CDC 16.88.160(D).

Notwithstanding the fact that it is the Applicant's burden of proof to demonstrate that the Text Amendment satisfies the approval standards, the Staff Report attempts to address the arguments for and against the Text Amendment. Staff Report, p.8-9. It is the Applicant's burden of proof, not Staff's responsibility, to justify the Text Amendment. Regardless, the Staff Report demonstrates that the Text Amendment is not justified.

The Staff Report acknowledges that approving the Text Amendment will establish precedent for further changes to the DCO. Such a precedent will undermine the entire DCO.

The Staff Report indicates that a fuel station could be designed to conform to the Core Commercial standards. Allowing the Applicant to amend the DCO because it does not want to design the fuel station to conform to the Core Commercial standards would render the DCO meaningless. Moreover, the mere fact that a fuel station is allowed in the C-2 zone is not a legitimate justification for a major amendment to the DCO. Proposed development should conform to the DCO overlay, not the other way around.

The Staff Report demonstrates that the current Core Commercial boundary was properly drawn based on the proximity to the central downtown area, ODOT's STA boundary, the location of the "Welcome to Canby" sign and the high pedestrian traffic in the immediate area. This makes sense given that the DCO overlay boundaries were established after an extensive planning process with substantial public input. The Staff Report notes that redrawing the Core Commercial boundary will create a disconnect between the Core Commercial boundary and the STA boundary. There is no evidence that the boundary was established in error nor is there any justification for second-guessing the DCO process. To the extent the boundaries are reconsidered, it should be done as part of a larger process that evaluates the DCO as a whole rather than a Text Amendment designed solely to accommodate a single use.

The Staff Reports notes that the surrounding area is a high pedestrian traffic area. The proposed crosswalk at Locust Street is an argument against the Text Amendment, not one in favor. An automobile intensive use is not compatible with a high pedestrian traffic area or the crosswalk planned nearby.

The Staff's reliance on gas taxes to support the Text Amendment ignores several factors. First, any development will generate tax revenues. Second, the fuel station will not generate any new customers. It will simply take business from the existing fuel stations in the surrounding area as the Staff Report acknowledges. Finally, the DCO was adopted to encourage economic vitality and revitalize Canby's downtown center consistent with the Canby Downtown Plan. It is not worth jeopardizing the long-term economic benefits of the Canby Downtown Plan solely for additional gas tax revenues from a single fuel station.

Although the Staff ultimately recommended that the Text Amendment be approved, the Staff Report demonstrates that the Text Amendment is not justified and does not comply with CMC 16.88.160(D).

3. The Applicant failed to file an application to amend the Zoning Map.

The Applicant fails to recognize that its proposal to change the DCO overlay zone requires an amendment to the Zoning Map. Ordinance No. 1296 recognized that the initial application of the DCO constituted an amendment to the Zoning Map. Therefore, a change to the DCO also requires an amendment to the Zoning Map.

The standards for Amendments to the Zoning Map are set forth in CMC 16.54.040. CMC 16.54.040 provides:

“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.”

These approval standards are clearly different than the Text Amendment approval standards and therefore need to be addressed by the Applicant as well.

The Applicant failed to file an application for an amendment to the Zoning Map and failed to address these approval standards. The Text Amendment cannot be approved without the required application for an amendment to the Zoning Map.

4. The Applicant failed to address the Transportation Planning Rule.

The Applicant’s Transportation Impact Analysis, dated May 17, 2012 (the “TIA”),¹ is flawed because it fails to address the required standards – the Transportation Planning Rule (“TPR”). The TPR requirements are set forth in OAR 660-012-0060 and CMC 16.88.190(B). A TPR analysis is required if the applicant proposes an “amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map).” OAR 660-012-0060(1). (Emphasis added). The Text Amendment proposes to amend the City’s land use regulation (CMC Chapter 16.41) and the Applicant’s proposal requires an amendment to the Zoning Map. Therefore, a TPR analysis is clearly required.

There are two key distinctions between a TPR analysis and a typical TIA analysis. First, a TPR analysis must consider the worst-case development by comparing the most intensive development allowed by the proposed zone (worst case scenario) and the existing zone, and evaluating the net increase of traffic impacts for purposes of assessing the adequacy of the

¹ SDC is still in the process of evaluating the TIA and may have further comments.

transportation system. *Griffiths v. City of Corvallis*, 50 Or LUBA 588, 595-96 (2005); *Mason v. City of Corvallis*, 49 Or LUBA 199, 219 (2005). A TIA analysis simply evaluates the traffic impacts of a specific proposed use. Second, the traffic impacts under the TPR analysis must be “measured at the end of the planning period identified in the adopted transportation system plan.” OAR 660-012-0060(1)(c); *Rickreall Community Water Association v. Polk County*, 53 Or LUBA 76, 102 (2006), *aff’d* 212 Or App 497 (2007). The “planning period” is defined as the “twenty-year period beginning with the date of adoption of a TSP.” OAR 660-012-0005(22). A TIA analysis evaluates the traffic impacts as of the approximate date of the completion of the proposed use.

There is no question that the Applicant’s TIA does not address nor is it consistent with the TPR requirements. The TIA only evaluated the traffic impacts of the proposed fuel station. It did not consider the worst case scenario or evaluate the net traffic impacts of any of the other sites included in the Text Amendment. Additionally, the TIA only evaluated the impacts through the “post development 2012” of the fuel station.

It is clear that the Text Amendment will result in a significant net traffic impact. The Text Amendment will change the existing pedestrian-oriented Core Commercial overlay to the auto-oriented Outer Highway Commercial overlay. A change from a pedestrian-oriented overlay to an auto-oriented overlay over a one-half block area will clearly significantly increase the impacts on the transportation system. Development on the subject property would include high traffic uses, such as drive-thru establishments, that are not allowed under the current overlay district.

The Text Amendment cannot be approved because the Applicant failed to address or demonstrate compliance with the TPR.

5. The City cannot defer compliance with transportation standards.

The Staff Report addresses almost all of the Traffic Impact Study requirements set forth in CMC 16.08.150 and the parking lot and access requirements in CMC 16.10.070 by concluding that the City traffic engineer’s recommendations are forthcoming and the Applicant will be required to comply with these recommendations prior to construction. Staff Report, p.4-6. The City cannot defer a finding of compliance unless it provides for a subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). To the extent the City intends to rely on the City traffic engineer’s recommendations to determine compliance with CMC 16.08.150, those recommendations must be provided and evaluated as part of this public process.

Additionally, ODOT has not provided any comments on the applications. Since the site accesses directly off of an ODOT transportation facility, the City must factor in ODOT’s comments before it makes a decision on the applications.

6. The Applicant failed to provide a neighborhood through-trip study.

CMC 16.08.150(H) requires a neighborhood through-trip study for “any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicles per day to an

adjacent residential local street or neighborhood route.” The fuel station will add more than 30 through-vehicles in a peak hour or 300 through-vehicles per day to SE 2nd Avenue and Locust Street, both of which are residential local streets or neighborhood routes. The Applicant did not provide a neighborhood through-trip study for these streets as required by CMC 16.08.150(H). A neighborhood through-trip study is necessary to assess the impacts and potential need for mitigation for these residential streets.

7. The fuel station does not comply with the access spacing standards and the Applicant cannot demonstrate that an exception to these standards is justified.

The Applicant’s TIA acknowledges that the proposed driveway to provide access onto Highway 99E does not comply with the City or ODOT’s access spacing standards. The City and ODOT’S access spacing standards require at least 330 feet and 350 feet respectively between access points. Although the TIA does not indicate the specific spacing between the proposed driveway and S. Locust Street, it appears from the Site Plan that is well under 330 feet.

CMC 16.46.070 allows for exceptions to the City’s access spacing standards, but the Applicant failed to demonstrate compliance with these criteria. CMC 16.46.070(A) provides:

“An exception may be allowed from the access spacing standards on City facilities if the applicant can provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:

1. Indirect or restricted access cannot be obtained;
2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and
3. No alternative access is available from a street with a lower functional classification than the primary roadway.”

Additionally, CMC 16.46.070(B) provides: “The granting of the exception shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.”

Not only did the Applicant fail to address CMC 16.46.070, but the TIA demonstrates that the Applicant cannot satisfy these standards. The TIA admits that the “proposed access to Highway 99E provides the preferred circulation for fuel delivery trucks.” TIA, p. 18. (Emphasis added). The TIA further notes that “while it is physically possible for the fuel truck to enter and exit the proposed access to SE 2nd Avenue, this path would encroach even more upon opposing lanes of traffic than does the proposed path.” TIA, p.18. Given the Applicant’s admission that an alternative access on SE 2nd Avenue is feasible and that the proposed driveway onto Highway 99E is merely the “preferred” option, the Applicant cannot demonstrate compliance with CMC 16.46.070(A) or (B).

Nor did the Applicant address ODOT’s standards for deviating from the required access spacing standards. ODOT’s standards are set forth in OAR 734-051-0135. The Applicant must

demonstrate compliance with these standards as well before it is entitled to deviate from ODOT's required access spacing standards.

Finally, even if the City were to approve a deviation from the access spacing standards, at a minimum it must restrict the turn movements to a right-in and right-out. The City staff recognized the need to restrict turning movements in the pre-application conference memorandum if a deviation was approved. Exhibit B, p.3.

8. The Applicant failed to adequately address the Site and Design Review approval standards.

There are two significant problems with the Site and Design Review application. First, the Applicant failed to address numerous approval standards. The only standard the Applicant addressed is CMC Table 16.49.040. CMC 16.49.040 contains numerous approval standards that the Applicant failed to address. CMC 16.49.040(A), (B), (C), (D), (3), (4), (5) & (6). The Applicant failed to demonstrate compliance with the bulk of the Site and Design Review approval standards. The Applicant bears the burden of demonstrating compliance with all applicable approval standards. *Rochlin v. Multnomah Co.*, 35 Or LUBA 333(1998) (citing *Fasano v. Washington Co. Comm.*, 264 Or 574, 586 (1973)).

Second, the Applicant's response to CMC Table 16.49.040 is littered with errors and inaccuracies. CMC 16.49.040(E) requires the Applicant to address Table 16.49.040 and demonstrate that the proposed development satisfies at least 70 percent of the total possible number of points and 15 percent of the Low Impact Development (LID) elements. The Applicant's claim that the proposed development satisfies 75 percent of the total possible and 16 percent of the LID elements is based on a number of errors and inaccuracies. For example, the Applicant's claim that it is entitled to the maximum points for the number of parking spaces provided because it provided no more than the required amount of parking is incorrect since it is proposing 200% (two parking spaces) of the one parking space purportedly required, and therefore it should be zero points. CMC Table 16.10.050. The Applicant's claim that it is entitled to the maximum points for the pedestrian walkway categories is erroneous since the proposed development is not providing pedestrian "walkways" as that term is defined in the City's code. CMC 16.04.672. The Applicant's claim that the tree retention categories are not applicable is incorrect because it is removing at least three trees that are outside the building footprint (i.e. kiosks only) and the two parking spaces and access driveways. The Applicant claims that it is entitled to the maximum points for all building appearance categories without any explanation. The Applicant's assertion that the majority of the LID elements do not apply and therefore cannot be counted because it "is not recommended" for this particular use or is "not possible with this site" is not a legitimate basis for ignoring these requirements. These are but a sample of the errors and inaccuracies identified by SDC.

If these errors and inaccuracies were accounted for and the table was recalculated, the Applicant would be well below the 70 percent/15 percent thresholds. At a minimum, the Applicant must address these issues and recalculate the numbers.

Although the Staff Report did not factor in these errors and inaccuracies, it also concluded that the Applicant failed to meet the 70 percent/15 percent thresholds. The Staff Report's suggestion

that the required percentages can be rounded down to the benefit of the Applicant is not supported by CMC Table 16.49.040.

9. The Applicant failed to adequately address the DCO overlay design standards.

The Site and Design Review application suffers from two similar problems with respect to compliance with the Outer Highway Commercial overlay standards. First, the Applicant failed to address all of the required approval standards. Even if the Text Amendment was approved, the Applicant must still demonstrate compliance with the Outer Highway Commercial overlay standards in CMC Section 16.41. The Applicant did not address the Site and Design Review guidelines set forth in CMC 16.41.060. The Applicant failed to address the standards in CMC 16.41.070(A) through (C) applicable to the Outer Highway Commercial overlay and inadequately addressed CMC 16.41.070(E). The Applicant must demonstrate compliance with all of the Outer Highway Commercial overlay approval standards.

Second, the Applicant erroneously assumes that those standards in CMC 16.49.050(A) that it cannot comply with are inapplicable simply because the proposed development does not comply.² For example, the Applicant acknowledges that the fuel station does not comply with the frontage or minimum floor area ratio requirements, but it presumes that these requirements do not apply because the building is too small. The fact that the building does not comply with the frontage or minimum floor area ratio requirements is not an indication that these requirements do not apply, it is proof that the fuel station does not comply with the DCO approval standards. The Applicant's assumption that the DCO approval standards are somehow optional and can be ignored simply because the Applicant does not want to propose a development that complies is nonsensical and inconsistent with the purpose and plain language of CMC Section 16.41.

The Staff Report correctly notes that the Applicant failed to demonstrate compliance with a number of standards in CMC 16.41.050 (screening and parking), but incorrectly suggests that the Applicant can address these standards by submitting a revised plan after the public process. Staff Report, p.11-12. The City cannot defer a finding of compliance unless it provides for a subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992).

The Staff Report incorrectly concludes that several DCO development plans do not apply because the proposed development is less than 200 square feet and does not require a building permit. Staff Report, p.11. All commercial structures require a building permit. OSSC Section 105. Moreover, the canopy is a structure that is well more than 200 square feet.

10. The Applicant does not comply with the sign standards.

The Staff Report acknowledges that the Applicant's signs do not comply with limitations on the maximum square footage and maximum number of signs set forth in CMC 16.42 Table 3. Staff

² The Applicant repeatedly refers to the DCO overlay standards as being set forth in Section 14.49.050. We assume the Applicant meant Section 16.41.050.

Report, p.15. The mere claim that the signs meet the “intent” of the sign standards is not sufficient to demonstrate that the signs comply with the approval standards. If the signs do not comply with the approval standards, they do not meet the intent of the standards.

11. The Applicant does not comply with the lighting standards.

The Staff Report acknowledges that the Applicant does not comply with the lighting standards set forth in CMC 16.43, but incorrectly suggests that the Applicant can address these standards by submitting a revised plan after the public process. Staff Report, p.16-19. The City cannot defer a finding of compliance unless it provides for a subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992).

12. The Applicant does not comply with the parking lot landscaping standards.

The Staff Report acknowledges that the Applicant does not comply with the parking lot landscaping standards set forth in CMC 16.49.120, but incorrectly suggests that the Applicant can address these standards by submitting a revised plan after the public process. Staff Report, p.25-26. The City cannot defer a finding of compliance unless it provides for a subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992).

13. The Applicant’s proposed parking is insufficient.

The Applicant is only proposing two parking spaces (one standard and one ADA), which is not sufficient. The parking must accommodate both employee and customer parking. Even if there is only one employee, which seems unlikely, it will only leave one ADA space available for customers. At a minimum, the Applicant must explain the basis for its assumption that only two parking spaces are required.

14. The Applicant and the City need to clarify if they are processing the Text Amendment and Site and Design Review applications as consolidated applications.

It is unclear if the Text Amendment and Site and Design Review applications are being processed as consolidated applications. The City’s public notice suggests that the applications are being processed concurrently, but it also indicates that each application is subject to a different process. The City’s public notice indicates that the Site and Design Review application is being processed pursuant to the Type III process while the Text Amendment is being processed pursuant to the Type IV process. The Applicant and the City need to clarify if the two applications have been consolidated or are being processed separately. If they are consolidated, both applications must be processed pursuant to the Type IV process.

15. The Applicant failed to file a Text Amendment or Zone Map Change application form.

SDC requested a copy of the complete file for both the Text Amendment and Site and Design Review applications. Although the Applicant appears to have filed the required Site and Design Review application form, no application form was filed for the Text Amendment. CMC 16.89.060(C) provides that: "Type IV applications shall be made on forms provided by the Planning Director." *See also* CMC 16.89.080(A). The City has a "Text Amendment Application" form, but the Applicant did not submit the required form. Additionally, as noted above, the Applicant was required to file a separate application for an amendment to the Zoning Map. The City has a "Zone Map Change" form. The Applicant must file the required Text Amendment or Zone Map Change application forms.

16. The Applicant does not have all of the required property owner signatures for the applications.

CMC 16.89.080(D)(1)(c) requires the "signed written authorization of the property owner of record if the applicant is not the owner" for all applications. The City cannot even process an application without confirmation that all of the property owners have authorized the application filing.

The Applicant failed to comply with this requirement because it does not have all of the requisite property owner signatures for the applications. The Appointment of Authorized Agent submitted by the Applicant provides that Oliver & Lang, LLC has only a "shared ownership" on Lots 1 and 2. The Appointment of Authorized Agent does not identify the other owners or confirm that Oliver & Lang, LLC has the authority to act on behalf of all of the owners. The other parties with an ownership interest in Lot 1 and 2 must also provide an authorization.

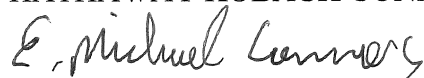
Conclusion

It clearly is not in the City's best interest to allow a major change to the recently adopted DCO solely to accommodate a fuel station on a site with numerous existing fuel stations in the immediate surrounding area. Additionally, the Applicant filed deficient applications and failed to demonstrate compliance with numerous approval standards. Therefore, the Planning Commission should deny or recommend denial of the applications.

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

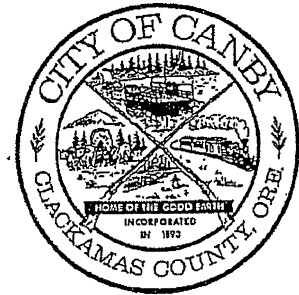


E. Michael Connors

EMC/df

cc: Save Downtown Canby

MEMORANDUM



TO: Jake Tate, PE, Project Engineer

RE: Pre-Application Conference for Site and Design Review
(Clackamas County Assessor Tax Lot No's: 100, 200, 300, 2200, &
2300 of Tax Map 3-1E33DC at 351, 369, & 391 SE 1st Ave and 360, &
392 SE 2nd Ave).

FROM: Bryan Brown, Planning Director

DATE: February 28, 2011

APPLICANT:

James Coombes
503-797-3539
3800 SE 22nd Ave, Portland, OR 97202
james.coombes@fredmeyer.com

PREVIOUS FILE NO.:

N/A Vacant

OWNER:

Oliver Lang LLC
PO Box 353
Canby, Oregon 97013
503-266-2715

STAFF:

Bryan Brown
Planning Director

LEGAL DESCRIPTION:

Lots 1, 2, 3, 12, 13, 14 of Albert Lee's Second
Addition to the City of Canby, Clackamas County
Oregon

DATE OF REPORT:

February 28, 2012

LOCATION:

Southwest Corner of the Intersection of Hwy 99E & S Locust Street – Canby, Oregon

COMP. PLAN DESIGNATION:

Highway Commercial – HC

ZONING DESIGNATION:

Highway Commercial – C-2; Core
Commercial (CC) sub area of the
Downtown Canby Overlay Zone (DCO).

Proposal: Construct a Six Pump fuel station with an approximate 3,956 square foot covered canopy, attendant 176 square foot kiosk w/bathroom, 2 – proposed access driveways (new) – one from highway and one on 2nd Avenue, 2 underground gasoline

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storage tanks, 3 employee parking spaces, an air dispenser station, and a 1,000 gallon propane fuel station.

The project is proposed to be constructed on a 32,560 sq. ft. tract of land abutting Highway 99E in Canby, Oregon. The parcel is currently zoned Highway Commercial (C-2) with a Canby Downtown Overlay district. The parcel is currently owned by Oliver Lang LLC.

Site Development Comments and Issues to Address:

1. We would expect an increase in impact on most City services since the property is currently vacant.
2. Use of sanitary sewer is evident and service connection point should be confirmed with Canby public works and/or City Engineer.
3. Use of domestic water needs is evident – but minimal for restroom. Service connection should be confirmed with Canby Utility.
4. Evaluation of nearest existing fire hydrant should be determined for fire suppression requirements and whether it is adequately located or whether installation of additional hydrants may be needed.
5. Interior Fire Sprinkler suppression system is NOT likely to be needed for a fuel canopy and one man employee kiosk?
6. Electrical Service needs for the lot must be determined
 - 3 phase - ?
 - Service amps total?
7. Use of Natural Gas Service should be determined and is it available?
8. Will Existing Phone/Cable Service be needed and is it available? Or modify as necessary
9. Storm water runoff must be controlled onsite through either approved existing DEQ registered injection drywell sites or on-site swale/detention facilities as determined through a storm water pre-and post-development drainage analysis.
10. Driveway access to existing property is generally allowed, but coordination with the City & ODOT is very important since a new proposed driveway is involved onto a State Hwy 99E. Driveway separation distance from the Locust Street intersection will likely need to be as far away as possible – with a shared driveway with a neighboring property if possible.
11. Garbage facility needs must be determined, shown on the site plan, and confirmed with Canby disposal as suitable for access and pickup.
12. US Mail service means should be determined and shared with staff.
13. A Traffic Scoping and likely Traffic Impact Study must be completed prior to submittal of your land use application. Increased traffic loads to 99E must be evaluated along with impacts to one or more nearby intersections and site circulation functionality by a registered Transportation engineer.
14. On-site parking needs are minimal based on enclosed kiosk building square footage – presumably the 1 space per 550 square feet indicated by the “all other uses” category in CMC Table 16.10.050.

15. Vision Triangles. Your project must comply with vision triangle requirements at the street intersection and where your driveways intersect with a public street. They are measured along the curb 30 feet in either direction at the street intersection and 15 feet at the driveways. No obstruction is allowed within the vision clearance areas that exceed 30 inches in height. The masonry wall is likely within the designated vision clearance area and would need to be lowered.
16. Pylon Sign. Assuming that you take staff's recommendation to process a Text Amendment to secure approval of your project, your property would be placed in the Outer Highway Subarea of the Downtown Canby Overlay making it subject to Table 3 of the Sign Ordinance. Pole signs are allowed a maximum sign area of 48 square feet per side, and 18 feet in height. The current Core Commercial Subarea only allows a pole sign of 12 feet in height.
17. Access Management Guidelines. The applicable access limitations indicated in CMC 16.46.30 require a minimum driveway separation – measured centerline to centerline – of 330 feet for a proposed driveway onto an arterial street and 10 feet of separation onto a local street. The minimum spacing of a proposed driveway to a street is also 330 feet on an arterial street and 50 feet on a local street.
18. Engineered Traffic Study/Access Management Plan Evaluation shall be submitted through a variance of access spacing policies request when access to a lower classification facility (street) is not feasible. That appears to be the case in your proposed project. The City may allow a driveway not meeting spacing requirements with use of restricted turning movements. Consideration of a joint or shared driveway use must be explored if you do not meet access spacing standards. These do not necessarily need to meet all spacing standards. The city, with ODOT's approval, may waive or modify the joint access requirements if shown to be impractical.
19. Gateway Corridor Plan Compliance. Staff wants you to be aware that the City is currently in the process of completing and working toward the adoption of a 99E Gateway Corridor Plan which may have design considerations which would be applicable to your project. They relate primarily to the sidewalk widths and/or their joint use by bicycles and in some limited instances the need for minor right-of-way dedication to accomplish the vision of the Plan that is likely to be adopted. The exact standards are unknown at this time.

Existing Conditions: The property is currently vacant. The subject development site is a 32,560 sq. ft. in size with potential access to 3 public streets – Hwy 99 E, Locust Street, and SE 2nd Avenue. The site plan indicates two-way access from lot on the South side of Highway 99E between Ivy and Grant Streets. Commercial development exists on the adjacent lot to the west.

Application(s) to Submit: To complete your necessary land use approval for this development project you will need to submit the following:

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1. Text Amendment (application fee is \$2880); needed to adequately justify conformance with Downtown Canby Overlay design standards by altering the DCO subarea boundary so as to remove this property from the Core Commercial Subarea (CC) and thus adding it to the Outer Highway Commercial Subarea (OHC). I believe staff can and will support such an amendment, but you need to adequately justify making the request to the Planning Commission – as staff does not believe it is appropriate for us to serve as your direct advocate in this request. Staff believes your application will be very weak and difficult to justify conformance with the intent of the purpose and design review criteria within the Core Commercial Subarea.
2. Site and Design Review Type III (application fee currently \$1,750 for a 0.75 acre site); application reviewed by the Planning Commission at an advertised public hearing with notice to property owners and residents within a 500 foot radius prepared by the applicant and mailed out by city staff 20 days prior to the hearing date. The process is described in Canby's Municipal Code for Type III applications 16.89.040. The application packet is online. Application must be signed by the property owner.
3. Replat/Existing Platted Lot/Tax Lot Consolidation with possible Final Plat. You do not want to be in the position of risking a building permit denial based on building a structure over an existing property or tax lot line. You need to abandon the existing lot arrangement in favor of a single tract. You will need to contact the County surveyor to obtain advice about the necessary procedure. The City is likely to only be involved should a Final Plat be necessary to implement the lot consolidation. The Final Plat review by the City is ministerial and the cost is \$100.

Process: There is a use approval issue with a fuel station at this location due to the Downtown Overlay District and its applicable development standards and site and design review guidelines. The primary use concern arises from the designated Core Commercial Subarea of the Downtown Overlay District in which the property is located. The Downtown Canby Framework Diagram (Figure 7) indicates the boundaries of the three sub-areas and are further described in CMC 16.41.020(A)(1-3). It is planning staff's professional opinion that placing a fuel station within the Core Commercial subarea will pose significant problems in adequately demonstrating compliance with the intent and actual design guidelines. Therefore, staff would suggest that the applicant consider submitting a Development Code Text Amendment to modify Figure 11 and associated explanatory paragraphs in order to modify the boundary between the Core Commercial Subarea and the Outer Highway Commercial Subarea in order to move the property into the more suitable Outer Highway Commercial Subarea. Within this overlay subarea the use may be embraced and compliance or lack thereof with the applicable design guidelines more easily demonstrated.

It is evident to planning staff, that you should consider filing a Site and Design Review Type III application due to the potential inability to specifically meet all development standards. This public hearing process, will allow the applicant to propose the use of alternative methods to meet the intent of the standards for the unique use proposed.

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The Site and Design Type II (DR) process is a "quasi-judicial" process which is considered through a public hearing with a decision made by the Planning Commission. This application requires notice to property owners and residents within a 500 foot radius from the outside boundary of the property limits; a neighborhood meeting is required prior to submittal of your application to share the project and garner any possible suggestions for its design. The Type III review process is described in further detail in Canby Municipal Code (CMC) 16.89.050. If appealed, the decision is heard by the City Council.

The DR application form is on the City's website:

<http://www.ci.canby.or.us/Departments/communitydev&plan/forms.htm>

Zoning: The lot has an underlying Highway Commercial (C-2) zone with an overlay of the Canby Downtown Overlay (DCO) and is within the Core Commercial (CC) subarea. The proposed use is clearly permitted outright within the underlying C-2 zone but as mentioned above, poses problems within the CC subarea of the Canby Downtown Overlay since the intent and development standards of the DCO and CC subarea supersede the base zone standards.

Validity: The information in this Pre-application conference is valid for one year. The Planning Commission's decision is generally valid for one year.

Zoning Standards Applicable to this Application

The following goals, policies, standards and criteria apply and should be addressed either written and/or graphically in the applicant's Text Amendment and Site and Design Review application narrative and/or plans. Without applicant-supplied information, there may be insufficient information to review the application and it could be deemed incomplete causing processing delay.

Applicable Canby Municipal Code Chapters

16.10	Off Street Parking
16.22	C-2 Highway Commercial Zone
16.41	Downtown Canby Overlay Zone
16.43	Outdoor Lighting Standards
16.46.30	Access Management Guidelines for City Streets
16.49	Site and Design Review
16.89.050	Application and Review Procedures Type III Decision

16.10 Off Street Parking

Proposed standard: A fuel station is not a listed use, therefore the applicable parking standard is (All Others: 1.00 spaces per 500 square feet). This appears to imply a

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minimum of 1 parking space based on enclosed building area. Practical needs will prevail. The standard is met as proposed. Joint parking or parking reductions are not proposed and are not needed to meet the standard, however a joint parking agreement would not be opposed if planned.

16.28 C-2 Highway Commercial Zone

The DCO is the superseding development Chapter for this proposal. According to this CMC 16.41.030: *Unless modified pursuant to the following Subsection, uses permitted outright in the underlying base zones are permitted outright in the DCO zone, subject to the respective zone district boundaries.... Uses permitted in the C-2 zone are permitted in the DCO zone,*

The base zone, the C-2 is a "stackable" zone in respect to use provisions. Per CMC 16.28.010.A, uses permitted outright in the C-2 Zone includes a fuel station.

All other development standards are contained in the DCO.

16.49.035 Application for Site and Design Review

A. *For projects in the Downtown Canby Overlay Zone, applicants may choose one of the following two processes. Your proposal appears to need the Type III process:*

- 1. Type II - If the applicant meets all applicable site and design review standards set forth in Chapters 16.41 and 16.49, applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in 16.49.040.5; or*
- 2. Type III - If the applicant proposes the use of alternative methods or materials to meet the intent of the site and design review standards set forth in Section 16.41.070, the applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in 16.49.040.6. The applicant must still meet all applicable requirements of Chapter 16.49.*

16.41 Downtown Overlay Zone

16.41.050 Development standards (selection of primary; others apply)

- Street Setback for OHC Subarea: 10' max. 0' min. other.
- At least 40% of the length of each lot frontage shall be developed with a building(s) built at the minimum setback from the street lot line for the OHC Subarea – more for the CC Subarea.
- FAR: 0.25 for OHC

16.41.060.B.2.A DCO Site And Design Review Guidelines

Existing Core Commercial Sub-Area (CC). The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust. In many ways, it serves as an extension of the Downtown Core, just across the highway. Because this area serves as a "gateway" from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses, buildings here should be appropriately scaled, inviting to pedestrians, and demonstrate high-quality architectural design. As a result, architectural standards for this area and the downtown are identical, although some development standards differ as described in section 16.41.050. Staff believes that modification of the subarea boundary would not be particularly detrimental to the objectives of the Downtown Canby Overlay. Changing subarea would also eliminate the parking lot location standards.

16.41.070 DCO Site And Design Review Standards

Refer to the Applicable Subarea design criteria dealing with:

Visible transmittance.

Building Entries and doors Orientation

Transparency

Additional architectural standards/elements Bays, awnings, etc.

Rooftop structures

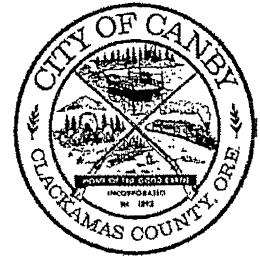
Parking

Parking and Maneuvering Landscaping

Overall Site Landscaping

16.43 Outdoor Lighting Standards

Planning Comment: See Appendix A. This is in designated Lighting Zone Two (LZ 2).
Applicant must submit a photometric plan.



Pre-Application Meeting

Fred Meyer Gas Station

February 28, 2012

11:00 am

Attended by:

Mike Lang, Oliver/Lang LLC, 503-655-8999

Adam Schatz, Fred Meyer, 503-797-3026

Hassan Ibrahim, Curran-McLeod Engineering, 503-684-3478

Jerry Nelzen, Public Works, 503-266-4021

Jeff Randall, Great Basin Engineering, 801-521-8529

Bryan Brown, Planning Dept, 503-266-7001

Avi Tayar, ODOT, 503-731-8221

Jim Coombes, Fred Meyer, 503-797-5617

Vickie Lang, Oliver/Lang LLC, 503-266-2545

Dan Mickelsen, Public Works, 503-266-4021

Doug Quan, CUB, Water Dept, 971-563-6314

Jake Tate, Great Basin Engineering, 801-521-8529

Seth Brumley, ODOT, 503-731-8534

This document is for preliminary use only and is not a contractual document.

GREAT BASIN ENGINEERING, Jake Tate

The project we are proposing is on the southwest corner of Highway 99E and S Locust Street. Fred Meyer is proposing a six multi-side product dispenser fuel station with associated attendance kiosk and propane distribution tank. There will be two underground storage tanks totally approximately 38,000 gallons, along with associated parking and asphalt improvements to go along with this site development.

CURRAN-MCLEOD ENGINEER, Hassan Ibrahim

- The fueling area under the canopy needs to be hydraulically isolated by a means of surface grading or gutter. The drainage from the fueling area has to go through an oil/water separator or petroleum scavenge device. Jeff asked where will the designation go to and Hassan stated the sanitary sewer. The rest of the area will go through a storm system which has to be kept on site.
- Hassan asked how did you determine the access needs off of SE 2nd Avenue. Jeff said it was how the stacking went with the usage of the fueling center and having people entering both sides. This helps circulate them easier, faster and more efficient. Jim also stated we looked at S Locust Street, but to get cars to go through and circulate in the driveways would not function well for that intersection.
- The sites driveway approach on SE 2nd Avenue will need to be ADA compliant and the S Locust Street driveway approached will be going away, correct. The answer was yes. You will need to have a sidewalk and curb put in on S Locust Street. I do not know from your design if the driveway approach on SE 2nd Avenue lines up and Jeff said once the survey comes in we will know and if we need to move it we will. Hassan said the wings on both driveways do not appear to be ADA compliant. It was asked if the City had any standard details and Hassan stated it needs to be 12 to 1 ratio.
- Did you get the right-of-way off the tax map? Jeff said yes it did come off the tax map, but we are waiting for the survey to verify. Hassan wanted to make sure the corners are 90 degrees or close to it. We want to make sure we get the triangle piece as a right-of-way dedication.
- On the northeast corner of the site, there is a large power pole and fire hydrant. I do not know how that is going to affect you, but you need to keep in mind you have vision triangle

- requirements for the corner of 99E and S Locust, which is 30 feet on each side, from back of curb. It was asked if the height requirement was 30 inches and the answer was yes.
- Hassan asked if there was any right-of-way dedication along the highway. Bryan said we are currently addressing some issues for the Gateway Corridor Plan on 99E. We are doing the right-of-way dedications to ensure we have a minimum of an 8 foot sidewalk along 99E and our designs are likely to be much wider than the 8 foot and in order to achieve that we will need a foot or two of dedication. Right now, I just want you to keep it in mind. We also have a Downtown Overlay which comes into play with the Gateway Corridor and we will need to work this out for your site.
- We put in a new sewer mainline on SE 2nd Avenue and stubbed a new lateral to the site with a clean out at the property line. Hassan handed the as-builts to Jake for the sewer main and the 6 inch lateral.
- You will need to design for a 10-year storm, 3 inches in a 24 hour period. Use the Clean Water Services of Portland. If you decide to go with drywells they need to be rule authorized through DEQ.

CITY OF CANBY, PUBLIC WORKS DEPARTMENT, Jerry Nelzen

- There is a sewer lateral line coming off the 99E side and I would like to see it and make sure the line is capped. If you find any more I would like to know and see them before you cap them.
- You will need to have an interceptor before anything goes into the sewer main.
- You will need an emergency shut off switch and an "in case of an emergency" plan in effect. Jeff said we will have all of it in place; it is standard issues for fueling stations.

CITY OF CANBY, PUBLIC WORKS, EROSION CONTROL, Dan Mickelsen

- Do you know what you are planning for the onsite storm? Swales or drywells? Jeff asked if there is a method you prefer. It was suggested an infiltration basin rather than a drywell, if possible. We have a large landscape area and we might have to flip it because of the topography of the site.
- You will need to talk to Gary Stockwell, Canby Utility, Electric Department Foreman for the onsite lighting and the cobra head light off their power pole, which might need to be moved because of your proposed driveway. Discussion ensued about the power poles on 99E in front of their site. The representatives will contact Gary Stockwell.
- You will need to apply for an Erosion Control application and you can get the application at the Planning Department.

CANBY UTILITY, WATER DISTRIBUTION DEPARTMENT, Doug Quan

- We have a 12 inch water line underneath the sidewalk on the south side of 99E with a fire hydrant on the corner. There are two services currently going from main to meter on the 99E side and they are 1 inch services. If you choose to use one of the two services it will save you the main to meter charge. We also have mains off of S Locust or SE 2nd Avenue. You will need to pay the System Development Charge (SDC) and meter charges; there are no credits for the site because the services were grandfathered in. Discussion followed on which service to use.

- Are you going to have an FDC on site? The answer was no, they will utilize hydrants around the site.
- Are you planning on having irrigation? The answer was yes. Doug said you can T-off the domestic service, but you will need to have a backflow device after the meter and will need to be tested annually.

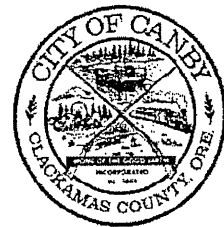
OREGON DEPARTMENT OF TRANSPORTATION, Avi Tavar

- We are looking at having your access off of 99E relocated to the property line and have a shared driveway with the adjacent site to the west. The driveway's maximum width is 40 feet, face to face. The representative said they will look into the option of a consolidated driveway with the property owners to the west. Hassan said there might be an agreement for a consolidated driveway and Avi said he would look into it.
- You will need to get an Access permit from our district office.
- The City will require a traffic study and we would like to have a copy sent to us.

CITY OF CANBY, PLANNING DEPARTMENT, Bryan Brown

- We have a process outlining the Code for conducting a traffic survey. Bryan will give the representative the point of contact with DKS Engineering. We will work closely with you and ODOT on the traffic study.
- The main issue we have is an underline zoning problem, this site is zoned C-2 along with being subjected to the Downtown Overlay. Looking at this situation, I came to the conclusion to strongly recommend for you to submit a Text Amendment with the request to change the development and guidelines, which are applicable to the core commercial subarea of the Downtown Canby overlay. If you submit the Text Amendment, figure 11, the diagram structure shows the boundaries of the three subareas and if it could be moved back one site from your property it will give you some arguments and a basis for moving the boundary line. You will still have some troubles complying with the "T" development of the design standards. A question was asked to Bryan, what do you consider a building, is a canopy considered a building? Bryan stated I do not think of a canopy being a building, which is probably being the intent of the standards, because it is not an enclosed structure like the kiosk. The other application you will need for the Site and Design Review is a Type III and also the Code views the Downtown Overlay. It will be a discretionary type application from the Planning Commission, but that will be a good thing to review because it will give you the argument of intent and the unusual/difficult in implying these standards to something as odd as a filling station canopy and not being associating with a convenience store on your site, you do not have a building. This is a gray area and cannot be advocated for this Text Amendment, but I can tell you I think it is the way to go for such a request.
- A question was asked on the timeline of those applications, like the Text Amendment. Bryan said it will be the same as your Site and Design review; it usually takes approximately a 3 month period. The Planning Commission meets every 2nd and 4th Monday of each month. There are two aspects and depending on how quickly you want to get through this, you should have started and been working on the Traffic study and this is partly my fault, but we need to get through the zoning concerns. Once we get the information, we can write a Staff Report from the Traffic study. Bryan will get them the information they are requesting.

- The Type III application requires you to have a neighborhood meeting and that needs to be completed prior to your application and forward the results of the meeting to us. It is applicable to incorporate citizen's design considerations from the neighborhood meetings and comment on how you are addressing their concerns. The mailing distance is 500 feet from the outside edge of your property; we will need mailing labels for us to send to the landowners, occupants or residents. You can get this information from a title company of your choice. Bryan explained the timeline for the process of submitting in his Memorandum he handed out, which highlights all of the issues needing to be addressed before going in front of the Planning Commission.
- We discussed the vision triangles of the corner of 99E and S Locust, but we did not discuss the vision triangle for the driveways and they are 15 feet.
- If you take my suggestion with the Text Amendment and are successful in getting into outer highway subarea you will be subjected to table III of the Sign Ordinance which indicates your maximum pole pylon design of 48 square feet per side and 18 feet in height.
- Our Codes of the Access Management guidelines, 16.46.30 discusses the minimum driveway separation between properties. The other standard is 330 feet away from any street intersection from your proposed driveway and apparently from what I see you are too close to the S Locust intersection. Our Code reinforces ODOT's standards and if you cannot meet these standards, the next two things which need to be done, are an engineered traffic study and/or Access Management evaluation to access it. It will help demonstrate the impact of the driveway where you are proposing to place it and if there are any other potential locations which might be better. Jeff asked what is the footage for the combined driveways. The answer was 20 and 20 for a shared with a maximum of 40 feet driveway. Jeff said we are concerned about the driveway approach because of our fuel trucks and the adjacent building sits about 15 feet from the sidewalk. Avi said they will look at it and the traffic study will address it. Jake asked if there will be any flexibility with widening the driveway approach. The answer was they will look into it after the traffic study was completed.
- This site has several platted lots and or tax lots which will make a potential problem if you do not consolidate the lots into one tax lot. Clackamas County will not want to issue a Building permit over property lines. We have a process here in Canby which is a replat/lot consolidation and in order to implement it, it might include a final plat and you will have to consult with the County Surveyor.
- I have included our Outdoor Lighting Standards with this Memorandum; it is a new addition to our Code. You will need to supply a Photometric plan with your submittal.
- I see you have a plaza on your site plan at the intersection and Jake said per your Code it stated if you are on the corner lot you needed to try to improve the corner, but if you do not want it we can remove it. Bryan said with the 1,000 gallon propane tank you want it seen and not have a sign reading it is in the back. Discussion was held on protective barriers for the propane tank. Jake said we put a wall around it to soften the surroundings of the tank. We can change it and accommodate what you would like for the area.
- Jim showed two different designs for the site with different driveway entrances and the reasons why they picked the current site plan, not only for the ease of stacking but for the fuel truck accesses in and out of the site.



MEMORANDUM

TO: Honorable Mayor Thompson and City Council
FROM: Catherine Comer, Economic Development Manager
THROUGH: Mark C. Adcock, City Administrator
DATE: September 23, 2008 for Council Meeting October 1, 2008

Issue: ORDINANCE 1296
DOWNTOWN CANBY / HIGHWAY 99E DESIGN STANDARDS

Synopsis:

At the City Council Meeting on September 17, 2008, the Council directed staff to prepare appropriate findings to approve Text Amendment TA 08-01, a City-initiated application to amend code text in Title 12 and Title 16 of the Canby Municipal Code (CMC), and to amend the Zoning Map of the City of Canby, for the purpose of implementing new downtown design standards; specifically amending CMC Chapters 12.12, 16.04, 16.10, and 16.49, adding CMC Chapter 16.41, and amending the Zoning Map to apply a new overlay zone to specific properties in Canby. The Attached Ordinance 1296 responds to this directive.

Recommendation:

Staff recommends that the City Council adopt Ordinance 1296.

Recommended Motion: *"I move that the City Council adopt Ordinance 1296, an ordinance adopting findings of fact, conclusions and final order in land use application TA 08-01; Amending Titles 12 and 16 of the Canby Municipal Code (CMC) regarding design standards for Downtown and Highway 99E Commercial Development in Canby, Oregon by amending CMC Chapters 12.12, 16.04, 16.10 and 16.49, adding Chapter 16.41 to the CM; and amending the Zoning Map to apply a new overlay zone to specific properties in Canby."*

Background:

The Design Standards Project originated as a grant from the Canby Urban Renewal Agency (URA) to Canby Business Development (CBD) in December 2006, to hire consultants and form a task force to create new development and design standards for lands within the historic commercial core of Canby. The objective of the project was to encourage economic vitality and revitalize Canby's commercial center through consistent and compatible building design, landscaping, and signage, which will help keep businesses competitive in the commercial marketplace.

Catherine Comer, as CBD Executive Director at that time, acted as Project Manager and worked with Community Development Director John Williams, CBD Board of Directors, representatives from community leadership and organizations i.e. City/URD, Planning Commission, Chamber, Canby Livability Coalition and Property Owners who made up a task force of 22 members. Consultants, Matt Hastie, Cogan Owens Cogan and David Berniker, SERA Architects, were hired. The consultants, working together with the task force, held monthly meetings from March

–August 2007, a public meeting on October 11, 2007, followed by three workshops with the Planning Commission.

In developing new design and development standards, the project team focused on the following elements:

- **New development standards** that guide how new sites can be developed, including the overall size and location of buildings and other site elements and their relationship to each other;
- **New design standards** that describe how buildings will look, function and feel, with an emphasis on the exterior of the building or building “façade”;
- **Targeted revisions to requirements related to the types of uses** allowed in the C-1 and C-2 zones.
- **Modest revisions to the City’s landscaping standards** which should apply to commercial and other types of development in and outside the planning area for this project.
- **New provisions that allow for an expanded design review board** to review applications that opt to take a second track to comply with the overall intent of the new design standards, rather than their specific provisions.
- **General recommendations for new sign regulations**, with a more detailed follow-up process recommended overhauling the city’s sign code.

The project has resulted in a proposal for a new overlay zone with specific site design, architectural design, and landscaping design requirements that are intended to follow the recommendations that were set forth in the Canby Downtown Plan. The commercial core area is defined in the Canby Downtown Plan and includes both sides of Highway 99E.

A Title 12 text amendment is a legislative amendment, but is not amending part of Title 16 of the Land Use and Planning provisions, and therefore, there are no land use approval criteria to consider in amending Title 12.

A Title 16 text amendment is a legislative land use amendment. In judging whether or not Title 16 should be amended, the Planning Commission and City Council must consider the following approval criteria:

1. The Comprehensive Plan of the city, 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
2. A public need for the change; and
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made; and
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community; and
5. Statewide planning goals.

An amendment to the Zoning Map of the City of Canby is also a legislative land use amendment. In judging whether or not the Zoning Map should be amended, the Planning Commission and City Council must consider the following approval criteria:

1. 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; and
2. 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.

The Planning Commission held a public hearing concerning the proposed amendments on April 28, 2008. Matt Hastie, of Cogan Owens Cogan, presented the proposal. Ken Diener, of KJD Architecture PC, presented oral testimony. The Commission continued the public hearing to May 27, 2008, in order to allow submission of additional public testimony. Ken Diener, of KJD Architecture PC, submitted additional written testimony, as did Matt Hastie, of Cogan Owens Cogan. Then on May 27, 2008, the Planning Commission closed the public hearing and, following deliberations, voted 4-0 to forward a recommendation of approval to City Council, which includes several amendments to the proposal based upon testimony received and Commission deliberation. The transportation analysis was then completed for the proposed text amendments. Therefore, the Planning Commission re-opened the public hearing on the issue of transportation impacts on August 25, 2008, and received testimony concerning impacts to transportation. The Planning Commission then re-closed the public hearing, and rescinded their original May 27, 2008, decision, and replaced that decision with a recommendation approved by a 4-0 vote that City Council approve TA 08-01 as presented in the May 27, 2008, memorandum, based on the findings in the April 08, 2008, staff report, the May 27, 2008, memorandum, the August 25, 2008, memorandum, and all additional findings from the public hearings that support approval.

The City Council determined at its meeting on September 3, 2008 that it would hold a public hearing on September 17, 2008 to review and discuss the material and proposed recommendation of approval from the Planning Commission. Since public testimony was solicited and taken at prior Planning Commission meetings, the City Council did not allow additional public testimony at its hearing on September 17, 2008.

On September 17, 2008, Matt Hastie presented a PowerPoint presentation of an overview of the proposed design standards. Following his presentation and discussion by the Council, the Council directed staff to prepare appropriate findings to approve TA 08-01 and return with them for final adoption at its next meeting on October 1, 2008.

Attachments to Ordinance 1296:

Exhibit A: Findings of Fact, Conclusions and Final Order

Exhibit B: Proposed Amendments

Exhibit C: Map of Overlay Zone referred to as Downtown Canby Framework Diagram

ORDINANCE 1296

AN ORDINANCE ADOPTING FINDINGS OF FACT, CONCLUSIONS AND FINAL ORDER IN LAND USE APPLICATION TA 08-01; AMENDING TITLES 12 AND 16 OF THE CANBY MUNICIPAL CODE (CMC) REGARDING DESIGN STANDARDS FOR DOWNTOWN AND HIGHWAY 99E COMMERCIAL DEVELOPMENT IN CANBY, OREGON BY AMENDING CMC CHAPTERS 12.12, 16.04, 16.10 AND 16.49; ADDING CHAPTER 16.41 TO THE CMC; AND AMENDING THE ZONING MAP TO APPLY A NEW OVERLAY ZONE TO SPECIFIC PROPERTIES IN CANBY.

WHEREAS, the City of Canby encourages economic vitality and revitalization of Canby's commercial center through consistent and compatible building design, landscaping, and signage, which will help keep businesses competitive in the commercial marketplace; and

WHEREAS, the City of Canby, the Chamber of Commerce, Canby Livability Coalition and property owners worked together to develop new development standards that guide how new sites can be developed, including the overall size and location of buildings and other site elements and their relationship to each other and new design standards that describe how buildings will look, function and feel, with an emphasis on the exterior of the building or building "façade"; and

WHEREAS, the Planning Commission, after providing appropriate public notice, conducted a public hearing on a set of amendments, Application TA 08-01, during which the citizens of Canby were given the opportunity to present testimony on these proposed changes; and

WHEREAS, the Planning Commission found that the standards and criteria of section 16.88.160 of the Land Development and Planning Ordinance, concerning Text Amendments, were met, and unanimously recommended approval to the City Council after making certain modifications; and

WHEREAS, the City Council, on September 17, 2008, after reviewing the Planning Commission's recommendations and holding a public hearing to discuss the adoption of the Planning Commission's recommendation, ordered that the staff return with proposed Findings, Conclusions and Final Order and an appropriate implementing Ordinance; and

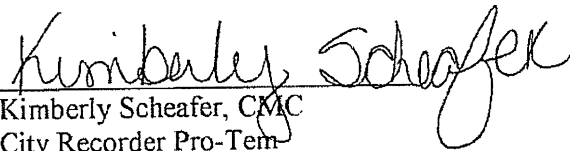
WHEREAS, the City Council at its meeting on October 1, 2008, has reviewed the proposed Findings, Conclusions and Final Order staff has prepared for Application No. TA 08-01, now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

- 1) The City Council hereby adopts the staff's proposed Findings, Conclusions and Final Order as detailed in this Ordinance as Exhibit "A", and further approves Text Amendment 08-01; and
- 2) Titles 12 and 16 of the Canby Municipal Code of the City of Canby are modified as detailed in Exhibit "B".

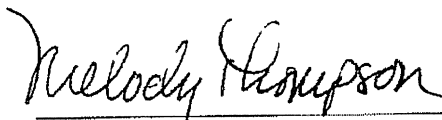
- 3) Amending the Zoning Map of the City of Canby to apply a new overlay Zone affecting certain properties in the Downtown Core Commercial (CC), Transitional Commercial (TC) and Outer Highway Commercial (OHC) and more specifically depicted in the *Downtown Canby Overlay Zone* as detailed in Exhibit "C".

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 1, 2008 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, October 15, 2008, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 NW 2nd Avenue in Canby, Oregon.

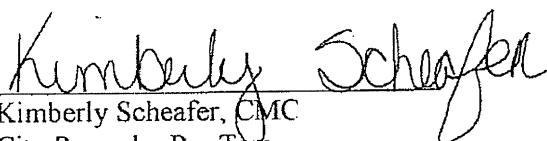

Kimberly Scheafer, CMC
City Recorder Pro-Tem

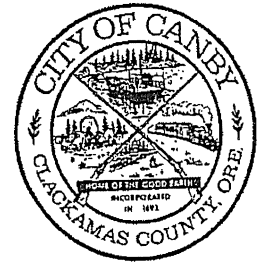
PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on October 15, 2008 by the following vote:

YEAS 6 NAYS 0


Melody Thompson, Mayor

ATTEST:


Kimberly Scheafer, CMC
City Recorder Pro Tem



BEFORE THE CITY COUNCIL
OF THE
CITY OF CANBY

A REQUEST FOR APPROVAL OF THE)
DOWNTOWN CANBY / HIGHWAY 99E)
DESIGN STANDARDS TEXT AMEND-)
MENT AND ZONING MAP AMENDMENT)

FINDINGS, CONCLUSION & ORDER
TA 08-01
(City of Canby)

NATURE OF APPLICATION

Application TA-08-01 is a City-initiated Municipal Code text amendment and Zoning Map amendment, for the purpose of amending Title 12 concerning sidewalk displays; and amending Title 16 and the Zoning Map of the City of Canby to create a new overlay zone with specific site design, architectural design, and landscaping requirements; to modify parking standards; to create a Type II design review application process; and to create an expanded design review board and a new design review advisory board.

HEARINGS

The Planning Commission held a public hearing to consider this application at its meetings of April 28, 2008, May 27, 2008 and August 25, 2008. The City Council held a public hearing to consider this application at its meeting of September 17, 2008. At that hearing the Council recommended approval of the proposed action and directed staff to prepare findings of consistency with approval criteria.

CRITERIA AND STANDARDS

- A Title 12 Municipal Code text amendment is a legislative amendment, but is not a land use amendment. Therefore, there are no land use approval criteria to consider in amending Title 12.
- A Title 16 Municipal Code text amendment is a legislative land use amendment. Therefore, in judging whether or not Title 16 should be amended, the Planning Commission and City Council shall consider:
 1. The Comprehensive Plan of the city, 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;

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2. A public need for the change;
 3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
 4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
 5. Statewide planning goals.
- An amendment to the Zoning Map of the City of Canby is a legislative land use amendment. In judging whether or not the Zoning Map should be amended, the Planning Commission and City Council shall consider:
 1. 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;
 2. 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.

FINDINGS AND REASONS

The Planning Commission, after holding a public hearing on April 28, 2008, May 27, 2008, and August 25, 2008; and after considering the April 08, 2008, staff report, the May 27, 2008, memorandum, and the August 25, 2008, memorandum, including all addendums and attachments thereto; and after considering all public testimony received during the public hearing; deliberated and reached a decision to recommend approval of the TA 08-01 amendments as presented in the May 27, 2008, memorandum, based on the findings in the April 08, 2008, staff report, the May 27, 2008, memorandum, the August 25, 2008, memorandum, and all additional findings from the public hearing that support approval.

Findings in Support of Comprehensive Plan Text Amendment

1. *The Comprehensive Plan of the city, 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*

Comprehensive Plan policies

The City Council finds that the following Comprehensive Plan policies are applicable to the proposed action.

Policy no. 2: Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

The proposed amendments are consistent with this policy in the following ways:

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Reductions in parking ratios for commercial establishments will help result in less land used for parking and an increase overall densities of development. Most uses would only require 3 spaces per 1,000 square feet of floor area, as opposed to 5 spaces. This is a 40% reduction in the amount of land needed for parking which typically represents a significant portion of the land need. Allowing adjacent on-street spaces to count towards these ratios will represent a further reduction.

Establishing new minimum floor area ratios (FARs) in each commercial area will encourage denser commercial development, particularly in the commercial core area. Floor area ratios are intended to work with building height and setback standards to control the overall bulk of the building. The proposed FAR in conjunction with the maximum lot coverage ensures that new development will generally be a minimum of two floors along the street in the C-1 portion of the Core Commercial area.

Policy no. 6-r: Canby shall preserve and, where possible, encourage restoration of historic sites and buildings.

Proposed design standards are intended in part to help encourage development that is consistent with Canby's historic character. They do so in the following ways:

Standards for building materials encourage use of materials that evoke a sense of timelessness, permanence, quality, strength and creativity. These standards will help reflect and enhance the community's values and quality of life.

Standards that require use of cohesive and repeating design elements, clear distinctions between the base, middle and top of a building, and a certain degree of ornamentation, promote the use of historic design features and character in new buildings.

Policy no. 7-r: Canby shall seek to improve the overall scenic and aesthetic qualities of the city.

Improving the overall sense of aesthetic quality of Canby's commercial areas is a primary objective of adopting the new commercial design standards. The proposed new standards will improve aesthetic qualities in the following ways.

Providing clear distinctions between different portions of a building is important for the building's appearance, consistency of design within a larger area, and the ability of people to read or understand how the building functions.

Well-designed, repetitive building elements tend to create a strong sense of place and leave a lasting physical memory. Cohesive and repetitive architectural "bays" along the street-facing ground floor of a building create a pleasing sense of rhythm for the pedestrian, and help to scale and order the built environment as it is experienced from the sidewalk and street.

Incorporating strong architectural elements where streets intersect not only results in a more visually interesting built environment, but enhances the way pedestrians "read" and understand city blocks by creating recognizable and memorable design elements at the corner of each block.

Most buildings have areas devoted to services and equipment. These uses can be noisy, noxious and unsightly. Screening requirements reduce the impact of these structures and activities. Limitations on exterior storage and display will help reduce visual clutter while allowing flexibility for retail merchants and eating and drinking establishments.

Goal: to develop and maintain a transportation system which is safe, convenient and economical.

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The proposed design and development standards, as well as proposed amendments to parking standards meet this goal in the following ways.

Parking standards for automobiles and bicycles are intended to allow for ready access to commercial uses by all modes.

Reductions in parking ratios will allow for more economic development of the parking system by reducing overall land and transportation facility needs. Allowing adjacent on-street spaces to count towards these ratios will represent a further reduction in land need. Devoting less land to parking will help reduce public costs associated with service provision for roads, sewer and water on a per capita or per square foot of development basis.

Standards that require parking to be located on the sides and rear of buildings will reduce pedestrian and vehicle conflicts and improve pedestrian safety. Similarly, increasing the size of landscaping areas between the parking area and sidewalk will enhance the buffer area between cars and pedestrians.

Policy no. 3: Canby shall coordinate the location of higher density housing with the ability of the city to provide utilities, public facilities, and a functional transportation network.

The new proposed standards allow for additional residential development in the transitional commercial area of the C-1 zone, consistent with the city's R2 requirements. This will promote location of denser residential development along the fringe of the core commercial area which will in turn support the market for commercial businesses downtown. This part of the city has an existing high quality base of utilities, public facilities, and a functional transportation network to serve new development and residents in this area.

Policy no. 2: Canby shall encourage further commercial development and redevelopment at appropriate locations.

Implementation Measure A) The Canby Downtown Plan shall guide the revitalization and redevelopment of the Downtown Commercial zone, and includes standards and policies that address:

- Streetscape design
- Building design
- Marketing and promotion
- Business retention and recruitment
- Prioritized lists of public and private projects
- Implementation and funding strategies

The proposed standards will meet this policy objective and be consistent with this Implementation Measure in the following ways:

New requirements limit the size of the building footprints in each commercial area, consistent with the size and scale of development appropriate for those areas. For example, developments in the core commercial area are limited to buildings with a footprint of 40,000 square feet. This proposed maximum allows for the creation of a high end grocery store (e.g., New Seasons, Whole Foods or Zupans) but not for larger buildings which would be out of scale with surrounding businesses and uses. The proposed maximum footprint in this area differentiates developments from those in the Outer Highway Commercial area. Maximum building footprints are much larger in the Outer Highway Commercial area.

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As stated previously, standards for building design also are intended to improve the overall aesthetics of Canby's commercial area through principles related to cohesive design, unified building design, pedestrian-oriented design and use of materials that support the city's character and values.

The proposed standards also are also consistent with the following objectives and opportunities identified in the City's Downtown Plan:

There is a need to create a stronger connection to downtown from Highway 99E.

The proposed standards meet this objective in the following ways:

- They create similar design standards for new and renovated buildings on both sides of Highway 99E in the downtown area, creating a stronger future visual connection between the two areas.
- Corners of buildings, including those located at intersections along Highway 99E in the downtown, are required to have distinguishing design features. These requirements will help these area better serve as gateways into the downtown.
- They identify connecting Highway 99E and the downtown as key gateway areas where new development should be designed and oriented to draw people towards the downtown.

The quality of the streetscape is mixed, with some attractive areas of historic buildings mixed with buildings in poor condition and lacking street level appeal.

The proposed design standards will address this condition by improving the appearance and overall consistency of future developments within the downtown area through standards related to pedestrian-oriented design, unified building design, accentuating corners and using specific materials as described under previous approval criteria. These changes will support existing historic buildings and improve the overall street level appeal of the downtown and other commercial areas.

Opportunities to change land use patterns to improve the downtown focus on infill and redevelopment of vacant or underdeveloped lots with buildings constructed to the front property line and parking provided on the street or behind the building.

The proposed design and development standards include minimum setback and frontage requirements to construct buildings at the front property line in the downtown. They also include requirements to place parking on the street, next to or behind the building consistent with this objective.

County plans and policies: The City Council finds that county plans and policies are generally not applicable to the proposed action because the proposed standards only affect land within the city limits and specifically within the city's commercial areas.

Local districts: The City Council finds that plans and policies of local districts are generally not applicable to the proposed action.

State policies: These policies are addressed under Criteria #5, Statewide Planning Goals.

2. *A public need for the change.*

The City has previously determined a public need for development of commercial design and development standards through adoption of the City's Downtown Plan, and in previous planning studies and city resolutions.

The adopted Canby Downtown Plan includes the following two recommended actions:

- Create a standard awning treatment
- Develop design standards for redevelopment and new buildings

In approving funding to complete the new commercial design standards, the Canby Urban Renewal Agency reaffirmed this public need. In addition, this need was articulated by members of the City's Planning Commission, City Council and Commercial Design Standards Task Force members throughout the planning process.

3. *Whether the proposed change will serve the public need better than any other change which might be expected to be made.*

Creating design standards is one way to address objectives related to establishing an attractive downtown and enhancing the viability of the city's commercial areas. Other alternatives can include working directly with property and business owners to achieve the same objectives, providing financial support for façade or other building improvements, or simply letting market forces guide the appearance of new buildings. However, these approaches are not mutually exclusive and in fact the City actively pursues several of them. For example, the City administers a façade improvement grant program through its urban renewal district and regularly works directly with business owners to encourage them to locate in the city and provide them with information about the city's regulatory procedures. Creating a clear set of design standards will provide more clarification for prospective business and property owners and complement these efforts.

Developing and administering design guidelines or standards will help reinforce other economic development activities and will provide a level of certainty which other strategies cannot provide by themselves. Providing an alternative, administrative procedure for design review along with the option of going through a more flexible design review process also was deemed a more effective alternative than the current design review process.

4. *Whether the change will preserve and protect the health, safety and general welfare of the residents in the community.*

The proposed standards and amendments will help protect the health and safety of community residents in the following ways.

- Standards that require parking to be located on the sides and rear of buildings will reduce pedestrian and vehicle conflicts and improve pedestrian safety. Similarly, increasing the size of landscaping areas between the parking area and sidewalk will improve the buffer between cars and pedestrians.
- Standards for modest increases in landscaping areas required in parking areas will contribute to the physical health of residents by increasing the amount of oxygen generated by plants in the downtown area.

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The proposed standards will promote and protect the general welfare of residents by enhancing the attractiveness, economic viability and livability of the downtown. The physical appearance and design of buildings in the city's primary commercial areas has a strong impact on the community's economic well-being, quality of life and sense of character and identity. High-quality design of these buildings, with special attention to the relationship between buildings, people and the surrounding physical space will help spur investment in the city; enhance use and value of land and improvements; improve the stability and value of property; and generally improve the experience of residents and visitors who use these commercial areas.

5. *Statewide planning goals.*

Goal 1. Citizen Involvement

The process used to develop the design standards and other proposed zoning ordinance amendments was consistent with statewide goals of providing adequate opportunities for citizen involvement in the planning process. The process included the following activities:

- Meetings of a citizens Task Force to review and guide every aspect of the design standards and amendments. The Task Force included members of the City Council and Planning Commission, local business and property owners and other interested citizens. The Task Force met five times and all meetings were open to the general public.
- Property owners meeting. The city conducted a meeting for affected business and property owners and notified all property owners in areas directly affected by the proposed standards. This meeting, which also was open to the general public, provided an additional opportunity for public comment on the proposed standards.
- Planning Commission work sessions and hearings. City staff and members of the consulting team conducted multiple work sessions and hearings with the Planning Commission to review and discuss the proposed standards and amendments. All meetings were open to the public and provided opportunities for public comment.

Goal 2. Land Use

The proposed standards and other ordinance amendments are consistent with statewide planning Goal 2 and related requirements in the following ways:

- They are consistent with and support the city's current land use designations and planning framework. The standards recognize differences in development conditions and characteristics in different commercial areas (e.g., core commercial, transitional commercial and outer highway commercial areas) and provide varying standards for these different areas accordingly. As described previously, the standards support the goals of previous planning processes and other city and statewide planning goals.
- The proposed new development standards support more efficient patterns of development by establishing new floor area ratio requirements in affected commercial areas, reducing minimum parking requirements and allowing for both mixed use and more intensive residential development in the transitional commercial area.
- Requirements for massing and form in the transitional commercial area will help ensure compatibility as uses in this area increase and intensify over time, while allowing for a broader range of building sizes than currently exists and supporting the commercial land use designation in this area.

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- As noted previously and below, reduced parking ratio requirements will reduce overall land needs. Allowing adjacent on-street spaces to count towards these ratios will represent a further reduction in land need.
- New landscaping requirements will not increase land consumption overall. The overall increase from 5% to 10% landscaping for interior parking areas only affects the parking area design, not the overall landscaping requirement and only applies to the Commercial Core area. It will not necessarily impact the total amount of land devoted to landscaping but might shift the location of landscaping within a given site.

Goals 3 and 4. Farm and Forest Lands Not applicable

The City Council finds that these goals are not applicable to the proposed actions.

Goal 5. Natural Resource Protection

The proposed actions will promote protection and preservation of natural resources by reducing overall land needs and impacts through new floor area ratio and parking requirements as described previously.

Goal 6. Air Land and Water

Increased landscaping requirements for parking areas will help create opportunities for natural stormwater drainage techniques. Use of these techniques will reduce impacts of stormwater runoff and drainage to natural water bodies. Increased vegetation in parking areas will have a positive impact on air quality. In addition, larger setbacks in the Outer Highway Commercial area also allow for more landscaping between buildings and the street which also will have positive impacts on air quality.

Goal 7. Natural Hazards

The City Council finds that this goal is not applicable to the proposed actions.

Goal 8. Parks and Recreation Opportunities

The City Council finds that this goal is not applicable to the proposed actions.

Goal 9. Economic development

The primary objective of implementing the new commercial design and development standards is to support the city's economic development goals. As noted previously, the physical appearance and design of buildings in the city's primary commercial areas has a strong impact on the community's economic well-being, quality of life and sense of character and identity. High-quality design of these buildings, with special attention to the relationship between buildings, people and the surrounding physical space will help spur investment in the city; enhance use and value of land and improvements; improve the stability and value of property; and generally improve the experience of residents and visitors who use these commercial areas

Improving the pedestrian environment in the city's commercial areas will make them more attractive to residents and visitors and promote economic activity. Fostering interaction between activities within buildings and activities within the public realm (the sidewalk and street) is crucial to creating a vibrant and interesting built environment. A high degree of transparency between the two realms creates visual interest for the pedestrian on the sidewalk, and promotes a more active, engaging

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pedestrian experience. Design of ground floor windows and building entries is important to achieving this goal. In addition, courtyards, arcades and special paving enhance the pedestrian environment by providing pleasing, semi-public transitions between the public and private realms, effectively creating a “threshold” between the sidewalk and the building.

Standards will foster well-designed, repetitive building elements that tend to create a strong sense of place and leave a lasting physical memory. Cohesive and repetitive architectural “bays” along the street-facing ground floor of a building create a pleasing sense of rhythm for the pedestrian, and help to scale and order the built environment as it is experienced from the sidewalk and street. These elements will help encourage people to return to the downtown to meet their shopping needs.

Reducing required minimum parking ratios will reduce land and development costs for developers, businesses and property owners in Canby. This will enhance their ability to develop land and start businesses in Canby and may allow for some businesses to locate there that otherwise could not have done so. For example, the reduced ratios have been beneficial in attracting a new movie theater to locate in the downtown area.

Adoption of the proposed standards also will provide both clarity and flexibility for future developers and business owners. Administration of design standards should be efficient and effective and provide a level of certainty for property and business owners, as well as other community members. It is important to provide a set of clear and objective standards that may be administered relatively quickly and easily for most applicants. At the same time, it is important to provide an alternative path that provides flexibility for applicants that may want to take a more innovative approach which meeting the intent of the clear and objective standards. This two-track approach will also promote economic activity in the affected commercial areas.

Goal 10. Housing

The proposed standards support local and statewide housing goals in the following ways:

- New standards will create additional opportunities for housing in the transitional commercial area. They allow for a certain amount of purely residential use in this area which is on the fringe of the existing commercial area. This will create opportunities for denser housing in this area in close proximity to shopping, recreation and other community activities.
- New standards in the commercial core area also will promote development of upper story housing in this area. Proposed standards for the design of upper floor windows and other features reflect this potential use.

Goal 11. Public facilities and Services

Amendments to parking requirements will help reduce overall land needs and increase potential cost-effectiveness of providing public facilities. Historically, cities have based parking requirements on the amount of parking needed on the very busiest days of the year. As a result, on the vast majority of days and times, a substantial number of parking spaces go unused. More recent planning practice has favored lower parking ratios which accommodate needs in most situations but don't necessarily plan for the worst case. While this may lead to some crowded conditions on a few of the very busiest days of the year, these changes also will result in more efficient land use and development, lower development costs, less impervious surface and lower costs for stormwater management for the city. Devoting less land to parking also will generally reduce public costs associated with service provision for roads, sewer and water on a per capita or per square foot of development basis.

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Proposed increases in landscaping within parking areas also will create opportunities to use natural systems to treat and manage stormwater runoff. This will further reduce the need for off-site stormwater management facilities.

Goal 12. Transportation

The proposed design, development and other standards support local and statewide transportation planning goals in the following ways:

- Improve pedestrian connectivity and safety. Standards that require parking to be located on the sides and rear of buildings will reduce pedestrian and vehicle conflicts and improve pedestrian safety. Similarly, increasing the size of landscaping areas between the parking area and sidewalk will improve the buffer between cars and pedestrians.
- Support statewide guidelines related to parking requirements. The proposed new parking ratio standards are primarily based on those found in the *Model Code for Small Cities* prepared by the Department of Land Conservation and Development. Many cities in Oregon have revised their parking standards to be consistent with those recommended in the *Model Code*.
- Improve visual cues for drivers entering Canby. Standards for the Outer Highway Commercial area that require a certain percentage of development to be closer to the road will help to provide a visual connection and signal that drivers are entering an urban area. At the same time, relatively larger setbacks in this area (compared to the core commercial area downtown) will enhance buffers between pedestrians and faster-moving traffic.
- Ensure adequate accessibility to and within sites by a variety of travel modes, along with attractively designed parking and loading areas. New parking standards for automobiles and bicycles will allow for ready access to commercial uses by all modes and create attractive areas that enhance human and environmental health. Screening requirements and updated landscaping requirements will improve the appearance of parking areas and reduce visual clutter.

Goal 13. Energy Conservation

The City Council finds that this goal is not applicable to the proposed actions.

Goal 14. Urbanization

This goal is addressed in findings related to goals 2, 9 and 10.

Findings in Support of Zoning Map Amendment

1. *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;*

Policy 6 of the Land Use element of the Comprehensive Plan states "Canby shall recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas." Implementation measures listed

Findings, Conclusions & Order

TA 08-01

Page 10 of 13

EXHIBIT B
PAGE 15 OF 19

under this policy describe specific areas of concern within Canby and provide policy direction related to future zoning decisions within them.

None of the areas of special concern listed under Policy 6 and its implementation actions coincide with the area proposed for application of the commercial design standards overlay zone. Therefore the City Council finds that this policy is not applicable to the proposed adoption of the overlay zone. As a result, the proposed action is consistent with this approval criterion.

2. *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.*

The proposed zoning change would apply a new design standards overlay zone to areas currently zoned as C1, C2 and M1 (one parcel). The new overlay zone would apply specific standards for the design of buildings and properties within the overlay zone area. These standards would guide the architectural design of buildings and development of sites (e.g., allowable setbacks, heights, parking ratios, landscaping requirements, etc.). However, no changes in use for the area are proposed, with the exception of allowing for a limited amount of residential use in a portion of the new zone. This change is not expected to impact the need for public facilities in this area. As a result no changes to current public facility needs in this area are proposed. Most of this area is substantially built out and currently served by roads, water, sewer and other public facilities. Any additional needed public facilities associated with uses in this area have generally been identified and considered in the City's transportation system plan and other facility master plans. Site specific facility needs will be met by developers or property owners as part of the City's development review process. As a result, the City Council finds that the proposed action is consistent with this approval criterion.

CONCLUSION

The City Council of the City of Canby concludes that:

1. The proposed amendment complies with the Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, and will preserve functions and local aspects of land conservation and development.
2. There is a public need for the change.
3. The proposed change will serve the public need better than any other change which might be expected to be made.
4. The proposed change will preserve and protect the health, safety, and general welfare of the residents in the community.

Findings, Conclusions & Order

TA 08-01

Page 11 of 13

EXHIBIT B
PAGE 16 OF 19

5. The proposed amendment complies with the Statewide Planning Goals.
6. The proposed amendment to the Zoning Map of the City of Canby complies with the Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and complies with the plans and policies of the county, state, and local districts, and preserves functions and local aspects of land conservation and development.
7. All required public facilities and services either 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 Downtown Canby Overlay Zone.

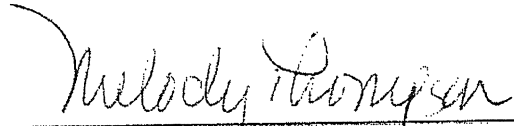
Findings, Conclusions & Order
TA 08-01
Page 12 of 13

EXHIBIT B
PAGE 17 OF 19

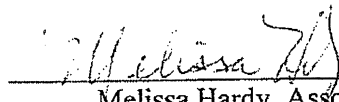
ORDER

IT IS ORDERED BY THE City Council that **Application No. TA 08-01** is approved; that the text amendments shall be made to the Canby Planning Code as proposed in the enabling Ordinance No. 1296; that the Zoning Map for the City of Canby shall now include the Downtown Canby Overlay Zone.

DATED this 15th day of October, 2008.



Melody Thompson, Mayor



Melissa Hardy, Associate Planner

ATTEST:

ORAL DECISION – September 17, 2008

AYES: Carson, Daniels, Helbling, Oliver

NOES: None

ABSTAIN: None

ABSENT: Blackwell, Carlson

WRITTEN DECISION – October 15, 2008

AYES: Carlson, Blackwell, Oliver, Daniels, Carson, Helbling

NOES: None

ABSTAIN: None

ABSENT: None

Findings, Conclusions & Order
TA 08-01
Page 13 of 13

EXHIBIT B
PAGE 18 OF 19

EXHIBIT C
TO ORDINANCE 1296

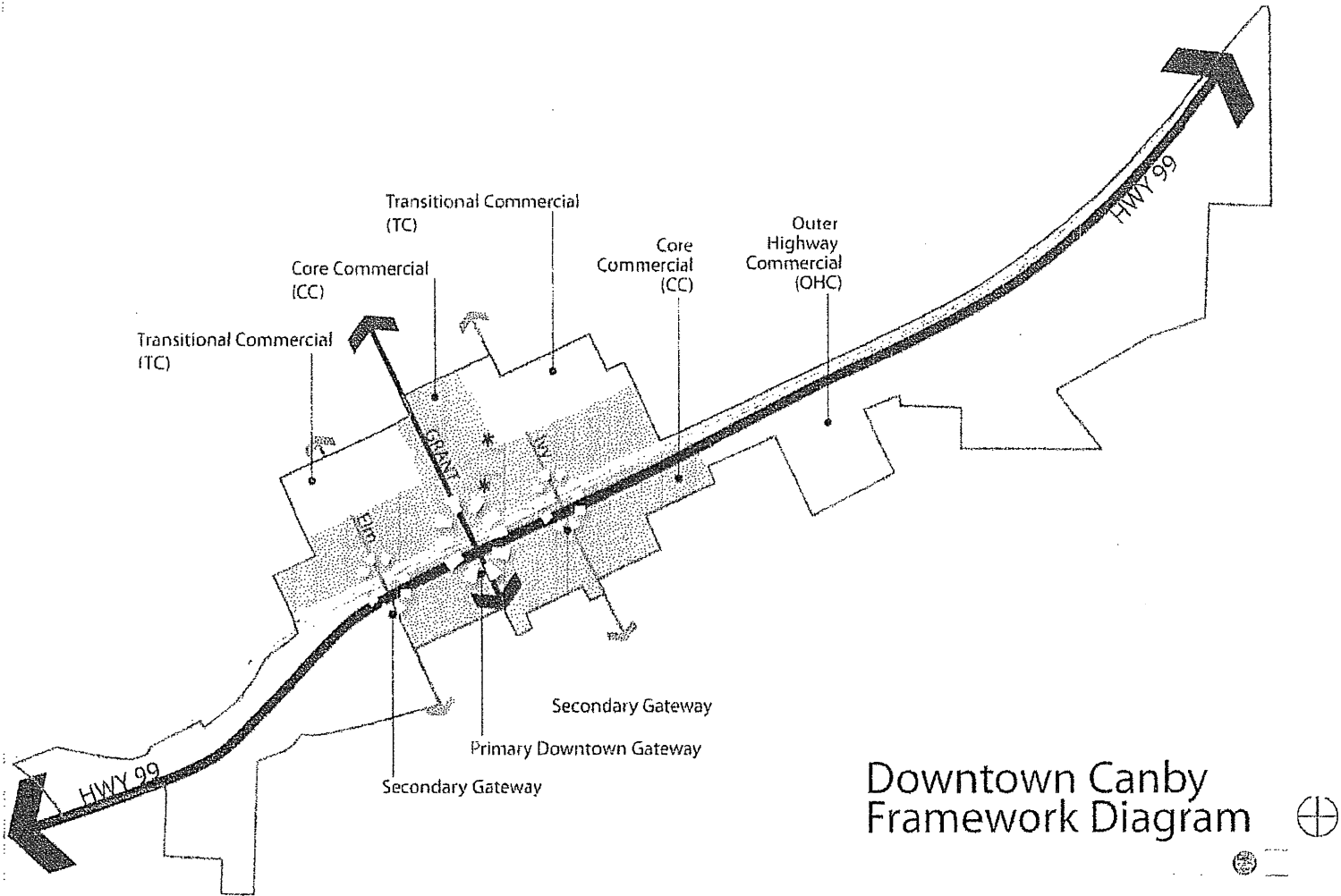


EXHIBIT B
PAGE 19 OF 19

CITY OF CANBY
ZONE MAP CHANGE APPLICATION

Fee \$2,640

OWNERS

APPLICANT**

Name Oliver & Lang, LLC and E.Wayne Oliver

Name Great Basin Engineering - Jake Tate

Address PO Box 353

Address 2010 North Redwood Road

City Canby State OR Zip 97013

City Salt Lake City State UT Zip 84116

Phone 503-226-2715 Fax 503-263-6968

Phone 801-521-8529 Fax 801-521-9551

E-mail ryan@oliverinsurance.net

E-mail jaket@gbesouth.com

Please indicate who is to receive correspondence (i.e. staff reports etc) and what format they are to be sent

☒ Owner ☒ Email ☐ US Postal ☐ Fax
☒ Applicant ☒ Email ☐ US Postal ☐ Fax

OWNERS' SIGNATURES

E. Wayne Oliver
E. Wayne Oliver

Oliver & Lang, L.L.C. By: E. Wayne Oliver
Its President

DESCRIPTION OF PROPERTY

Address 351, 369 & 391 SE 1st Avenue and 354 & 392 SE 2nd Avenue

Tax Map 3S1E33DC Tax Lot(s) 00100, 00200, 00300, 02200 & 02300 Lot Size 32,466 Sq Ft (0.75 acre)

Existing Use Vacant Land

Proposed Use Gasoline Distribution Facility

Existing Structures None

Zoning C-2

Comprehensive Plan Designation HC - Highway Commercial

Project Description Consolidation of five tax lots and construction of a retail fueling station

Previous Land Use Action (If any) N/A

FOR CITY USE ONLY	
File # :	
Date Received:	By:
Completeness:	
Pre-App Meeting:	
Hearing Date:	

****If the applicant is not the property owner, they must attach documentary evidence of their authority to act as agent in making this application.**

Appointment of Authorized Agents

Oliver & Lang, L.L.C. and E. Wayne Oliver, owners of the real property described as Lots 3, 12, 13 and 14, ALBERT LEES SECOND ADDITION TO CANBY, in the City of Canby, County of Clackamas and State of Oregon and Lots 1 and 2, ALBERT LEES SECOND ADDITION TO CANBY, in the City of Canby, County of Clackamas and State of Oregon (the "Property"), hereby authorize Great Basin Engineering, Westlake Consultants, and Stoel Rives LLP, as agents to represent Oliver & Lang, L.L.C. regarding the applications of Fred Meyer Stores, Inc. on the Property. Agents have the full authority to act in all respects with the applications.

Agent shall have authority to appear on our behalf before any administrative or legislative body of the City of Canby or Clackamas County and to act in all respects as our agent in matters pertaining to these applications.

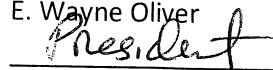
Oliver & Lang, L.L.C.

By:

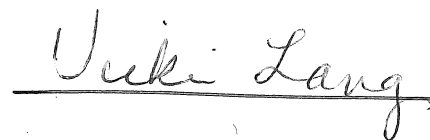


E. Wayne Oliver

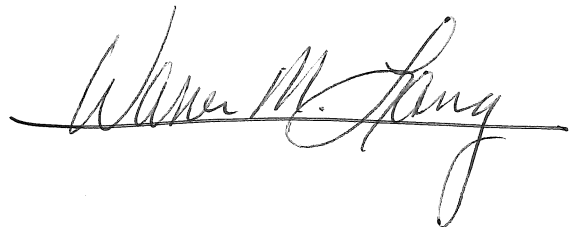
Its:


President
E. Wayne Oliver

X



X



CITY OF CANBY
ZONE MAP CHANGE APPLICATION

Fee \$2,640

RECEIVED

AUG 13 2012

CITY OF CANBY

OWNERS

APPLICANT**

Name Oliver & Lang, LLC and E.Wayne Oliver

Name Great Basin Engineering - Jake Tate

Address PO Box 353

Address 2010 North Redwood Road

City Canby State OR Zip 97013

City Salt Lake City State UT Zip 84116

Phone 503-226-2715 Fax 503-263-6968

Phone 801-521-8529 Fax 801-521-9551

E-mail ryan@oliverinsurance.net

E-mail jaket@gbesouth.com

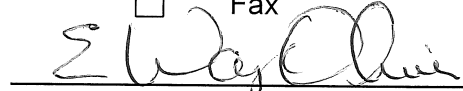
Please indicate who is to receive correspondence (i.e. staff reports etc) and what format they are to be sent

☒ Owner ☒ Email ☐ US Postal
☒ Applicant ☒ Email ☐ US Postal

☐ Fax
☐ Fax

OWNERS' SIGNATURES


E. Wayne Oliver


Oliver & Lang, L.L.C. By: E. Wayne Oliver
Its President

DESCRIPTION OF PROPERTY

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Proposed Use Gasoline Distribution Facility

Existing Structures None

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FOR CITY USE ONLY	
File # :	
Date Received:	By:
Completeness:	
Pre-App Meeting:	
Hearing Date:	

****If the applicant is not the property owner, they must attach documentary evidence of their authority to act as agent in making this application.**

Canby Neighborhood Review Meeting Notes

A neighborhood review meeting was held per August 8, 2012 mailing notice as follows:

Date: August 28, 2012

Time: 6:00 PM-7:30 PM

Location: Hope Village Community Center

Address: 1535 S. Ivy St Canby, OR 97013

James Coombes of Fred Meyer Stores, Inc. hosted and conducted the meeting. He presented an overall project description and highlights of the proposed Fred Meyer Fuel Center at the southwest corner of SE 1st Avenue (Hwy 99E) and S. Locust St.

Exhibit drawings [attached] were on display showing the proposed Fred Meyer Fuel Center site plan, elevations, and a map of the current and the proposed Canby Downtown Overlay District (CDOD) with surrounding properties.

Six people attended the meeting. Five of people attending identified themselves on the meeting mailing list. [Attached]

Mr. Coombes described the current conditions of the subject property and surrounding properties. He then described the zoning change application process and design review application process required for approval of the fuel center development as proposed by Fred Meyer.

Mr. Coombes pointed out that the subject site is zoned Hwy Commercial (C2) but located just inside the Core Commercial Sub-Area of the CDOD, where minimum building setback requirements and other design standards would restrict new fuel center site layout and circulation. He noted that the subject property was adjacent to properties outside of the Core Commercial Sub-Area of the CDOD. This placed development restriction not required of those adjacent properties.

Opportunity was provided for questions and discussion. Traffic impacts, fuel center operations, design elements including landscaping, lighting, signage, and safety and security were major points discussed.

Mr. Coombes described details of design elements, site lighting, safety standards and security monitoring proposed by Fred Meyer. He noted a comprehensive traffic study has been provided with the application package as required by City and State direction and reviewed by both City of Canby and Oregon Department of Transportation (ODOT). He also noted that ODOT has approved site access onto Highway 99E.

He informed those in attendance that City Planning Commission public hearing was scheduled for September 24th at 6:00 PM at the Council Chambers, then adjourned the meeting.

August 8, 2012

RE: NOTICE OF NEIGHBORHOOD REVIEW MEETING
ON PROPOSED FRED MEYER FUEL CENTER

Dear Resident or Property Owner:

This notice is provided to you pursuant to Canby City Code Section 16.89.070 and is with respect to an approximately ¾-acre property located on the west side of S. Locust Street, between SE 1st Avenue (Highway 99) and SE 2nd Avenue. The property consists of Tax Lots 100, 200, 300, 2200 and 2300 of Clackamas County Tax Map 3 1E 33DC. The base zone is Highway Commercial (C-2). The site is also in the Downtown Canby Overlay Zone (DCO) at the eastern edge of the Core Commercial (CC) sub-area.

Fred Meyer is considering a proposal to install a fuel center consisting of a 58' x 92' canopy with 6-multi-product dispensers that will provide 12 fueling positions for gasoline and diesel. Additionally, there would be a cashier's kiosk and two underground, double-wall fiberglass fuel storage tanks. The request includes changing the property's DCO sub-area designation from Core Commercial (CC) to Outer Highway Commercial (OHC), along with other related applications.

The meeting is scheduled for:

Date: Tuesday, August 28, 2012

Location: Hope Village Community Center

Time: 6:00-7:30 PM

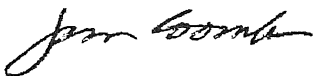
Address: 1535 S. Ivy St. Canby, OR 97013

The purpose of this meeting is to provide a forum for surrounding property owners / residents to review the proposal and to identify issues so they can be considered before the formal application is submitted. This meeting gives you the opportunity to share with us any special information you know about the property involved. We will try to answer questions related to how the project would meet relevant development standards consistent with City of Canby land use regulations.

Please note that this will be an informational meeting on preliminary development plans. These plans may change slightly before the application is submitted to the City. Depending upon the type of application, you may receive an official notice from the City of Canby of your opportunity to participate either by submitting written comments, and / or by attending a public hearing.

I look forward to discussing this proposal with you. Please feel free to contact me at (503) 702-1873 or james.coombes@fredmeyer.com or by fax at (503) 797-3539 if you have questions.

Sincerely,



James Coombes
Fred Meyer Stores, Inc.

3 IE 33DC
CANBY

This map was prepared for
assessment purpose only.

D.L.C.
UNDER LEE NO. 56

SW 1/4 SE 1/4 SEC. 33 T.3S. R.1E. W.M.
CLACKAMAS COUNTY

1"=100'

SEE MAP 3 IE 33DB

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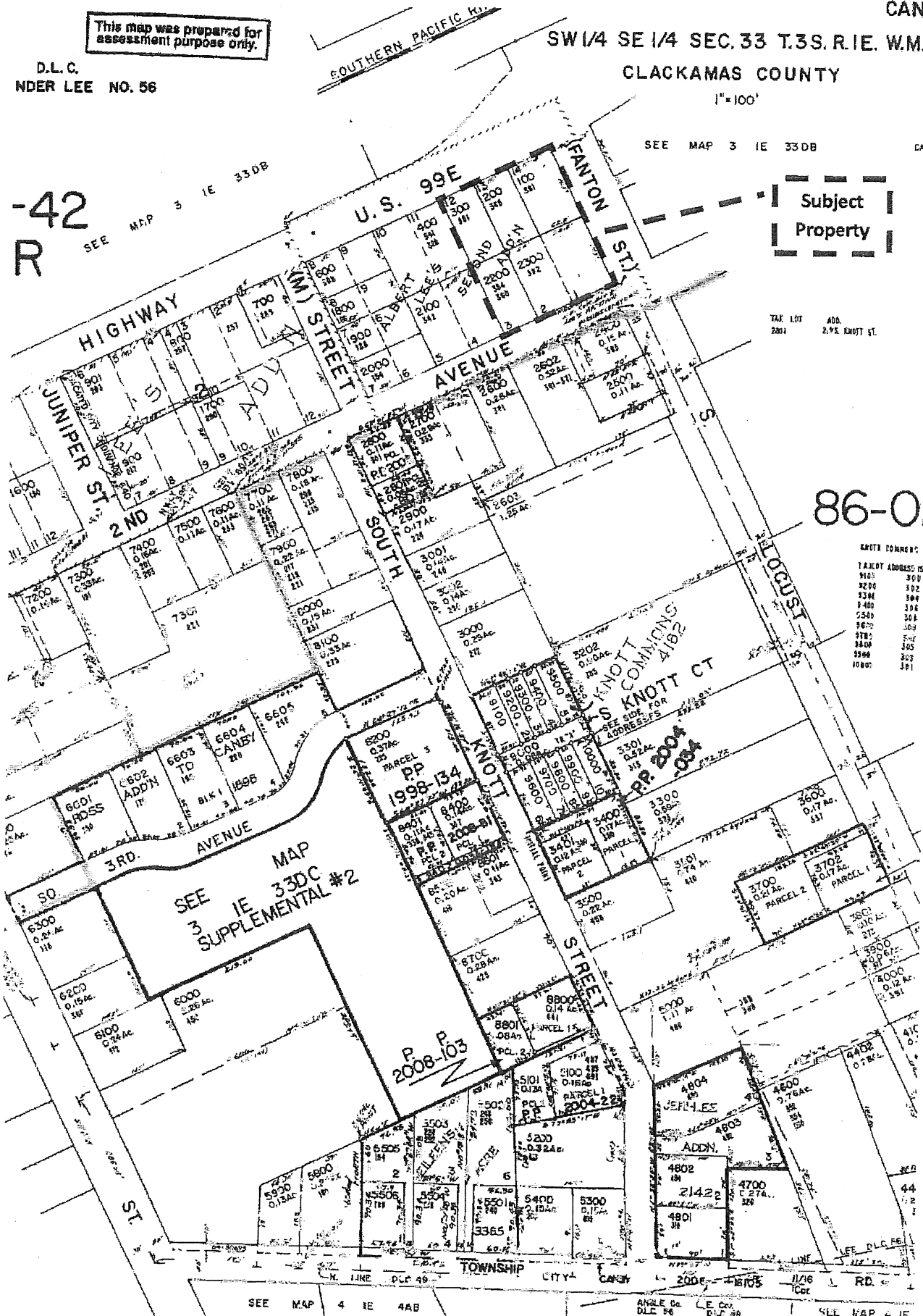
SEE MAP 3 IE 33DB

Subject
Property

TAX LOT ADD.
2801 2.9% KNOTT ST.

86-01

KNOTT COMMING
TAX LOT ADDRESS IS
9101 361
9201 362
9301 363
9401 364
9501 365
9601 366
9701 367
9801 368
9901 369
10001 370



estlake
consultants, inc

Pacific Corporate Center
105 NW 1st Ave
Canby, OR 97224

PORTLAND, OR 97224
9345 # 00.45 AUG 08 12
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NSN

31E33CC08200
Occupant
105 NW 1st Ave
Canby, OR 97013

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97224@7189

consultants, inc Tigard, Oregon 97224

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301 NE 3rd Ave
Canby, OR 97013

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Occupant
505 SE 1st Ave
Canby, OR 97013

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City Council Packet Page 168 of 280

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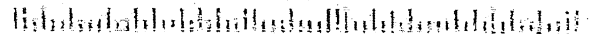


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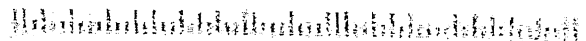


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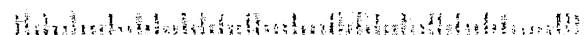
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Canby, OR 97013

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Pacific Corporate Center
10110 SW 97th Avenue, Suite 50
Portland, OR 97224

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Occupant
262 S Hwy 99e
Canby, OR 97013

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consultants, inc 10110 SW 97th 97224

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Canby, OR 97013

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estlake
consultants, inc

Pacific Corporate Center
2015 SE Square Parkway
Tigard, Oregon 97224

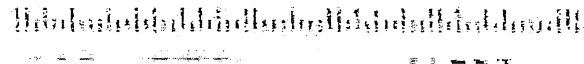


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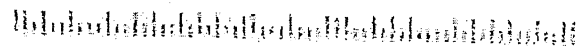


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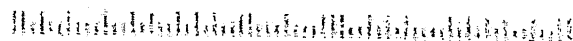
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Pacific Corporate Center
1717 Broadway, Suite 1000
San Francisco, CA 94109
Tel: 415.774.2224

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City Council Packet Page 172 of 280

estlake
consultants, inc

Pacific Corporate Center
1400 NE Pacific Highway
Tigard, Oregon 97224

NSN

31E33DC02500
Occupant
211 S Locust St
Canby, OR 97013

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Occupant
260 S Knott St
Canby, OR 97013

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consultants, inc | Tigard, Oregon 97224

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305 S Locust St
Canby, OR 97013

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estlake
consultants, inc

Pacific Corporate Center
1111 S. Oregon St. Portland, OR 97224
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PORTLAND, OREGON
★ ★ ★
9355 00.450 9353 065
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Occupant
315 S Locust St
Canby, OR 97013

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Barry Zauner
240 SE 3rd Ave
Canby, OR 97013-4416

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Occupant
221 SE 2nd Ave
Canby, OR 97013

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consultants, inc

Pacific Corporate Center
15115 SW Meadows Parkway, Tigard, OR 97224

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9395 00.450 8853965
2283 TIGARD, OR 97224

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31E33DC07400
Telephone Assn Canby
201 SE 2nd Ave
Canby, OR 97013-0000

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NO SUCH NUMBER
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consultants, inc

15115 SW Meadows Parkway, Tigard, OR 97224

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9325 00.459 8853965
2294 TIGARD, OR 97224

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31E33DC07500
Telephone Assn Canby
184 N Grant St
Canby, OR 97013-3628

NIXIE 970 SE 1 00 08/10/12
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 97224718925 *1229-05504-08-38

97013352884
972247189

2293 TIGARD, OR 97224

UTF

31E33DC07800
Ronald & Arnold Choy
209 S Knott St
Canby, OR 97013-4422

NIXIE 970 SE 1 00 08/10/12
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
BC: 97224718925 *1829-06123-08-38

97013442209
972247189

Pacific Corporate Center
17115 17th Ave. S.W. Burien, WA 98148
Phone: (206) 835-9722

31E33DC10000
Occupant
301 S Knott St
Canby, OR 97013

NIXIE 370 SE 1 00 08/10/12
RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD
EO: 97124718925 *1529-09858-08-38

97-701-189

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

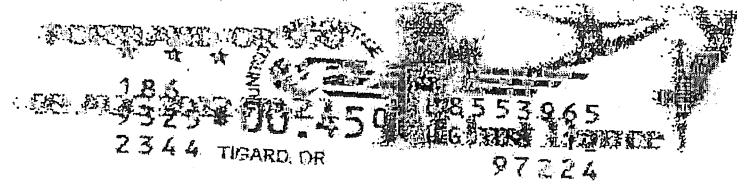
NEIGHBORHOOD MEETING AUGUST 28, 2012

ATTENDANCE -
MAILING LIST

NAME	ADDRESS OR CONTACT
Vicki Lang	1320 SE 8th Ave vic711@hotmail
Wayne Oliver	101 N. Ivy St. Canby Or 97003 ^{com}
	wayne@oliverinsurance.net
Cristobal Lopez	154 S. Knott St Canby
Roger Skoe	1853 N. Teakwood Cir. Canby
Jim Coombes	3800 SE 22nd Ave Portland OR 97202

Westlake
consultants, inc

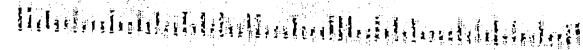
Pacific Corporate Center
13860 Wisteria Dr NE
Aurora, OR 97002-9724



31E33DC08000
Coreen Savage
13860 Wisteria Dr NE
Aurora, OR 97002-9760

N 970 N7E 1 7111 ON 08/09/13
FORWARD TIME EXP RIN TO SEND
SAVAGE
231 S W 1011 ST
CANBY OR 97013-4422
RETURN TO SENDER

97002976060
97224@189





Westlake
consultants, inc

Pacific Corporate Center
97224

31E33DC08000
Coreen Savage
231 S. Knott St.
Canby, OR. 97013-4422

UNITED STATES POSTAGE
169 9395 \$00.45⁰ PB8553965
2427 TIGARD, OR AUG 10 12 97224

August 8, 2012

RE: NOTICE OF NEIGHBORHOOD REVIEW MEETING
ON PROPOSED FRED MEYER FUEL CENTER

Dear Resident or Property Owner:

This notice is provided to you pursuant to Canby City Code Section 16.89.070 and is with respect to an approximately $\frac{3}{4}$ -acre property located on the west side of S. Locust Street, between SE 1st Avenue (Highway 99) and SE 2nd Avenue. The property consists of Tax Lots 100, 200, 300, 2200 and 2300 of Clackamas County Tax Map 3 1E 33DC. The base zone is Highway Commercial (C-2). The site is also in the Downtown Canby Overlay Zone (DCO) at the eastern edge of the Core Commercial (CC) sub-area.

Fred Meyer is considering a proposal to install a fuel center consisting of a 58' x 92' canopy with 6-multi-product dispensers that will provide 12 fueling positions for gasoline and diesel. Additionally, there would be a cashier's kiosk and two underground, double-wall fiberglass fuel storage tanks. The request includes changing the property's DCO sub-area designation from Core Commercial (CC) to Outer Highway Commercial (OHC), along with other related applications.

The meeting is scheduled for:

Date: Tuesday, August 28, 2012

Time: 6:00-7:30 PM

Location: Hope Village Community Center


Address: 1535 S. Ivy St. Canby, OR 97013

The purpose of this meeting is to provide a forum for surrounding property owners / residents to review the proposal and to identify issues so they can be considered before the formal application is submitted. This meeting gives you the opportunity to share with us any special information you know about the property involved. We will try to answer questions related to how the project would meet relevant development standards consistent with City of Canby land use regulations.

Please note that this will be an informational meeting on preliminary development plans. These plans may change slightly before the application is submitted to the City. Depending upon the type of application, you may receive an official notice from the City of Canby of your opportunity to participate either by submitting written comments, and / or by attending a public hearing.

I look forward to discussing this proposal with you. Please feel free to contact me at (503) 702-1873 or james.coombes@fredmeyer.com or by fax at (503) 797-3539 if you have questions.

Sincerely,



James Coombes
Fred Meyer Stores, Inc.

This map was prepared for assessment purpose only.

SW 1/4 SE 1/4 SEC. 33 T.3S. R.1E. W.M.
CLACKAMAS COUNTY

 $1^u \approx 100'$

SEE MAP 3 IE 33 DB

CAN

-42
R

SEE MAP 3 IE 3508

Subject
Property

361 LOT 450
2001 200 E. 100TH ST.

86-01

INCOME TAX	AMOUNT
1974	100
1975	100
1976	100
1977	100
1978	100
1979	100
1980	100
1981	100
1982	100
1983	100
1984	100
1985	100
1986	100
1987	100
1988	100
1989	100
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2023	100
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2025	100
2026	100
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2028	100
2029	100
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2031	100
2032	100
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2041	100
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2090	100
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2092	100
2093	100
2094	100
2095	100
2096	100
2097	100
2098	100
2099	100
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2101	100
2102	100
2103	100
2104	100
2105	100
2106	100
2107	100
2108	100
2109	100
2110	100
2111	100
2112	100
2113	100
2114	100
2115	100
2116	100
2117	100
2118	100
2119	100
2120	100
2121	100
2122	100
2123	100
2124	100
2125	100
2126	100
2127	100
2128	100
2129	100

SEE MAP
3 IE 33DC
SUPPLEMENTAL #2

P. P.
2008-103

SEE MAP 4 1E 4AB

City Council Packet Page 84 of 280



First American
Title Insurance Company
NATIONAL COMMERCIAL SERVICES

Date of Production: Friday, August 03, 2012

The ownership information enclosed is time sensitive and should be utilized as soon as possible.

This mailing list was produced with the use of tax assessor maps available online from OR Maps (www.ormap.org/maps/index.cfm) as well as data purchased from the Portland Metro regional government and Real Estate Solutions Inc.

We assume no liability in connection with this service.

Thank you for your business and for using First American Title.



First American Title Insurance Company of Oregon

Clackamas (OR)

Prepared For:

Prepared By: **Kevin M Smith**

Customer Service Department

222 SW Columbia St, Suite 400 - Portland, Oregon 97201

Phone: (503) 219-TRIO Fax: (503) 790-7872

OWNERSHIP INFORMATION

Owner	: Oliver & Lang LLC	Ref Parcel Number	: 31E33DC00100
CoOwner	:	T: 03S	R: 01E S: 33 Q: 251
Site Address	: 391 SE 1st Ave Canby 97013	Parcel Number	: 00795731
Mail Address	: 1320 SE 8th Ave Canby Or 97013		
Telephone	: Owner:	Tenant:	County : Clackamas (OR)

SALES AND LOAN INFORMATION

Transferred	: 02/01/2002	Loan Amount	:
Document #	: 002-011166	Lender	:
Sale Price	:	Loan Type	:
Deed Type	: Bargain & Sale	Interest Rate	:
% Owned	: 100	Vesting Type	: Corporation

PROPERTY DESCRIPTION

Map Page & Grid : 746 D6
Census : Tract: 229.03 Block: 2
Improvement Type : 132 Sgl Family, R1-3, 1-Story (Basement)
Subdivision/Plat : Albert Lees 2nd Add
Neighborhood Cd :
Land Use : 100 Vacant, Residential Land
Legal : 313 ALBERT LEES 2ND ADD LT 14
:
:

ASSESSMENT AND TAX INFORMATION

MktLand : \$77,213
MktStructure :
MktTotal : \$77,213
M50 Assd Total : \$52,124
% Improved :
11-12 Taxes : \$888.36
Exempt Amount :
Exempt Type :
Levy Code : 086042
Millage Rate : 17.0431

PROPERTY CHARACTERISTICS

Bedrooms	: 2	Building SF	: 2,118	Stories	: 1 Story-Bsmt
Bathrooms	: 1.00	1st Floor SF	: 897	Garage SF	:
Fireplace	:	Above Ground SF	: 1,221	Lot Acres	: .14
Heat Type	: Stove	Upper Finished SF	:	Lot SF	: 6,280
Interior Material	: Cld\paper	Unfin Upper Story	:	Year Built	: 1916
Exterior Finish	: Shake	Upper Total SF	: 324	Year Appraised	:
Floor Cover	: Fir	Finished SF	: 1,221	Appraisal Area	:
Roof Type	: Composition	Basement Fin SF	:	School District	: 086
Roof Shape	: Gable	Basement Unfin SF	: 897	Utility District	:
Foundation	: Concr Blk	Basement Total SF	: 897		

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.



First American Title Insurance Company of Oregon

Clackamas (OR)

Prepared For:

Prepared By: **Kevin M Smith**

Customer Service Department

222 SW Columbia St, Suite 400 - Portland, Oregon 97201

Phone: (503) 219-TRIO Fax: (503) 790-7872

OWNERSHIP INFORMATION

Owner	: Oliver & Lang LLC	Ref Parcel Number	: 31E33DC00200
CoOwner	:	T: 03S	R: 01E S: 33 Q: 251
Site Address	: 369 SE 1st Ave Canby 97013	Parcel Number	: 00795740
Mail Address	: 1320 SE 8th Ave Canby Or 97013		
Telephone	: Owner:	Tenant:	County : Clackamas (OR)

SALES AND LOAN INFORMATION

Transferred	: 02/01/2002	Loan Amount	:
Document #	: 002-011165	Lender	:
Sale Price	:	Loan Type	:
Deed Type	: Bargain & Sale	Interest Rate	:
% Owned	: 100	Vesting Type	: Corporation

PROPERTY DESCRIPTION

Map Page & Grid : 746 D6
Census : Tract: 229.03 Block: 2
Improvement Type : 121 Sgl Family, R1-2, 1-Story
Subdivision/Plat : Albert Lees 2nd Add
Neighborhood Cd :
Land Use : 100 Vacant, Residential Land
Legal : 313 ALBERT LEES 2ND ADD LT 13
:
:

ASSESSMENT AND TAX INFORMATION

MktLand : \$72,841
MktStructure :
MktTotal : \$72,841
M50 Assd Total : \$48,450
% Improved :
11-12 Taxes : \$825.74
Exempt Amount :
Exempt Type :
Levy Code : 086042
Millage Rate : 17.0431

PROPERTY CHARACTERISTICS

Bedrooms	: 2	Building SF	: 1,200	Stories	: 1
Bathrooms	: 1.00	1st Floor SF	: 780	Garage SF	:
Fireplace	:	Above Ground SF	: 1,200	Lot Acres	: .11
Heat Type	: Elec Baseboard	Upper Finished SF	: 420	Lot SF	: 5,000
Interior Material	: Drywall	Unfin Upper Story	:	Year Built	: 1946
Exterior Finish	: Shake	Upper Total SF	: 420	Year Appraised	:
Floor Cover	: Fir	Finished SF	: 1,200	Appraisal Area	:
Roof Type	: Composition	Basement Fin SF	:	School District	: 086
Roof Shape	: Gable	Basement Unfin SF	:	Utility District	:
Foundation	: Concrete	Basement Total SF	:		

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.



First American Title Insurance Company of Oregon

Clackamas (OR)

Prepared For:

Prepared By: **Kevin M Smith**

Customer Service Department

222 SW Columbia St, Suite 400 - Portland, Oregon 97201

Phone: (503) 219-TRIO Fax: (503) 790-7872

OWNERSHIP INFORMATION

Owner	: Oliver & Lang LLC	Ref Parcel Number	: 31E33DC00300
CoOwner	:	T: 03S	R: 01E S: 33 Q: 251
Site Address	: 351 SE 1st Ave Canby 97013	Parcel Number	: 00795759
Mail Address	: 1320 SE 8th Ave Canby Or 97013		
Telephone	: Owner:	Tenant:	County : Clackamas (OR)

SALES AND LOAN INFORMATION

Transferred	: 02/01/2002	Loan Amount	:
Document #	: 002-011167	Lender	:
Sale Price	:	Loan Type	:
Deed Type	: Bargain & Sale	Interest Rate	:
% Owned	: 100	Vesting Type	: Corporation

PROPERTY DESCRIPTION

Map Page & Grid : 746 D6
Census : Tract: 229.03 Block: 2
Improvement Type : *unknown Improvement Code*
Subdivision/Plat : Albert Lees 2nd Add
Neighborhood Cd :
Land Use : 100 Vacant, Residential Land
Legal : 313 ALBERT LEES 2ND ADD LT 012
:
:

ASSESSMENT AND TAX INFORMATION

MktLand : \$72,841
MktStructure :
MktTotal : \$72,841
M50 Assd Total : \$46,396
% Improved :
11-12 Taxes : \$790.73
Exempt Amount :
Exempt Type :
Levy Code : 086042
Millage Rate : 17.0431

PROPERTY CHARACTERISTICS

Bedrooms	:	Building SF	:	Stories	:
Bathrooms	:	1st Floor SF	:	Garage SF	:
Fireplace	:	Above Ground SF	:	Lot Acres	: .11
Heat Type	:	Upper Finished SF	:	Lot SF	: 5,000
Interior Material:	:	Unfin Upper Story	:	Year Built	:
Exterior Finish	:	Upper Total SF	:	Year Appraised	:
Floor Cover	:	Finished SF	:	Appraisal Area	:
Roof Type	:	Basement Fin SF	:	School District	: 086
Roof Shape	:	Basement Unfin SF	:	Utility District	:
Foundation	:	Basement Total SF	:		

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First American Title Insurance Company of Oregon

Clackamas (OR)

Prepared For:

Prepared By: **Kevin M Smith**

Customer Service Department

222 SW Columbia St, Suite 400 - Portland, Oregon 97201

Phone: (503) 219-TRIO Fax: (503) 790-7872

OWNERSHIP INFORMATION

Owner : Oliver & Lang LLC

CoOwner :

Site Address : 354 SE 2nd Ave Canby 97013

Mail Address : 1320 SE 8th Ave Canby Or 97013

Telephone : Owner:

Tenant:

Ref Parcel Number : 31E33DC02200

T: 03S R: 01E S: 33 Q: 251

Parcel Number : 00795964

County : **Clackamas (OR)**

SALES AND LOAN INFORMATION

Transferred : 02/01/2002

Document # : 002-011163

Sale Price :

Deed Type : Bargain & Sale

% Owned : 100

Loan Amount :

Lender :

Loan Type :

Interest Rate :

Vesting Type : Corporation

PROPERTY DESCRIPTION

Map Page & Grid : 746 D6

Census : Tract: 229.07 Block: 1

Improvement Type : *unknown Improvement Code*

Subdivision/Plat : Albert Lees 2nd Add

Neighborhood Cd :

Land Use : 200 Vacant, Commercial Land

Legal : 313 ALBERT LEES 2ND ADD LT 3

:

:

ASSESSMENT AND TAX INFORMATION

MktLand : \$29,408

MktStructure :

MktTotal : \$29,408

M50 Assd Total : \$21,415

% Improved :

11-12 Taxes : \$364.98

Exempt Amount :

Exempt Type :

Levy Code : 086042

Millage Rate : 17.0431

PROPERTY CHARACTERISTICS

Bedrooms :

Bathrooms :

Fireplace :

Heat Type :

Interior Material:

Exterior Finish :

Floor Cover :

Roof Type :

Roof Shape :

Foundation :

Building SF :

1st Floor SF :

Above Ground SF :

Upper Finished SF :

Unfin Upper Story :

Upper Total SF :

Finished SF :

Basement Fin SF :

Basement Unfin SF :

Basement Total SF :

Stories :

Garage SF :

Lot Acres : .11

Lot SF : 5,000

Year Built :

Year Appraised :

Appraisal Area :

School District : 086

Utility District :

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.



First American Title Insurance Company of Oregon

Clackamas (OR)

Prepared For:

Prepared By: **Kevin M Smith**

Customer Service Department

222 SW Columbia St, Suite 400 - Portland, Oregon 97201

Phone: (503) 219-TRIO Fax: (503) 790-7872

OWNERSHIP INFORMATION

Owner	: Oliver & Lang LLC	Ref Parcel Number	: 31E33DC02300
CoOwner	:	T: 03S	R: 01E S: 33 Q: 251
Site Address	: 392 SE 2nd Ave Canby 97013	Parcel Number	: 00795973
Mail Address	: 1320 SE 8th Ave Canby Or 97013		
Telephone	: Owner:	Tenant:	County : Clackamas (OR)

SALES AND LOAN INFORMATION

Transferred	: 02/01/2002	Loan Amount	:
Document #	: 002-011162	Lender	:
Sale Price	:	Loan Type	:
Deed Type	: Bargain & Sale	Interest Rate	:
% Owned	: 100	Vesting Type	: Corporation

PROPERTY DESCRIPTION

Map Page & Grid	: 746 D6
Census	: Tract: 229.07 Block: 1
Improvement Type	: *unknown Improvement Code*
Subdivision/Plat	: Albert Lees 2nd Add
Neighborhood Cd	:
Land Use	: 200 Vacant, Commercial Land
Legal	: 313 ALBERT LEES 2ND ADD LTS 1&2
	:
	:

ASSESSMENT AND TAX INFORMATION

MktLand	: \$66,406
MktStructure	:
MktTotal	: \$66,406
M50 Assd Total	: \$48,334
% Improved	:
11-12 Taxes	: \$823.76
Exempt Amount	:
Exempt Type	:
Levy Code	: 086042
Millage Rate	: 17.0431

PROPERTY CHARACTERISTICS

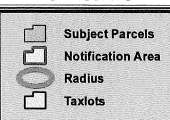
Bedrooms	:	Building SF	:	Stories	:
Bathrooms	:	1st Floor SF	:	Garage SF	:
Fireplace	:	Above Ground SF	:	Lot Acres	: .26
Heat Type	:	Upper Finished SF	:	Lot SF	: 11,280
Interior Material:	:	Unfin Upper Story	:	Year Built	:
Exterior Finish	:	Upper Total SF	:	Year Appraised	:
Floor Cover	:	Finished SF	:	Appraisal Area	:
Roof Type	:	Basement Fin SF	:	School District	: 086
Roof Shape	:	Basement Unfin SF	:	Utility District	:
Foundation	:	Basement Total SF	:		

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.



A horizontal number line with a black background. It has white tick marks at 0, 100, and 200. The number 0 is at the left end, and 200 is at the right end. A white tick mark is located exactly halfway between 0 and 200, representing 100. Below the line, the word "feet" is written in white.

**550 Foot Radius
SE 1st Ave**



This information is deemed reliable but is not guaranteed.



This map was prepared for assessment purpose only.

NE 1/4 SW1/4 SEC. 33 T.3S. R.1E. W.M.

CLACKAMAS COUNTY

D.L.C. PHILANDER LEE NO. 56

3 IE 33CA CANBY



City Council Packet Page 191 of 280

This map was prepared for
assessment purpose only.

NW1/4 SE 1/4 SEC. 33 T.3S. R.1E. W.M.

D.L.C.
PHILANDER LEE NO. 56

3 IE 33DB
CANBY

CLACKAMAS COUNTY

1"=100'

SEE MAP 3 IE 33

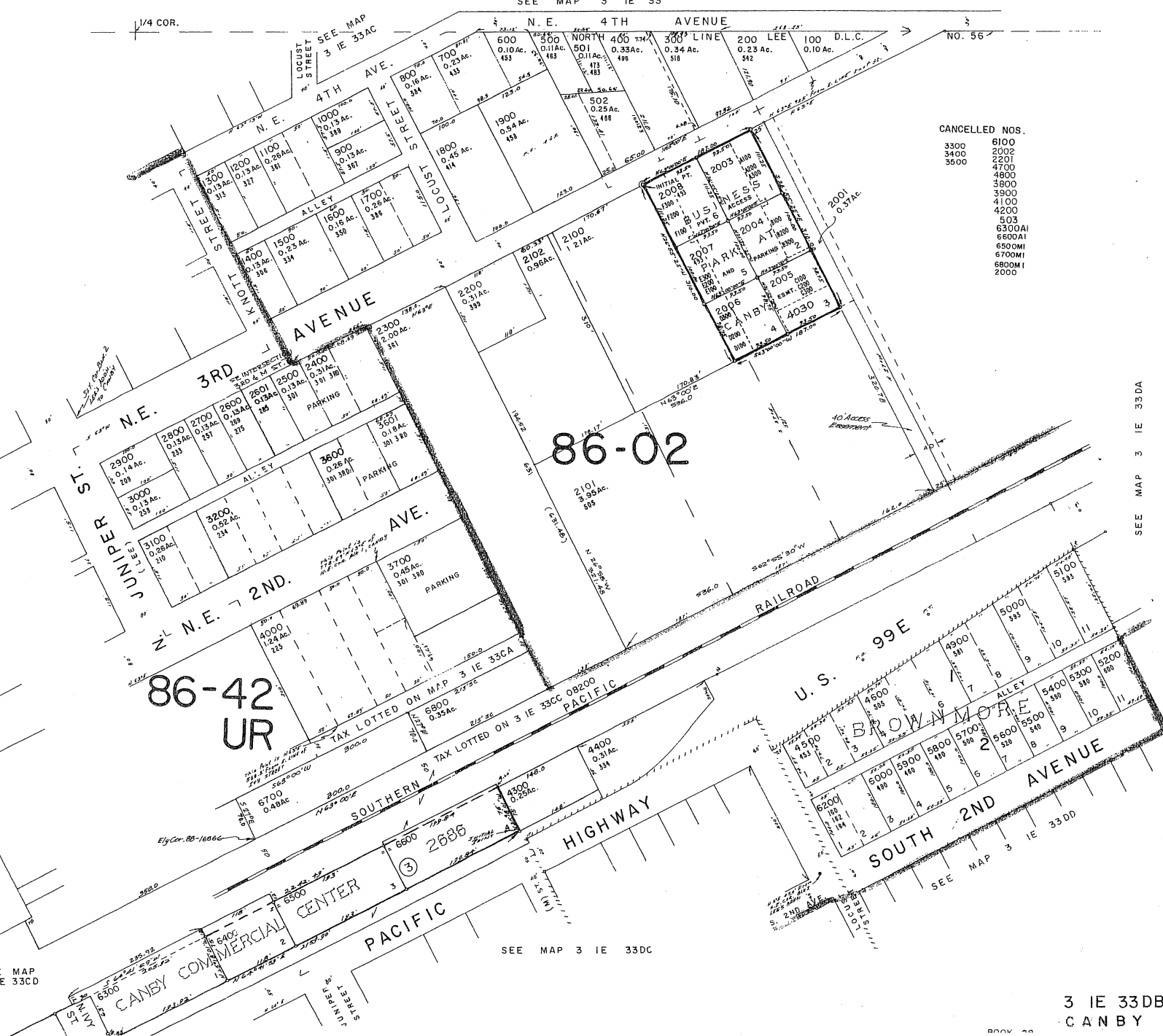
SEE MAP 3 IE 33CA

SEE MAP 3 IE 33DA

SEE MAP 3 IE 33DC

SEE MAP
3 IE 33CD

- CANCELLED NOS.
- | | |
|------|--------|
| 3300 | 6100 |
| 3400 | 2002 |
| 3500 | 2201 |
| | 4700 |
| | 4800 |
| | 3800 |
| | 3900 |
| | 4100 |
| | 4200 |
| | 503 |
| | 6300AI |
| | 6600AI |
| | 6500MI |
| | 6700MI |
| | 6800MI |
| | 2000 |



This map was prepared for
assessment purpose only.

D.L.C.
PHILANDER LEE NO. 56

SW 1/4 SE 1/4 SEC. 33 T.3S. R.1E. W.M.

CLACKAMAS COUNTY

3 IE 33DC
CANBY

1"=100'

SEE MAP 3 IE 33 DB

CANCELLED

8600 701
6400 5500
6600 5600
4800 5700
4900 4601
4301 4701
4401 4805
6800 5301
6801 5401
6900 5801
7000 5901
7100 5302
2501 3100
6000E1 3203
2401 700E1
3301 4500

TAX LOT ADD.
2801 210 S. KNOTT ST.

86-02

KNOTT COMMONS ADDRESSES
TAXLOT ADDRESS (S. KNOTT CT.)
9100 361
9200 362
9300 364
9400 366
9500 368
9600 369
9700 367
9800 365
9900 363
10000 361

SEE MAP 3 IE 3300

PP 1994-16

SEE MAP 3 IE 3300
SUPPLEMENTAL NO.

SEE MAP 4 IE 4AA

3 IE 33DC
BOOK 28

SEE MAP 4 IE 4AB

ANILE Cor D.L.C. 56 E. Cor D.L.C. 49

86-42
UR

SEE MAP 3 IE 33 DB

SEE MAP 3 IE 33CA

SEE IE 33DC
MAP
SUPPLEMENTAL #2

P.P.
2008-103

P.P.
1998-134

P.P.
2008-81

P.P.
2004-03A

P.P.
2004-03B

P.P.
2004-03C

P.P.
2004-03D

P.P.
2004-03E

P.P.
2004-03F

P.P.
2004-03G

P.P.
2004-03H

P.P.
2004-03I

P.P.
2004-03J

P.P.
2004-03K

$$1'' = 100'$$

SEE MAP 3 IE 33DC

SEE MAP 3 IE 34C

CANCELLED.

200
1200
1201
1303
1502
1901
1601
1909
2001
2002
2100
1401
1204
2111
1327
1302
2117
2200
1701
1801
1911
2003
2000
2122

TAX LOTTED ON
31E 34C 700

D.L.C. NO. 56

3 1E 33DD
4 BOOK 28
3

BOOK 25

31E33CA05500
Frank Cutsforth
Po Box 1207
Canby, OR 97013-1207

31E33CC08200
Union Pacific Corp
1400 Douglas St #1640
Omaha, NE 68179-1001

31E33DA00100
Package Container Inc
777 NE 4th Ave
Canby, OR 97013-2341

31E33DB02001
Package Containers Inc
777 NE 4th Ave
Canby, OR 97013-2341

31E33DB02101
Georgia-Pacific Gypsum LLC
3001 John F Kennedy Blvd #b
North Little Rock, AR 72116-9248

31E33DB02300
Larry Beck
2592 SE 1st Ave
Canby, OR 97013-9760

31E33DB03700
Urban Renewal Agency City Of
Canby
Po Box 930
Canby, OR 97013-0930

31E33DB04000
Frank Cutsforth
Po Box 1207
Canby, OR 97013-1207

31E33DB04300
Craco Inc
334 SE 1st Ave
Canby, OR 97013-3806

31E33DB04400
Craco Inc
334 SE 1st Ave
Canby, OR 97013-3806

31E33DB04500
Rbs Petroleum LLC
15786 Upper Boones Ferry Rd
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31E33DB04600
Jerome Witt
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31E33DB05400
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31E33DB05500
Michael Myers
540 SE 2nd Ave
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31E33DB05600
Gary & Laura Holland
520 SE 2nd Ave
Canby, OR 97013-4410

31E33DB05700
Reveriano & Carmen Ramirez
500 SE 2nd Ave
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31E33DB05800
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480 SE 2nd Ave
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31E33DB05900
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31E33DB06000
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31E33DB06200
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31E33DB06500
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31E33DC00600
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31E33DC01700
290 Se Second Avenue LLC
3723 SW Bridlemile Ln
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31E33DC02000
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31E33DC02100
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31E33DC02900
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31E33DC03000
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31E33DC08200
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31E33DC09000
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31E33DC09100
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31E33DC09300
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31E33DC09400
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306 S Knott St
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31E33DC09500
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31E33DD00500
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31E33CC08200 Occupant 105 NW 1st Ave Canby, OR 97013	31E33DC01800 Occupant 126 S Knott St Canby, OR 97013	31E33DC01900 Occupant 138 S Knott St Canby, OR 97013
31E33DB06200 Occupant 160 S Locust St Canby, OR 97013	31E33DD00100 Occupant 202 S Locust St Canby, OR 97013	31E33DC00901 Occupant 203 SE 1st Ave Canby, OR 97013
31E33DB06500 Occupant 206 S Hwy 99e Canby, OR 97013	31E33DC02500 Occupant 211 S Locust St Canby, OR 97013	31E33DC07900 Occupant 217 S Knott St Canby, OR 97013
31E33DC02603 Occupant 217 S Locust St Canby, OR 97013	31E33DC00900 Occupant 220 SE 2nd Ave Canby, OR 97013	31E33DC07301 Occupant 221 SE 2nd Ave Canby, OR 97013
31E33DC02900 Occupant 224 S Knott St Canby, OR 97013	31E33DB04000 Occupant 225 NE 2nd Ave Canby, OR 97013	31E33DC08000 Occupant 231 S Knott St Canby, OR 97013
31E33DC03001 Occupant 240 S Knott St Canby, OR 97013	31E33DD01203 Occupant 250 S Locust St Canby, OR 97013	31E33DC00800 Occupant 257 SE 1st Ave Canby, OR 97013
31E33DC03002 Occupant 260 S Knott St Canby, OR 97013	31E33DB06600 Occupant 262 S Hwy 99e Canby, OR 97013	31E33DC07700 Occupant 265 SE 2nd Ave Canby, OR 97013
31E33DC03000 Occupant 272 S Knott St Canby, OR 97013	31E33DC08100 Occupant 275 S Knott St Canby, OR 97013	31E33DD01202 Occupant 278 S Locust St Canby, OR 97013
31E33DC00700 Occupant 289 SE 1st Ave Canby, OR 97013	31E33DC01700 Occupant 290 SE 2nd Ave Canby, OR 97013	31E33DC08200 Occupant 291 S Knott St Canby, OR 97013
31E33DB03700 Occupant 301 NE 3rd Ave Canby, OR 97013	31E33DC10000 Occupant 301 S Knott St Canby, OR 97013	31E33DC09200 Occupant 302 S Knott St Canby, OR 97013

31E33DC09900
Occupant
303 S Knott St
Canby, OR 97013

31E33DC03301
Occupant
315 S Locust St
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31E33DC02100
Occupant
342 SE 2nd Ave
Canby, OR 97013

31E33DB04500
Occupant
453 SE 1st Ave
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31E33DD00800
Occupant
535 SE 2nd Ave
Canby, OR 97013

31E33DC03202
Occupant
305 S Locust St
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31E33DC00400
Occupant
341 SE 1st Ave
Canby, OR 97013

31E33DB02300
Occupant
361 NE 3rd Ave
Canby, OR 97013

31E33DB02101
Occupant
505 NE 3rd Ave
Canby, OR 97013

31E33DB05400
Occupant
560 SE 2nd Ave
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31E33DD01314
Occupant
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31E33DC02600
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31E33DC02602
Occupant
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31E33DB04600
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September 4, 2012

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VIA HAND DELIVERY

Brian Brown
Angie Lehnert
City of Canby
111 NW Second Avenue
Canby, OR 97013

Re: Fred Meyer, File #ZC 12-01, #DR 12-03 and #TA 12-01

Dear Brian and Angie:

Fred Meyer, Inc. ("Applicant") has three consolidated, pending land use applications before the City: (1) Text Amendment # TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone ("DCO") from Core Commercial ("CC") to Outer Highway Commercial ("OHC") ("Text Amendment"); (2) Zoning Map Amendment # ZC 12-01 corresponding to the requested Text Amendment ("Map Amendment"); and (3) Site Design Review # DR 12-03 for construction of the six unit fuel-dispensing station ("SDR"). This letter explains why the proposed Map Amendment satisfies the applicable criteria from the City Municipal Code ("CMC"). Further, it provides additional information to support findings that the Text Amendment and SDR also meet the applicable CMC requirements.

I. Map Amendment (supplemental to Text Amendment application)

Applicant maintains that the Map Amendment is not necessary since an amendment to the City's text alone facilitates the development of the six unit fuel-dispensing station ("Project") and the fact that the CDO subareas are not mapped on the City's zoning maps. Nonetheless, Applicant provides the following to support the requested Map Amendment. See also II.C. below.

The review requirements for a zone map amendment are contained in CMC 16.54. Applicant is authorized to initiate a zone map amendment under CMC 16.54.010 and provides the following information to support findings of compliance with the applicable requirements of CMC 16.54.



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A. Map Amendment Standard CMC 16.54.040(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 aspects of land conservation and development;

The goal of the City's Land Use Element is "to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another." Policy 6 of the Land Use Element requires that the City "recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas." The City identified "Areas of Special Concern" to implement Policy 6. Development proposals, even those that appear to conform with the existing zoning, will be considered to conform with the City Comprehensive Plan only if the proposal also meets the applicable Area of Special Concern requirements. The Property is not located in an Area of Special Concern, therefore only the requirements of the underlying zone control. See Attachment 1 containing the Areas of Special Concern Map from the Comprehensive Plan.

The proposed Map Amendment is also consistent with other goals and policies of the City's Comprehensive Plan. Like the Text Amendment, the Map Amendment only involves changing the boundary between two of the subareas within the DCO. Neither amendment will affect the underlying C-2 base zone designation. City planning staff found that the Text Amendment was consistent with the City's Comprehensive Plan under CMC 16.88.160(D)(1). See page 7 of the Text Amendment Staff Report included in the consolidated record. Thus, for the reasons set forth in the Text Amendment Staff Report and below, staff can also find that the Map Amendment also complies with the applicable goals and policies of the City's Comprehensive Plan.

Given that the Map Amendment does not change the base (C-2) or overlay (DCO) zoning, and the fact that the amendment only involves land within the city limits, the plans and policies of the county, state and local districts are generally not applicable to the proposed action.



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B. Map Amendment Standard CMC 16.54.040(B)

Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet all the needs of any use or development which would be permitted by the new zoning.

The Map Amendment works in tandem with the Text Amendment, to the extent necessary, to adjust boundaries between subareas within the DCO. As described above, it does not change the C-2 or DCO zone boundaries. It also does not result in unanticipated demand for new public facilities or services for this area. The site is served by municipal sewer and water. As already described in the record, and further discussed in Section II.D below, the proposed boundary adjustment of the OHC subarea will not change potential transportation system impacts. The proposal does not change the allowed use, only the design standards that apply to the site. Therefore, there is adequate evidence to support findings that the Map Amendment will not result in adverse impacts to the transportation system. Accordingly, the Map Amendment satisfies CMC 16.54.040(B).

C. General Provisions Traffic Impact Study CMC 16.08.150

CMC 16.08.150(A)

The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities: what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

The proposed Map Amendment, like the Text Amendment discussed under Section II.E below, does not trigger further analysis under the Transportation Planning Rule ("TPR"). The TPR (OAR 660-012-0060) requires analysis and mitigation "[i]f an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility." Here, the proposed Map Amendment does not change the underlying base zone or the overlay zone, but rather simply adjusts the boundaries between two subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change



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the standards implementing the City's functional classification system for roadways. It also would not change the trip generation potential in the C-2 zone, so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs or any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the site from CC to OHC. Thus, the proposed change from CC to OHC (both of which are subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation corridors. No further analysis or mitigation is needed to address the TPR. See also the discussion under Section II.E below.

Applicant provided a Transportation Impact Analysis ("TIA") along with the Text Amendment and SDR. This TIA also supports the Map Amendment. As discussed below in Section II.E, the requirements of CMC 16.08.150 have been adequately addressed and are satisfied based on evidence already in the consolidated records.

II. Additional Information to Support Approvals

At the City Planning Commission hearing on July 23, 2012, Save Downtown Canby, a group of local business owners ("SDC Business Owners") alleged that the proposed applications failed to meet the applicable City requirements for a variety of reasons. On July 12, 2012, Applicant provided supplemental findings for both the Text Amendment ("Supplemental Text Support") and the SDR ("Supplemental SDR Support"). See Attachment 2. The following supplements and reiterates information provided in the supplements. Overall, there is adequate evidence that demonstrates that the SDC Business Owner allegations raise no basis upon which to deny or condition the Text Amendment, the Map Amendment, or the SDR.

A. City Policy is not Undermined

The proposed applications do not propose to change boundaries of the base zone or of the DCO zone. SDC Business Owners appear to take the position that the City is unable to modify its zoning text and map simply because a text or map amendment is near in time to a previous text or map amendment. There is simply no support in the law for that position and, in fact, it runs contrary to the basic powers of City governance allowing for establishing zones which provide for a healthy and vibrant economy and provide for the best interests of the City's citizens. Further, the policies of the two subareas and the DCO are supported by the proposed



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applications. The Supplemental Text Support explains in detail why the objectives of the two subareas are met with the proposed applications. Instead of summarizing what is already in the record, please see page 2-3 of the Supplemental Text Support included as Attachment 2. The record demonstrates that the proposed amendments are not inconsistent with City policy but in fact, further the planning of the DCO.

B. The Text Amendment Satisfies CMC 16.88.160

SDC Business Owners state that Applicant failed to adequately address the Comprehensive Plan amendment approval standards. The applicable approval standards are set forth in CMC 16.88.160 governing amendments to the text of the CMC, not the City's Comprehensive Plan. Applicant already addressed these approval criteria in the Supplemental Text Support. Nonetheless, Applicant provides the following to support findings under CMC 16.88.160(D).

CMC 16.88.160(D)

In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

1. *The Comprehensive Plan of the city, 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;*

The proposed amendment is very limited in scope. The proposal would make the transition from the CC subarea of DCO to the OHC subarea of the DCO approximately 950 feet east of the Ivy Street intersection with Highway 99 rather than 1,100 feet (a difference of approximately 150 feet). See page 4 of the Supplemental Text Support included in Attachment 2. The proposed change does not undermine the City's Comprehensive Plan goal and policy findings adopted as a part of the 2008 re-zoning of this area, which was provided into the record by SDC Business Owners. The elements of CMC 16.88.160(D)(1) have been appropriately considered.

2. *A public need for the change;*

The question of public need focuses on the need for the text amendment (*i.e.*, adjustment of the overlay zone subarea boundaries), not the underlying question of whether additional fuel facilities are needed. While it is easy to make a finding that additional fuel facilities meet the public need because they foster competition, it is also easy to draw the conclusion that the public



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need is met through adjustment of the DCO to provide for the development of property located in City. The public need is satisfied by the adjustment of the DCO which would facilitate development that has not occurred under the existing designation.

Additionally, the Applicant presented testimony before the Planning Commission, and evidence including an ODOT publication that has been widely used since its publication in November 1999 ("Main Street... when a highway runs through it: A Handbook for Oregon Communities"), demonstrating that concentrating pedestrian-oriented business activity within a focused and limited area is essential for success in the effort to form a vibrant downtown commercial core. Applicant showed that the site is located so far from the Primary Gateway and the Secondary Gateways identified by the City in the plan for Downtown Canby that encouraging "Core Commercial" development could allow businesses to sprawl out to the far edges of the CC subarea, thereby diluting the concentration of activity in the core, to the detriment of achieving the objectives of the DCO zone. For these reasons, the Text Amendment meets the objective of CMC 16.88.160(D)(2).

3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;

The proposed change will serve the public need better than any other change that might be expected to be made. In fact, the only practical approach to creating the ability to develop the parcel is through this amendment. See the discussion under CMC 16.88.160(D)(2) above. Applicant has adequately addressed CMC 16.88.160(D)(3).

4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;

See page 5 of the Supplemental Text Support. It is evident from the evidence already in the record that the proposed amendments will not negatively impact health, safety and the general welfare of the City's citizens.

5. Statewide planning goals.

See Page 5-8 of the Supplemental Text Support. Again, it is evidence from the evidence already in the record that the proposed amendments are consistent with the applicable statewide planning goals.



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C. Applicant Filed a Corresponding Map Amendment Application

Although Applicant does not believe a map amendment is necessary to effectuate the development (as described above), Applicant filed the Map Amendment and provides the analysis in Section I above to demonstrate that the request meets the applicable CMC approval requirements. To the extent that a Map Amendment is required, Applicant has demonstrated that approval of such amendment is warranted.

D. Transportation Impacts were Properly Considered and Evaluated

SDC Business Owners raised four general points concerning potential transportation-related impacts.

Application of the TPR

First, they argued Applicant's TIA was flawed because it failed to address the TPR. In Section I.G above, Applicant outlines why the TPR does not require further analysis for the Map Amendment. The same analysis applies here for the Text Amendment. SDC Business Owners simply say that the TRP analysis is triggered because there is an amendment. However, this is not the proper analysis.

OAR 660-012-0060(1) requires that

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) *would significantly affect an existing or planned transportation facility*, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

The Text Amendment does not propose any functional classifications changes to any transportation facilities. The underlying zone (C-2) is not changing and the types of land use activities allowed at the site are determined by the C-2 base zone designation. Consequently,



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there is no change in potential traffic impact with the Text Amendment. With no change in traffic impact, there is no need to change any transportation facility functional classification. The proposed change in the boundary between two subareas of the DCO (CC to OHC) only affects the design and development standards that apply to the site.

(b) Change standards implementing a functional classification system; or

The Text Amendment does not propose changing the standards implementing the City's functional classifications system for roadways. The functional classifications of roadways in the TSP are designed to meet needs arising from the base zoning of land areas within the City, which, as stated above, zoning will not be changed by the proposed amendment.

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

The proposed uses contemplated by the Text Amendment are already allowed in the zone, so types and levels of travel and access would remain consistent with the functional classification.

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

The Text Amendment would not change trip generation potential in the zone (because it remains the same) so it would not cause any change to the performance of existing or proposed facilities.



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(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The Text Amendment would not change the trip generation potential for the zone (because it remains the same) so it would not result in any change in the performance of existing or proposed facilities. Also, as discussed above in Section I.G, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impacts at the time the DCO was adopted and consequently, there will be no impact in changing from CC to OHC, which are subareas of the DCO rather than different overlays or new zones. Accordingly, for these reasons and those outlined in Section I, the City should determine that the Text Amendment (like the Map Amendment) does not "significantly affect an existing or planned transportation facility" and that therefore no further action is required.

Compliance with Transportation Standards

The Oregon Department of Transportation ("ODOT") approved a full movement driveway and the City's traffic engineer has provided comments on the application. See Attachment 3. As a result, no deferred conditions are required and no further analysis is required.

No Neighborhood Through-Trip Study is Required

The CMC requires a Neighborhood Through-Trip Study ("NTTS") when development is adding 30 peak hour trips or 300 daily trips to an adjacent residential local street. CMC 16.08.150(H). As presented in Figure 8 of the TIA, and with the Highway 99E access configuration allowing all movements now approved by ODOT, the proposed development would not trigger the mentioned thresholds.

- On SE 2nd Avenue, west of the fuel facility, the development will generate 10 AM peak hour trips and 16 PM peak hour trips, both below the threshold of 30 trips.
- On S Locust Street, south of the fuel facility, the development will generate 2 AM peak hour trips and 4 PM peak hour trips, both below the threshold of 30 trips.



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- Daily trips were not estimated in the TIA. They may be estimated between 194 and 204 on SE 2nd Avenue and between 41 and 49 on S Locust Street, all below the threshold of 300 trips.

Therefore, based on these values, the thresholds for the NTTs are not met and no NTTs is required.

Access Spacing is Approved

Access along Highway 99E is under ODOT jurisdiction. CMC 16.46.070 applies to City facilities only. CMC 46.080 refers to Appendix G of the TSP for state highway standards. While ODOT spacing standards cannot be met along the site frontage, ODOT may approve driveways through the approach application process, which it has done. Approval Application No. 17612 was approved by ODOT on August 15, 2012. See Attachment 3.

The proposed driveway is within the Special Transportation Area (“STA”) of Highway 99E. The City’s letter of June 2, 2010 requesting the STA notes that “STA designation would acknowledge the need to balance local access with through travel needs, and allow acceptance of a more relaxed mobility standard.” The shared access proposed with the Project would meet this balance of access and mobility. Moreover, the number of driveways is actually decreasing with the Project. The driveway serving the adjacent retail building will be relocated to improve circulation and will be shared by the two sites, resulting in no increase in the number of driveways on the block. The consolidation of lots as a part of the Project also eliminates the potential need for additional driveways on Highway 99. In these ways, the proposed driveways meet the intent of access management. For these reasons, the SDC Business Owners’ arguments on this issue fail.

E. The Proposal Properly Addresses the SDR Approval and Design Standards

SDC Business Owners have suggested that inadequate information has been provided to demonstrate compliance with CMC 16.49.040. SDC Business Owners also make numerous claims that specific design standards have not been met as specified in the CMC. Applicant has demonstrate compliance with the City’s site and design review standards to the extent possible; however, some standards are either not applicable to the proposed use of the property or not attainable due to Applicant’s stringent design standards, which are among some of the most safe and detailed in the industry. For these reasons, Applicant chose to submit a Type III SDR application. A Type III SDR allows the Planning Commission to approve an application at its own discretion and rather than making direct findings of compliance with the standards, the



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Planning Commission may approve the application upon a finding that it is in compliance with the “intent of the DCO site and design review standards.” CMC 16.89.020(C), 16.49.040(3).

By adopting this language, the City understood that the DCO site and design review standards may not be universally applicable or relevant to every use that is allowed by the underlying zones. Thus, the language allows the City some flexibility without having to grant a variance. In order to assist the Planning Commission in exercising its discretion and concluding that the proposal meets the intent of the standards, Applicant provides the following information to address the specific items SDC Business Owners claim as inadequate.

CMC 16.49.040(A)

The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved;

This requirement deals with the development following the standards set forth by the CMC for location, height and appearance. The Project is an automobile fueling station that is a permitted use in the underlying C-2 zone and by extension of the DCO zone per CMC 16.41.030(A). According, the Project meets the location requirement with relation to its proposed use and the zoning map. With respect to height, maximum allowable height of a building in the OHC subarea is 45 feet. See CMC 16.41.050 Table 3. The proposed canopy structure is under 20 feet. Thus, the height requirement is met.

For appearance, the objectives for the development are identified in CMC 16.41.060(A)(3)(a)-(e). To create a pedestrian-oriented ground floor integrated with exterior components, Applicant has designed the Project with a pedestrian pathway from the street to the under-canopy kiosk, allowing pedestrians to have full access to the site from the street. Also included in the design will be a small open space area with bench that is accessible and usable by the public. The architectural features of the Project sign include columns of the canopy, which create a definite, repetitive element along the street facing side of the structure thus establishing a cohesive architectural element. In addition, distinct portions of the onsite canopy and kiosk are identified by changes in materials helping to create a clear base, middle and top element across the site. These materials are consistent throughout the site creating a uniform appearance and design. A cornice has also been added to the canopy to create a “capping” element for the structure. All materials proposed for the Project are found on the Material Standards for the OHC found in the code (CMC 16.41.070 (E)(2)) and comply with the color palette specified in CMC 16.41.070



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(F)(2)). CMC 16.41.060(A)(3)(d) does not apply to the Project because it is specific to the CC, not the OHC. For these reasons, the appearance requirements have been met.

CMC 16.49.040(B)

The proposed design of the development is compatible with the design of other developments in the same general vicinity;

This requirement relates to the compatibility of the Project design with the other developments in the same general vicinity. Other developments in the same general vicinity include other fueling stations (one located directly across Locust Street and one located across Highway 99 approximately 500 feet west of the site) and other commercial developments including a commercial strip mall and its vehicle parking area on the adjacent property to the west, and a florist's shop and its vehicle parking area on the north side of Highway 99. The presence of other fueling stations on either side of the proposed property indicates that the project is not out of character with its surroundings. However, the existing development in the general vicinity was constructed prior to the adoption of the DCO design standards. As a result, the color palette and materials used in the proposed development will exceed the design of other existing developments and meet the current CMC requirements. Presumably, as the surrounding properties are redeveloped over time, they too will be required to meet the City's DCO requirements and thus come to be in harmony with the City's DCO design objectives and this proposed development.

CMC 16.49.040(C)

The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.

This criterion relates to the location, design, size, color and materials of all structures and signs and requires that such structures be appropriate to the design character of other structures in the vicinity. The location, design, size, color and material of the proposed Project and the Project's compatibility to other developments in the vicinity are discussed under CMC 16.49.040(A) and (B) above. In reviewing the location, design, color and materials of the signage, City staff determined them to be acceptable to the City; however, one comment in the City's initial staff report indicated that the monument sign needed to be moved back to 10 feet behind the curb



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along Highway 99E. In response, Applicant has amended the Preliminary Site Plan to respond to staff's input. See Attachment 4, Sheet 1.1.

The proposed fuel pricing signs on the north and east canopy faces currently exceed the allowable size requirements, as described in CMC 16.42.050 Table 3. This standard limits the size of a wall sign to eight percent of the primary building elevation area but not to exceed 120 square feet total for the primary building frontage and six percent of secondary building elevation but not to exceed 60 square feet total for the secondary building frontage. The City has interpreted the Project's building elevation area to be just the canopy face (92 feet by 3 feet 6 inches) totally 322 square feet of primary frontage the secondary frontage at 206.5 square feet (59 feet by 3 feet 6 inches). Applying the eight percent and six percent requirement results in only 25.76 square feet for signage on the primary frontage and 12.39 square feet for signage on the secondary frontage. This equates to an available signage area that is only 21.5 percent and 20.6 percent of the maximum allowable signage area for the primary and secondary frontages, respectively.

Each face of the canopy will have the Kroger National Logo (6.77 square feet each), and the canopy faces along Highway 99E and SE 2nd Avenue will also have Fred Meyer text (6.14 square feet each) next to the Kroger Logo. Fuel pricing signs are to be located on the canopy facing Highway 99E and Locust Street. The fuel pricing signs are 17 feet 4 inches by 3 feet 6 inches for a total of 60.66 square feet each. The intent of these signs is to provide motorists with accurate information regarding the fuel types being offered at the proposed fuel station in an efficient, easy to locate and safe manner. This will help drivers make traffic related decisions sooner, resulting in safer driving conditions around the fuel station. Another factor dictating the size of the fuel pricing signs are the additional requirements placed on these signs under Oregon law.

Oregon Administrative Rule ("OAR") 137-020-0150 regulates gasoline advertising to prevent misleading price representations. OAR 137-020-0150(3)(a) states: "[t]he retailer must clearly and conspicuously *display on each street sign* the lowest cash prices charged for the sale of the lowest grade of *each type of motor vehicle fuel sold* or offered for sale to all customers or potential customers." (Emphasis added). This rule requires that if any type fuel is listed on a price sign, all types of fuel offered must be listed. Shortening the sign by removing midgrade or premium unleaded, consequently, is not an option and would violate OAR 137-020-0150. Since the only option is to exceed allowable signage area under the CMC or remove the signs, Applicant requests that the Planning Commission use its discretion and approve the canopy price signs if the Planning Commission deems the signage meets the intent of the sign code as



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identified in CMC 16.42.010(A)(1)-(8). Applicant maintains that the proposed signage does indeed meet the intent of the code. The intent is to make sure that signage is appropriate in relation to the size of a specific development. Here, Applicant has minimized the signage to the extent possible to comply with applicable law, and in doing so has created an appropriate relationship between the signage and the size and type of development.

CMC 16.49.040(D) and (E)

The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.

The Board shall, in making its determination of compliance with subsections B through D above, use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible, in regards to subsections B, C, and D above, if the following conditions are met:

- a. The development accumulates a minimum of 70 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and*
- b. At least 15 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).*

This requirement addresses the use of Low Impact Development (“LID”) best management practices whenever feasible based on site and soil conditions. The City has set forth a site design review menu in Table 16.49.060 of the CMC. This table lists a number of LID design options for projects going through a Type III review process and requires that 15 percent of the required menu items must address the LID design options. Applicant discussed in the SDR application how the Project would implement certain LID best management practices. The City’s SDR staff report also addresses this requirement. The result of which culminated in City staff acknowledging that the requirements have been met with the proposed condition of approval that the location of the open space onsite be provided. This area has been identified on revised Preliminary Site Plan and Landscape Plan included in Attachment 4.



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CMC 16.49.040(3)

In review of a Type III Site and Design Review Application described in Section 16.49.035.A.2, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the DCO site and design review standards set forth in 16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1, and with Criteria 4, 5, and 6 below. This requirement identifies that the Board shall determine if there is compliance with the intent of the DCO site and design review standards set forth in 16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1 and with 16.49.040 (4), (5), & (6).

In responding to SDC Business Owners, Applicant makes the following points to demonstrate that the Project does meet the intent of the DCO site and design review standards.

Section 16.41.070(A)(1) addresses pedestrian oriented ground floor design standards for ground floor windows, building entries and doors, transition areas and residential buildings. None of these requirements apply to the proposed Project since the only ground floor windows on the site would be the 4-foot wide window of the attendant kiosk. No building entries or doors are provided for public use on the fuel center. None of the transition requirements are required in the OHC zone and the residential requirements do not apply to a commercial project.

Section 16.41.070(B)(1) addresses design standards for cohesive architectural elements, specifically architectural bays and incorporating design elements within each bay. The columns of the fuel canopy create appropriately sized bays for the ODC zone. The columns have been engaged by adding a stone base and stucco texture to the upper portion. A cornice is provided around the entire canopy. Each bay has a minimum of two projecting fueling position signs and lighting is recessed into the underside of the canopy.

Section 16.41.070(C)(1) addresses design standards for integrated building façade standards, specifically, (1) distinct base, middle and top of building design; (2) ground floor design elements; (3) middle of building design elements; and (4) top of building design elements. The proposed structure does have a distinct base, middle and top design. This was achieved by changing the material, color and texture of materials along the columns of the structure. The canopy creates a distinct “top” to the structure as well. Standards (2) ground floor design elements and (3) middle of building design elements do not apply in the OHC subarea of the DCO Zone. Design elements complying with standard (4) top of building design have been incorporated into the design for a flat roof. The addition of a cornice under 3 feet in height



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around the entire structure meets this requirement. The use of a roof garden is encouraged but not required. As the roof will be inaccessible and the roof drains could become clogged by garden refuse it was determined not to add a rooftop garden.

Section 16.41.070(D)(1) addresses corner intersection standards but is only applicable in the CC zone and is therefore not applicable to this Project following approval of the Text and Map Amendments.

Section 16.41.070(E)(1) addresses material standards for projects in the DCO. All material proposed for the site (stone, stucco, concrete and CMU) can be found in the standards table for the OHC zone.

Section 16.41.070(F)(1) addresses the color palette to be used onsite as being the Sherwin Williams Arts and Crafts color palette. The colors proposed for the fuel station are in harmony with the required palette.

CMC 16.49.040(4)

The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.

This requirement identifies the need for the proposed development to demonstrate that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. As discussed in the SDR application, all public facilities are existing and available to the proposed site. These facilities will be utilized by the development. ADA facilities will be provided onsite from the right-of-way to the kiosk under the fuel canopy. As all facilities are available or provided, this requirement has been met.

CMC 16.49.040(5)

The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall



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not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.

This requirement does not apply to the Project as it addresses housing types and their compliance with CMC.

CMC 16.49.040(6)

As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Chapter 12.32, the city Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.

This requirement addresses the compliance of the development with the City's Tree Ordinance (CMC 12.32). The proposed Project requires the removal of three (3) trees. All of these trees are on private property and therefore do not require permission to be removed (CMC12.32.040). The proposed development will add 19 new trees as part of its landscaping activities. All requirements in the City's Tree Ordinance will be complied with and as such this requirement will be met.

F. DCO Overlay Design Standards are Addressed in Detail

SDC Business Owners claim that Applicant failed to address DCO design standards. Specifically, SDC Business Owners allege that Applicant must demonstrate compliance with *all* OHC approval standards. This statement would be correct if Applicant had opted to follow a ministerial or administrative SDR approval process (Type I or II) but Applicant filed a Type III SDR application. The Type III application allows deviation from the standards of the CMC. As mentioned above and explained in the Supplemental SDR Support included in Attachment 2, a Type III SDR application allows the Planning Commission to approve the application at its own discretion and to determine if the application is in compliance with the "intent of the DCO site and design review standards." CMC 16.89.020(C), 16.49.040(3) (emphasis added). Consequently, satisfying each of the SDR standards is not necessary for the Planning Commission to approve the SDR application as long as the Planning Commission determines that the application meets the intent of the DCO. Detailed information was provided in the SDR application on the applicability and implementation of the requirements for CMC 16.41.060 and



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16.41.070(A)-(F) and substantial information has been presented above regarding the Project's compatibility with the intent of the DCO standards. See also Supplemental SDR Support included in Attachment 2.

G. Sign, Lighting, Parking Landscaping and Parking Standards are Adequately Addressed

Sign Standards

Detailed discussion on the sign standards is provided in the DCO design standards discussion above. Due to the additional requirements placed on fuel pricing signage by the State of Oregon in OAR 137-020-0150, Applicant requests the Planning Commission's interpretation of whether the proposed signage meets the requirements of the zone.

Lighting Standards

The revised lighting plan (included in Attachment 4 as Sheet SE2.0) shows house side shields on all light poles to minimize light trespass and comply with the shielding standards in CMC 16.43.040. Additional details on the under canopy recessed lighting have been provided (as an addendum to Sheet SE2.0), which are updated to the new Kroger standard of using all LED fixtures for the under canopy recessed lighting. The under canopy lighting complies with CMC 16.43.070(D).

Parking Landscaping Standards

The landscape plan has been updated. See Attachment 4, Sheet L1.1. The revised landscape plan incorporates the additional information requested by the City and the additional number of trees required along the eastern property line. Thus the parking lot landscape standards have been met.

Parking Standards

The City's off-street parking requirements in CMC 16.10 set forth the amount of parking required based on the use of a property. CMC Table 16.10.050 does not list a specific parking requirement for a fuel station under the commercial use designation on the table. It does, however, list an "All others" designation for any use not specifically listed in the table. The parking requirement for the "All others" designation is 1.0 space per 550 square feet. The combined area of the attendant kiosk (32 square feet) and the mechanical/restroom kiosk (111 square feet) totals 143 square feet. This results in a required parking count of one stall.



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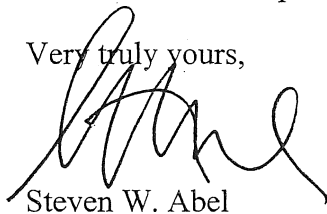
American Disability Act ("ADA") requirements stipulate that if the site has between one and 25 parking stalls, one ADA parking space is required. The site plan properly shows two stalls provided (one being ADA). See Attachment 4, Sheet C1.1 Preliminary Site Plan. The parking requirements in CMC 16.10 are met.

H. Procedural Issues

Applicant has filed the Map Amendment and hereby clarifies that the Text Amendment, Map Amendment, and SDR are related applications and therefore should undergo consolidated review. The records for these applications should also be consolidated. All applications were filed using City forms, were properly authorized by the underlying property owners, and meet the applicable filing requirements under CMC. In addition, Applicant held a public meeting on August 28, 2012 for neighbors. Notice was mailed on August 8, 2012 pursuant to CMC 16.89.070. The notice and meeting minutes from the meeting are included in Attachment 5. For these reasons, there are no procedural issues preventing the City from moving forward and hearing all three applications at the Planning Commission Hearing scheduled for September 24, 2012.

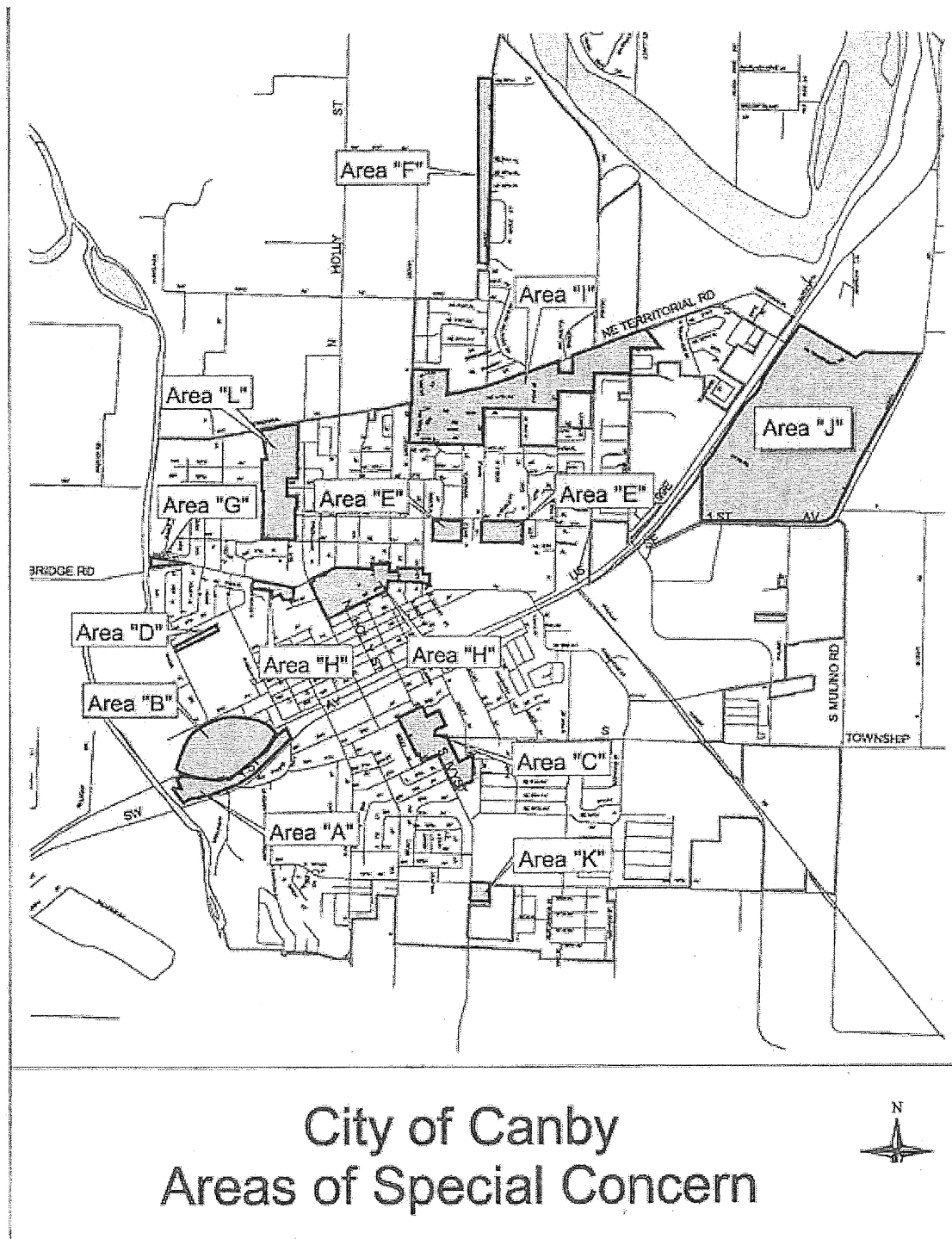
In sum, Applicant has provided adequate evidence to demonstrate that the three pending applications meet the applicable CMC standards and approval criteria and the City may approve each request. Prior to the hearing, we may submit additional evidence and argument to further support findings of approval for the three applications. Thank you for your consideration, and we look forward to presenting to the Planning Commission on September 24, 2012.

Very truly yours,



Steven W. Abel

Enclosures





Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

ODOT District 2B

9200 SE Lawnfield Rd.

Clackamas, OR 97015

(971) 673-6228

Fax: (503) 653-5655

loretta.l.kieffer@odot.state.or.us

August 15, 2012

File Code: PMT 4-17

James Coombs
Fred Meyer Stores
3800 SE 22nd Ave.
Portland, OR 97202

**Subject: Approval of Application for State Highway Approach
and
Submittal Requirements for Construction Drawings and Plans**
Highway Number 081, (Pacific Hwy. East [001E]),
at Mile Point 20.94
Application Number 17612

Dear James Coombs:

I am pleased to inform you that the Oregon Department of Transportation (ODOT) has approved your *Application for State Highway Approach*.

In order to build your new highway approach, ODOT requires that it be constructed in accordance with a *Permit to Construct a State Highway Approach*. The intention behind this requirement is to ensure that the highway operates safely while you are engaged in construction on the state right-of-way and afterwards when you are operating the approach.

In order to obtain your *Permit to Construct a State Highway Approach* you must have construction drawings and plans drawn up and approved by the Department. Your drawings and plans should include the following information about the approach itself:

- (a) Grade profile;
- (b) Base and surface design;
- (c) Design for type of approach;
- (d) Erosion control plan for construction;
- (e) Pollution control plan for construction;
- (f) ODOT traffic control devices and/or signs; and
- (g) ODOT traffic control lines and/or striping.
- (h) According to site plan you will be creating a joint approach with the

adjacent property to the west. The connection to the adjacent property from the proposed approach will be one-way into the adjacent site. The existing approach on the east edge of the adjacent property and the existing driveway on the subject property will be closed and the curb and sidewalk reconstructed at those locations.

(i) Please show on site signage and striping to accommodate new site circulation for one consolidated shared approach on construction plans.

{As required: Structural details of grade-separated structures must be included in the construction drawings and plans.}

Because ODOT is particularly concerned about whether the completed approach will be able to serve the vehicles that will be using it, you must also attach the following information as exhibits in your package of drawings and plans:

- (1) The maximum gross weight of vehicles and loads, and gross axle weights,
- (2) The types of vehicles that will use the approach(es), including diagrams showing types of truck and trailer combinations, maximum width and overall length, distance between axles, maximum axle weights and size and number of tires per axle.

{As required: ODOT requires that an operated test vehicle of the type and dimension to be used at the proposed approach be supplied. The applicant, at the sole expense of the applicant, shall supply this vehicle.}

Because ODOT's approval of your approach was based on current conditions on the highway, it is important to keep moving forward in a timely manner toward the construction permit. Please submit your drawings and plans **no later than 5:00 PM on 10/14/2012** to the following address:

Loretta Kieffer, District Access Management Coordinator
ODOT District 2B
9200 SE Lawnfield Rd.
Clackamas, OR 97015

If necessary, the Department may extend the time for your submittal of drawings and plans if both you and the Department agree in writing before the deadline listed above. Please contact me at (971) 673-6228 if you would like to request an extension of time.

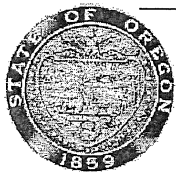
After you submit construction drawings and plans, the Department will contact you if any additional information is needed for approval. We will notify you when your drawings and plans are approved and provide instructions at that time for you to obtain a *Permit to Construct*. You may not begin any work in the highway right of way until you receive a Permit to Construct signed by the Department.

If you have any questions regarding the requirements of the construction drawings and plans, please feel free to contact me. I welcome the opportunity to assist you.

Sincerely,

Loretta Kieffer, District Access Management Coordinator

ODOT District 2B, Maintenance Office



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

District 2B

9200 SE Lawnfield Rd.

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loretta.l.kieffer@odot.state.or.us

File Code: PMT 4-49

August 02, 2012

James Coombs
Fred Meyer Stores
3800 SE 22nd Ave.
Portland, OR 97202

Subject: Completeness Determination: Application Deemed Complete
Highway Number 081, (Pacific Hwy. East [001E]),
at Mile Point 20.94
Application Number 17612

Dear James Coombs:

As required by OAR 735-051-3040, the Oregon Department of Transportation (ODOT) has finished its Completeness Determination of the materials you submitted with your *Application for State Highway Approach*. We are pleased to inform you that your application has been deemed complete.

The next step is to determine whether your proposed approach can be approved pursuant to the provisions of OAR 734-051-4010, -4020, and -3050. ODOT is required to make a final decision about your application within 60 calendar days of the date of this letter.

If we anticipate that we will not be able to approve your approach as described in your application package, we will notify you in advance of the final decision and invite you to participate in a Pre-Decision Collaborative Discussion process in an effort to reach a more favorable decision is possible.

If you have any questions, you may contact me at (971)673-6228.

Sincerely,

Loretta Kieffer, District Access Management Coordinator
ODOT District 2B, Maintenance Office



520 SW Yamhill St.
Suite 235
Portland, OR 97204

E. Michael Connors
503-205-8400 main
503-205-8401 direct

mikeconnors@hkcllp.com

HAND DELIVERY

September 24, 2012

Planning Commission
City of Canby
PO Box 266-9404
Canby, OR 97013

Re: Fred Meyer Fuel Station
Application Nos. DR 12-03/TA 12-01/ZC 1201
Save Downtown Canby – Comment Letter

Dear Commissioners:

This firm represents Save Downtown Canby (“SDC”), a group of local business owners concerned about the above-referenced Text Amendment, Zone Change and Site and Design Review applications filed by Fred Meyer Stores, Inc. (the “Applicant”) for a new Fred Meyer fuel center. SDC submitted written comments and testified at the Planning Commission’s July 23, 2012 public hearing addressing SDC’s concerns about the applications. This letter responds to the supplemental material submitted by the Applicant at and subsequent to the July 23rd hearing. SDC continues to be concerned about the Applicant’s proposal and believes that the Applicant has not adequately addressed all of the deficiencies with its applications. Accordingly, SDC requests that the Planning Commission recommend denial of the applications.

1. The City should not approve a significant change to the DCO solely to accommodate a fuel station.

As previously explained, SDC is very concerned about the long-term impacts of approving a significant change to the recently adopted Downtown Canby Overlay (“DCO”) zone solely to accommodate the proposed fuel station. Allowing a major change to the DCO simply because a proposed use cannot comply with its standards would establish a horrible precedent that the standards are not strictly enforced and can be amended to accommodate individual development proposals. Such a precedent would undermine the DCO and the Canby Downtown Plan which the City adopted to encourage economic vitality and revitalize Canby’s downtown center.

The Applicant’s supplemental material offers no new response or information to address SDC’s concern. Rather, the Applicant’s letter from its attorney, Steven W. Abel, dated September 4, 2012 (“Abel’s September 4th Letter”), references the Supplemental Recommended Findings for the Text Amendment Application, dated July 12, 2012 (“Supplemental Text Amendment

Findings”), which were written before SDC raised their concerns. While the Applicant claims that this is a minor change because the subject property is not very large, the Applicant failed to address the broader implications on the DCO. These impacts are exacerbated by the Applicant’s justifications for amending the DCO which question the entire DCO concept and would undermine the DCO goals.

- a. The Applicant’s acknowledgement that the sole reason for the proposed change to the DCO is to accommodate the fuel station is significant.

The Applicant and the City Staff confirmed that the proposed change to the DCO is designed solely to accommodate the fuel station since it cannot be sited under the Core Commercial (“CC”) sub-area overlay standards. The Applicant acknowledged that “the City’s text amendment alone facilitates the development of the six unit fuel-dispensing station” and that the public need for the change to the DCO is to “facilitate development that has not occurred under the existing designation.” Abel’s September 4th Letter, p.1 & 6. The revised Staff Report confirms that the Applicant requested the Text Amendment/Zone Change “because the proposed auto-oriented fuel station does not meet the intent of the CC sub-area.” Revised Staff Report, p.5.

This acknowledgment is significant because the City’s approval of this request will establish a clear precedent that the DCO is not strictly enforced and can be amended to accommodate individual development proposals that cannot satisfy the DCO standards. Other property owners and applicants will demand similar treatment or accuse the City of not enforcing the DCO fairly and equitably. The Planning Commission needs to determine if it is more important to maintain the integrity of the DCO or accommodate the Applicant’s fuel station. Given the importance and significant resources devoted to the recently adopted DCO, it would not be wise to jeopardize the DCO for a single fuel station.

- b. The Applicant’s justification for the proposed change to the DCO undermines the entire DCO.

Not only would the City’s approval of the Applicant’s request establish a precedent, but the Applicant’s justification for this change calls the entire DCO into question. The Applicant cites three primary justifications for changing the DCO that have much broader implications than these particular applications.

First, the Applicant argues that the proposed change to the DCO is necessary because the current CC sub-area regulations have not fostered development since the DCO was adopted. Supplemental Text Amendment Findings, p.4. If the City agrees with the Applicant, that same rationale would apply to *all* properties within the DCO. Since there has been little development or redevelopment in the downtown area since the DCO was adopted, the City’s adoption of this rationale would call the entire DCO into question.

Not only would it be dangerous for the City to adopt this rationale, but the Applicant’s assertion is glaringly flawed. The City Council adopted the DCO in the Fall of 2008 as part of a *long-term* plan to encourage economic vitality and revitalize the downtown center. The mere fact that a property has not been developed or redeveloped within a relatively short four-year period is not

an indication that the DCO is flawed. That is especially true given that this four-year period occurred in the middle of one of the worst real estate recessions in modern day history.

Second, the Applicant asserts that the DCO is flawed because the CC sub-area boundary is too spread out. The Applicant claims that the pedestrian-friendly Main Street design envisioned by the DCO requires a closer concentration of businesses and that “attempting to extend a ‘Main Street’ environment along a highway corridor for more than ¼ (0.25) mile tends to allow businesses to scatter rather than concentrate to the core, diluting the concentration effect.” Supplemental Text Amendment Findings, p.2. Since the focal point of the CC sub-area extends a distance of over ½ mile and the entire CC sub-area extends further, the Applicant argues that the City erred in establishing the CC sub-area boundary. If the City accepted this argument it would undermine the DCO as a whole.

Not only would it be dangerous for the City to adopt this rationale, but the Applicant’s claim is highly suspect. The City established the DCO sub-area boundaries after an extensive planning process involving key City officials, community stakeholders and several planning consultants. The mere fact that a planning consultant hired by the Applicant to support its fuel station proposal questions these boundaries is hardly sufficient to reconsider the boundaries as a whole. To the extent the City reconsidered the size of these boundaries, it should do so as part of a broader legislative effort.

Third, the Applicant relies on the existing development in the immediate area as a justification for changing the CC sub-area boundaries. Supplemental Text Amendment Findings, p.3. The Downtown Canby Plan is a long-term plan intended to encourage the redevelopment of the downtown area, not a reflection of the existing development. The purpose of the DCO is to change the downtown area to foster long-term economic growth. CMC 16.41.010(A)-(C). Amending the DCO on the basis that the existing development is not consistent with the goal would defeat the entire purpose of adopting the DCO.

- c. The property owner’s claim that the CC sub-area boundary was not clearly defined during the DCO adoption process is wrong.

At the July 23rd Planning Commission hearing, a representative of the property owner, Brian Oliver, testified that the City should not be concerned about changing the DCO in this instance because the CC sub-area boundary was not clearly defined during the DCO adoption process. Noting that he was part of the stakeholder group that helped with the DCO proposal, Mr. Oliver suggested that it was not clear that the CC sub-area boundary was intended to apply to the subject property.

Mr. Oliver is wrong. It is difficult to conceive how the CC sub-area boundary could have been any clearer and there is no question it was applied to the subject property. CMC 16.41.060(B)(2) provides: “The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust.” The DCO map clearly shows the CC sub-area boundary extending to Locust Street. CMC 16.41, Figure 11. Since the property is located on the corner of Highway 99 and Locust Street, there is no question it was intended to be part of the CC sub-area. The Applicant’s Text Amendment proposes to remove the reference to “Locust” in CMC 16.41.060(B)(2) and adopt a new Figure 11 precisely because the existing code expressly

designates the subject property as part of the CC sub-area. Supplemental Text Amendment Findings, p.2.

d. Conclusion.

Regardless of how the City feels about this particular development proposal, it must seriously consider the implications on the DCO as a whole. The City's approval of the Text Amendment/Zone Change will establish a bad precedent and its adoption of the Applicant's rationale will call the entire DCO into question. The City should not jeopardize the DCO for this single development.

2. The Applicant failed to demonstrate compliance CMC 16.88.160(D).

The Applicant's supplemental material continues to fall short of demonstrating that the Text Amendment/Zone Change complies with the approval standards set forth in CMC 16.88.160(D). While the Applicant purports to respond to the issues SDC previously raised, the Applicant relies primarily on the Supplemental Text Amendment Findings which SDC already refuted. Abel's September 4th Letter, p.5-6.

a. The Applicant failed to address the applicable Comprehensive Plan policies.

SDC previously noted that there are numerous Comprehensive Plan policies relevant to the Text Amendment/Zone Change that must be addressed under CMC 16.88.160(D)(1). The Applicant failed to address any of these Comprehensive Plan policies, continuing to rely on the general and unsubstantiated claim that the proposal is minor and therefore will have no significant impact.

b. The Applicant failed to demonstrate that there is a public need for the Text Amendment/Zone Change.

Although the Applicant concedes that it erred in addressing the public need for a fuel station in its initial response to CMC 16.88.160(D)(2), it failed to demonstrate a public need for the Text Amendment/Zone Change. Abel's September 4th Letter, p.5-6. The Applicant's claim that there is a public need because the DCO failed to achieve its intended results and is inherently flawed is erroneous for two reasons. Abel's September 4th Letter, p.5-6; Supplemental Text Amendment Findings, p.4.

First, the Applicant's underlying assumptions are wrong. As previously explained, the mere fact that the property has not been developed during a severe real estate recession is not an indication that the DCO failed to achieve its intended results. The Applicant failed to provide any evidence that this property cannot be developed *at all* unless the CC sub-area is removed. Furthermore, the Applicant's mere assertion that the CC sub-area is too large is insufficient to disregard the extensive planning effort which led to the current CC sub-area boundary. The City should not ignore its previous legislative planning effort based solely on the opinion of a consultant hired by the Applicant specifically to support the Text Amendment/Zone Change proposal.

Second, if the City wants to reconsider the DCO goals and policies as the Applicant suggests, it should do so as part of a broader legislative effort. Since the City's adoption of the Applicant's

rationale would have broader implications on the DCO as a whole, the City should fully vet the issues with the community as a whole.

- c. The Applicant failed to demonstrate that the Text Amendment/Zone Change will better serve the public need than any other change undermines its own case.

The Applicant's claim that CMC 16.88.160(D)(3) is satisfied because the Text Amendment/Zone Change will better serve the public need than other alternatives available to accommodate the proposed fuel station completely misses the point. The public need that must be considered is the public need for the Text Amendment/Zone Change, not the fuel station. The alternatives considered by the Applicant relate exclusively to its desire to site a fuel station on this property. That does not address this criterion.

- d. The Applicant failed to demonstrate that the Text Amendment/Zone Change will preserve and protect the health, safety and general welfare of the residents in the community.

The Applicant's argument under CMC 16.88.160(D)(4) is the same argument raised under CMC 16.88.160(D)(2) – the DCO is fundamentally flawed. The City should reject this argument for the same reasons provided under CMC 16.88.160(D)(2).

- e. The Applicant failed to adequately address the Statewide Planning Goals.

As explained in SDC's July 23rd letter, the Applicant's responses to the Statewide Planning Goals are conclusory and wholly inadequate. The Applicant failed to address this deficiency.

- f. The Applicant failed to respond to the Staff Report and SDC's July 23rd letter addressing why the Text Amendment is not justified under CDC 16.88.160(D).

The original Staff Report identified a number of reasons why the Text Amendment is not justified under CMC 16.88.160(D). Staff Report p.8-9. SDC expanded on those problems in its July 23rd letter. SDC's July 23rd letter, p.7. Surprisingly, the Applicant did not even attempt to address these deficiencies. As a result, the City Staff reiterated these problems with the proposal in the revised Staff Report. Revised Staff Report, p.9. The Applicant's inability to even respond to these glaring flaws demonstrates that the Text Amendment/Zone Change does not comply with CDC 16.88.160(D).

While SDC will not reiterate points the Applicant did not even bother to refute, there is one issue addressed at the July 23rd hearing that needs to be clarified. The Applicant testified at the hearing that the proposed crosswalk at Locust Street will not create a conflict because the specific location of the crosswalk has not been approved. The City's own traffic engineer, however, explained that "the City's Transportation System Plan includes an enhanced pedestrian crossing of OR 99E in the vicinity of the site" and that currently under the Canby OR 99E Corridor and Gateway Design Plan process "the location for the enhanced pedestrian crossing was determined to be at S Locust Street." DKS Memorandum, dated July 17, 2012, p.2. The

City's traffic engineer further notes that the construction of the pedestrian refuge island at this location will require the Highway 99 access to be restricted to a right-in/right-out. DKS Memorandum, dated July 17, 2012, p.2. The Applicant's attempt to downplay this issue conflicts with the City own traffic engineer's assessment. Once again, the Applicant is expecting the City to modify the Canby Downtown Plan design to accommodate the Applicant's proposed development when it should be the other way around.

3. The Applicant's Traffic Impact Analysis is flawed and unreliable.

As explained in the attached Memorandum from Lancaster Engineering, dated September 24, 2012 ("Lancaster's September 24th Memorandum"), the Applicant's Transportation Impact Analysis, dated May 17, 2012 (the "TIA"), has numerous errors and deficiencies.

The TIA significantly underestimates the actual traffic impacts of the proposed fuel station by relying on data and assumptions that apply only to fuel stations located on the same site as the Fred Meyer store. In this case, the proposed fuel station is approximately one-half mile from the Fred Meyer store. The actual and correct traffic volume increases attributable to the proposed development will result in significant impacts on nearby intersections that were not studied, namely Highway 99/Ivy Street and Highway 99/Pine Street. It is critical that the Applicant analyze these additional impacts because the Highway 99/Ivy Street intersection is very near capacity and has existing safety problems.

The TIA scope, which is limited to the immediately surrounding intersections, is inconsistent with CMC 16.08.150(E)(1). CMC 16.08.150(E)(1) requires a study area comprised of "a ½-mile radius of the development site." The Applicant should have been required to study a wider area and more of the surrounding intersections.

The TIA failed to account for background growth rates. As a result, the TIA underestimates the background traffic conditions.

4. The Applicant failed to address the Transportation Planning Rule.

As explained in Lancaster's September 24th Memorandum, a long range Transportation Planning Rule ("TPR") analysis is required due to the Text Amendment/Zone Change application. See OAR 660-012-0060(1). The Applicant's assertion that it is not required to provide a Transportation Planning Rule ("TPR") analysis is inconsistent with OAR 660-012-0060(1) and CMC 16.88.190(B). Without a TRP analysis, the Applicant cannot demonstrate that the Text Amendment/Zone Change will not significantly affect the transportation system over the applicable planning period.

Although the Applicant acknowledged that the TPR requirements are triggered since it is proposing an amendment to the City's land use regulations and zoning map, the Applicant claims that it is not required to provide a TPR analysis because the Text Amendment/Zone Change will result in no change in potential traffic impacts. The Applicant's claim ignores the whole purpose for seeking the Text Amendment/Zone Change. The Applicant requested the Text Amendment/Zone Change because the fuel station is an auto-oriented use and auto-oriented uses are not consistent with the pedestrian-friendly CC sub-area. Revised Staff Report, p.5. The

proposed Outer Highway Commercial (“OHC”) sub-area is specifically designed to accommodate “automobile-oriented highway uses.” CMC 16.41.060(B)(2)(c). It is difficult to fathom how a change from a pedestrian friendly sub-area that does not permit auto-oriented uses to a sub-area that is specifically designed to accommodate auto-oriented uses will result in *no* change in potential traffic impacts. Auto-oriented uses clearly generate more traffic than a pedestrian friendly use. The Applicant cannot demonstrate that the additional traffic impacts created by applying a new sub-area that is specifically designed to accommodate auto-oriented uses will not significantly affect the transportation system over the applicable planning period without some kind of TPR analysis.

A TPR analysis is particularly important because the City’s Transportation System plan (“TSP”) concludes that there will be significant problems along this section of Highway 99 over the planning period (year 2030). TSP, p.1-5, 4-1, 4-12, 4-14 and 7-35. The TSP concludes that by 2030 “the majority of the OR 99E intersections are expected to exceed mobility standards” and that “these key locations and others projected to exceed capacity would experience excessive vehicle delays and long vehicle queues that could lead to operational and safety impacts at other intersections or rail crossings.” TSP, p.4-12. Therefore, *any* additional traffic impacts as a result of the Text Amendment/Zone Change will cause a significant effect on the transportation system under OAR 660-012-0060(1)(c)(C). The reason the Applicant does not want to provide a TPR analysis is that it knows it cannot satisfy the requirements.

It is also important to emphasize that the TSP addresses the significant challenges the City faces funding the improvements necessary to mitigate or avoid these future transportation problems. TSP, p.1-4 & 1-5. At a minimum, the City must ensure that the Applicant pays its fair share toward the cost of these improvements.

5. The City’s traffic engineer’s safety concerns must be resolved now.

The City’s traffic engineer raised safety concerns related to the queuing onto Highway 99 that may require the Highway 99 access to be restricted to a right-in/right-out access. DKS July 17th Memorandum, p.2. The City’s traffic engineer suggests that this issue be monitored by ODOT and addressed in the future through some undefined process. DKS July 17th Memorandum, p.2-3.

This safety concern must be resolved now and cannot be deferred through the recommended condition of approval. CMC 16.08.160 provides that “the City will not issue any development permits unless the proposed development complies with the city’s basic transportation *safety* and functionality standards.” (Emphasis added). The City cannot defer a finding of compliance through conditions of approval unless there is a defined process involving subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). The City traffic engineer’s approach is flawed because it grants ODOT exclusive authority to monitor and resolve the issue, provides no measureable standard to determine compliance and provides no subsequent public process.

6. A neighborhood through-trip study is required.

As explained in Lancaster's September 24th Memorandum, the Applicant must provide a neighborhood through-trip study. CMC 16.08.150(H) requires a neighborhood through-trip study for "any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicles per day to an adjacent residential local street or neighborhood route." Lancaster's September 24th Memorandum demonstrates that if the actual and correct traffic volume increases attributable to the proposed development are applied, there will be more than 30 peak hour trips on SE 2nd Avenue. Therefore, a neighborhood through-trip study is required under CMC 16.08.150(H).

Even if the City did not account for this error in the TIA, the Applicant cannot demonstrate that there will be less than 300 daily vehicle trips. The TIA does not provide the number of daily trips on SE 2nd Avenue or Locust Street. Instead, the Applicant's *attorney* estimates that there will be less than 300 daily trips without any explanation of how he arrived at his estimates. Abel's September 4th Letter, p.10. The Applicant's attorney is not qualified to opine on traffic estimates and his unsubstantiated estimates do not constitute substantial evidence.

7. The Site and Design Review Board must review the Site and Design Review application.

The Site and Design Review Board, not the Planning Commission, is required to review the Site and Design Review application. CMC Chapter 16.49 requires the Site and Design Review Board to review and decide all Site and Design Review applications. CMC 16.49.020(A)(1); 16.49.025(A)(1); 16.49.035(B) and 16.49.040. The City's failure to have the Site and Design Review Board review the application is a procedural error that prejudices SDC's substantial rights because only the Board has the necessary expertise to review these types of applications.

8. The Applicant failed to demonstrate compliance with the Site and Design Review approval standards.

Although the Applicant attempted to address the approval standards set forth in CMC 16.49.040, it failed to adequately address the most important standard. CMC 16.49.040(E) provides:

The Board shall, in making its determination of compliance with subsections B through D above, use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible, in regards to subsections B, C, and D above, if the following conditions are met:

- a. The development accumulates a minimum of 70 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and
- b. At least 15 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040.

The Applicant relies exclusively on its initial Site and Design Review application narrative and the Staff Report to demonstrate compliance with CMC 16.49.040(E). As explained in SDC's July 23rd letter, neither of these documents support a finding of compliance with the 70 percent/15 percent thresholds in CMC 16.49.040(E).

The Applicant's response to CMC Table 16.49.040 is littered with errors and inaccuracies as described in SDC's July 23rd letter. If the errors and inaccuracies were accounted for and the table was recalculated, the Applicant would be well below the 70 percent/15 percent thresholds. Even the Staff Report reached different results than the Applicant. SDR Staff Report, p. 23. The Applicant did not even attempt to respond to or correct these errors. Therefore, the Applicant cannot demonstrate that its analysis is reliable or demonstrates compliance with the minimum requirements.

Nor does the Staff Report support the Applicant's claim. The Staff Report concluded that the Applicant failed to meet the 70 percent/15 percent thresholds, but erroneously suggested that the required percentages can be rounded down to the benefit of the Applicant. There is nothing in CMC 16.49.040 or Table 16.49.040 to support such an interpretation. Since the 70 percent/15 percent thresholds are *minimum* requirements, the Applicant must demonstrate that it exceeds these requirements.

Contrary to the Applicant's suggestion, compliance with the 70 percent/15 percent thresholds in CMC 16.49.040(E) is not discretionary nor judged based on their compliance with the "intent" of these standards. CMC 16.49.040(E) expressly requires compliance with the 70 percent/15 percent thresholds. It does not mention anything about discretion or compliance with the intent of these requirements. While CMC 16.49.040(3) provides that under a Type III Site and Design Review application the City can consider compliance with the intent of the DCO site and design review standards set forth in CMC Chapter 16.41, there is no similar discretionary standard for CMC 16.49.040(E).

9. The Applicant failed to demonstrate compliance with the sign standards.

The Applicant acknowledges that its signs do not comply with the City's limitations on the maximum square footage and maximum number of signs set forth in CMC 16.42 Table 3, but it claims that those standards are superseded by State standards under OAR 137-020-0150. Abel's September 4th Letter, p.13 & 18. The problem with this claim is that OAR 137-020-0150 does not dictate any specific minimum size requirements. The Applicant fails to explain why compliance with the City's sign standards will somehow result in a violation of State standards or why its proposed sign size is the minimum size necessary to comply with the State standards.

Conclusion

It is not in the City and community's best interest to allow a significant change to the recently adopted DCO solely to accommodate a new fuel station on a site with numerous existing fuel stations in the immediate surrounding area. Moreover, there are still significant errors and deficiencies in the applications, in particular the TIA. The City should not and cannot approve the applications until these deficiencies are addressed. Therefore, the Planning Commission should recommend denial of the applications.

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in cursive script that reads "E. Michael Connors".

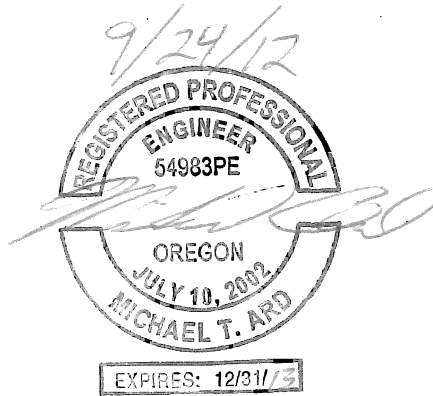
E. Michael Connors

EMC/df

cc: Save Downtown Canby

September 24, 2012

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RE: Fred Meyer Canby – Fuel Facility

Dear Mike:

At your request, we have reviewed the Fred Meyer Canby Fuel Facility Transportation Impact Analysis prepared by Group Mackenzie, dated May 17, 2012. This letter provides detailed comments regarding the analysis assumptions and methodologies, and identifies where relevant information was not included in the study. Overall, we identified numerous errors and omissions in the Transportation Impact Analysis that need to be addressed to accurately determine the impacts of the proposed amendments and the proposed fuel facility.

Zone Change Analysis

The proposed development includes a text amendment and a zoning map amendment. Since a text amendment and zone change may impact operation of critical transportation facilities through the long-range planning horizon and necessitate changes to long-range mitigation plans, these requested amendments require a Transportation Planning Rule (TPR) analysis. The applicant has asserted that the proposed site use is also an allowed use in the underlying zone; however there are three problems with this assertion.

First, a mere statement that the proposed zone change will not result in a significant effect as defined under the TPR is insufficient. If this is true, there needs to be information provided in the record documenting the assumptions used to make this determination. The Transportation Impact Analysis does not provide this information.

Second, a TPR analysis requires consideration not of the intended or proposed site use, but of the “reasonable worst case” development permitted under the zoning. Even if it were true that a fuel station would be permitted under the existing zoning, it may not be the most intensive traffic use permitted by the text amendment. There is no information in the study that addresses the maximum development potential under either the existing or the proposed zoning, and it is therefore impossible to determine whether the proposed amendments may have a significant effect on surrounding transportation facilities.

Third, as City of Canby staff have acknowledged, a fuel station is not consistent with the intent of the existing CC subarea because it is an auto-oriented use, and would therefore not be permitted under the existing zoning. Presumably, other auto-oriented uses would not be permitted in the CC subarea. Even if it was determined that a fuel station represented the “reasonable worst case”



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development scenario under the proposed zoning, it has not been demonstrated that this use would be permitted under the existing zoning. As such, the assertion that there is no change in traffic associated with the actual proposed development is also in error.

In order to determine whether the proposed text amendment and zoning map amendment comply with the TPR, a detailed analysis is required. In the absence of this information, there is no evidence in the record on which to base a conclusion that the relevant requirements are met. Accordingly, the proposed changes should not be approved without a detailed TPR analysis. This concern is heightened by the fact that the City's Transportation System Plan identifies future problems in the site vicinity along Highway 99E. The projected future traffic concerns in the immediate site vicinity make a proper TPR analysis even more critical for this project.

Trip Generation Analysis

The Group Mackenzie report includes a determination that the proposed development will result in a net increase of 47 trips during the morning peak hour and 79 trips during the evening peak hour. These "primary trips" represent 32 percent of the total site traffic.

It is appropriate to take reductions from the gross trip generation of a site, particularly for uses such as gas stations that attract vehicles passing by on the way to another destination. However, the specific reductions taken in the report are not justifiable for several reasons.

The first reduction taken from the gross trip generation was for internalization (shared trips). The intent of a shared trip reduction is to acknowledge that sites with multiple land uses may attract trips that visit more than one facility on the site in a single visit. If the gross trip estimates were not adjusted, each of these internal trips would be shown entering the site, exiting, then re-entering and re-exiting to visit the second land use. Since rational drivers will not exit and re-enter the site, a proper analysis must reduce the site traffic volumes to account for this behavior.

In this instance, however, there are three significant problems with taking the shared trip reduction shown in the transportation impact analysis.

First, the data showing an internal trip reduction of 38 percent was derived based on surveys taken at a facility where the fuel station was within the Fred Meyer parking lot. As such, it was very convenient for patrons to visit both sites in a single visit. In contrast, the proposed development is located half a mile from the Fred Meyer store, and requires drivers to enter the highway to make the trip. It is therefore very likely that the number of people making shared trips to both facilities will be greatly reduced from the 38 percent observed at the conjoined site. There is no specific data documenting the shared trip rate for facilities that are not contiguous, and therefore a shared trip reduction typically should not be taken. Notably, a remedy for this data deficiency was available to Fred Meyer, since the Oak Grove store location is similarly separated from its fuel station by approximately half a mile. However a survey of shared trips from this location was not provided.

Second, the trip distribution pattern used for the primary trips was derived based on data from a select zone assignment model provided by DKS Associates. This model includes end-point



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destinations within the City of Canby, and includes trips between the fuel station site and the existing Fred Meyer store. As such, the calculated “shared trips” percentage used in the transportation impact analysis are in addition to the trips already assigned to travel to and from that direction by the City’s planning model. Even if specific data for non-continuous shared trips were available, the documented shared trip percentage must be reduced to account for trips already shown travelling to and from the Fred Meyer store in the select zone assignment. The effective result of this error is that significantly more than 38 percent of site trips are currently assumed to travel between the site and the Fred Meyer store, despite the fact that the 38 percent estimate is already too high.

Third, as is acknowledged in the report, since shared trips must re-enter the public street system between the Fred Meyer store and the fuel facility, the shared trips will result in new trips on Highway 99E. Listing a trip reduction for this phenomenon implies that net traffic volumes will be lower than they are. A detailed look at the trip generation table on page 9 of the report shows that the shared trips actually account for more traffic than the listed primary trips. It is common practice in transportation engineering to report the net increase in site trips associated with a proposed development on the last line of such a table, often with these critical volumes shown in bold lettering. In this report, the table shows bold values that represent less than half of the net increase in traffic volumes directly attributable to the proposed development. This makes the table extremely misleading. Additionally, there is no part of the report in which the actual net increase in site trips is reported. The correct values would be the sum of the listed shared and primary trips, which amount to 102 trips during the morning peak hour and 172 trips during the evening peak hour.

This difference in trip generation is extremely important, not just because the apparent trip volumes attributable to the site are more than doubled, but because the net increase in trip generation is commonly used to determine the scope of an appropriate traffic analysis. In this instance, using the bottom-line primary trip numbers provided in the table, a reviewing analyst could conclude that the nearby intersection of Highway 99E at Pine Street would experience an increase of just 24 trips during the evening peak hour. This is below the threshold that would normally require detailed operational analysis. However, if the 93 shared trips are included with the primary trips, we find that the actual traffic increase projected by Group Mackenzie at this intersection is 116 trips during the evening peak hour. This is nearly five times higher than the increase implied by the trip generation table, and well above the threshold at which ODOT typically requires a detailed operational analysis.

In reality, since the shared trip percentage is likely to be substantially lower than the reported 38 percent, it is likely that traffic volumes to and from the south will be substantially higher than shown as well. Since appropriate shared trip data is not available for this use, these trips would normally be shown as primary trips and distributed accordingly. Such a trip distribution would result in 77 trips during the evening peak hour at the intersection of Highway 99E and Ivy Street and 52 trips during the evening peak hour at the intersection of Highway 99E and Pine Street. ODOT often requires analysis of intersections with projected increases of 25 or more peak hour trips, and routinely requires such analysis for increases of 50 or more site trips.

The actual traffic volumes increases attributable to the proposed development may have significant impacts on nearby intersections that were not studied. The intersection of Highway 99E at Ivy Street in particular was within 5 percent of ODOT’s maximum volume-to-capacity ratio mobility standard in 2009 per the City’s Transportation System Plan, and is projected to operate with

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volumes 43 percent above intersection capacity by 2030 if improvements are not made. The intersection may be operating above the allowable volume-to-capacity threshold under existing 2012 traffic conditions. Additionally, this intersection is listed on ODOT's Safety Priority Index System as a top 5 percent crash location, indicating that there is an existing safety problem at the intersection that may be exacerbated by increased traffic volumes. Based on these factors, a detailed operational and safety analysis of this intersection is essential to determine whether the impacts of the proposed development will be acceptable.

Traffic Impact Study Scoping

The City of Canby's Transportation System Plan establishes guidelines for the scoping of transportation impact studies in the Implementation Plan found in Chapter 10. It states:

The study area will generally comprise an area within a ½-mile radius of the development site. If the city determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required. Required study intersections will generally include (in addition to primary access points) collector/collector and above intersections with an anticipated peak hour traffic increase of five-percent from the proposed project.

Some interpretation of this language is required, since it is unclear whether the intent is to analyze collector/collector intersections and above within ½ mile of the site plus those at which an anticipated peak hour traffic increase of five percent is projected, or only those intersections that are both within ½ mile and experience an increase of five percent or more. Several additional intersections would require analysis under the first interpretation.

Regardless of the correct interpretation of the Implementation Plan scoping guidance, it is clear that variations from the typical scoping guidance are permitted in response to specific project needs, since it states that "The study area will **generally** comprise an area..." and "Required study intersections will **generally** include..." In this instance, since the intersection of Highway 99E at Ivy Street is likely to accommodate more than 50 additional peak hour trips, is already operating near or at the maximum allowable volume-to-capacity threshold and has been identified as a high-crash location, it is absolutely appropriate to require a detailed operational and safety analysis at this location. It may also be appropriate to prepare an operational analysis for the intersection of Highway 99E at Pine Street, depending on the projected traffic volume increases following revision of the site trip distribution.

Local Residential Street Impacts

The site trip distribution shows 20 percent of site trips travelling to and from the site via SE 2nd Avenue, which is a local residential street. The City of Canby requires a Neighborhood Through Trip Study for local residential streets when development is projected to add more than 30 peak hour trips or 300 daily trips. Since the 38 percent shared trip reduction was not corroborated with relevant

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data, this percentage should be applied to all of the non-pass-by trips. During the evening peak hour, SE 2nd Avenue would be projected to experience an increase of 34 trips (172 PM peak hour trips * 20% = 34.4 peak hour trips). This indicates that a Neighborhood Through Trip Study should have been provided for the proposed fuel facility.

Although the calculated trip volumes for SE 2nd Avenue are slightly above the levels requiring analysis when using the trip distribution percentages, the actual impacts on this local residential street may be higher. This is because the 45 percent of site trips projected to exit the site toward the south must turn left onto Highway 99E from either the unsignalized site access driveway or the adjacent unsignalized intersection of Highway 99E and S Locust Street. These vehicles must yield to two lanes of northbound through traffic and merge with southbound traffic. The average delay associated with this turning movement is obscured in the traffic impact study, since the delays are averaged with much shorter delays for right-turning vehicles that share the same travel lane. However, from the analysis provided it is clear that the average delays for left-turning vehicles will be in excess of the reported average of 26 seconds. The left-turn delay can be avoided by exiting the site onto SE 2nd Avenue and approaching Highway 99E via the traffic signal at Ivy Street. If vehicles use SE 2nd Avenue to avoid making a difficult left turn onto Highway 99E, impacts on this local residential street will increase.

Background Growth

The traffic impact study states that project completion is anticipated in 2012, and therefore concludes that "No background growth or in-process developments are included in this TIA, so no pre-development scenario is presented."

Traffic studies typically account for background growth attributable to development outside the immediate area of the site, in addition to any known, approved (in-process) developments. Since there are no in-process developments that will substantially impact the analysis intersections, it is appropriate that no adjustments were made for in-process trips. However, the lack of a background growth rate results in an inaccurate analysis of traffic conditions following completion of the proposed development.

Traffic count data for this project was collected on April 4, 2012. Nearly six months have passed with no construction on the subject property. It is likely that by the time the development is completed and operational, the area intersections will have experienced a full year of background volume growth.

In order to determine an appropriate growth factor for the area intersections, we reviewed the data from ODOT's Future Volumes Table. This data is generated by ODOT's planning models and represents the best estimates for long-range traffic volume growth on state highways. For ODOT highways, the background growth is assumed to be linear over the planning horizon. Based on the model data, traffic volumes along Highway 99E in the site vicinity are projected to experience a linear growth rate of 4 percent per year. Therefore, traffic volumes would be projected to have increased by 2 percent between the time count data was collected and now, and will likely

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Mike Connors
September 24, 2012
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experience a similar increase prior to completion of the proposed development. The operational analysis should be updated to account for this growth.

Conclusions

Based on our detailed review of the Transportation Impact Analysis prepared by Group Mackenzie, we concluded that there are a number of error and deficiencies that need to be addressed as follows:

- A detailed long-range impact analysis should be provided demonstrating compliance with Oregon's Transportation Planning Rule.
- The trip generation estimate, which showed net trip increases that were less than half of the actual impact of the proposed development, needs to be corrected. The trip generation estimate should be corrected to reflect the actual impacts of the proposed development, and the impacts on the surrounding transportation system should be re-assessed using shared trip data derived from similar non-adjacent uses and adjusted to account for trips already shown between the site and the Fred Meyer store in the City's planning model. If new, reliable shared trip data is not provided, the trip distribution should be based on the primary trip distributions patterns.
- The nearby intersections of Highway 99E at Ivy Street and Highway 99E at Pine Street will experience traffic increases of more than 50 trips during the evening peak hour. The intersection of Highway 99E at Ivy Street has also been identified under ODOT's Safety Priority Index System as a top 5 percent crash location. Accordingly, analysis of the impact of the proposed development on these intersections should be provided.
- Traffic volume increases on SE 2nd Avenue are extremely likely to exceed 30 trips per hour and 300 trips per day. Since this is a local residential street, a Neighborhood Through Trip Study is required.
- No background growth was included in the analysis. Given the projected annual growth rate of 4 percent per year along Highway 99E, the analysis should account for this growth.

If you have any questions regarding this detailed review of the Group Mackenzie Transportation Impact Analysis, please feel free to call me at any time.

Sincerely,



Michael Ard, PE
Senior Transportation Engineer



Hathaway Koback
Connors LLP

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E. Michael Connors
503-205-8400 main
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mikeconnors@hkcllp.com

VIA EMAIL

October 1, 2012

Planning Commission
c/o Brian Brown, Planning Director
Angie Lehnert, Associate Planner
City of Canby
PO Box 266-9404
Canby, OR 97013

Re: Fred Meyer Fuel Station
Application Nos. DR 12-03/TA 12-01/ZC 1201
Save Downtown Canby – Supplemental Evidence/Argument Letter

Dear Commissioners:

As you know, this firm represents Save Downtown Canby (“SDC”), a group of local business owners concerned about the above-referenced Text Amendment, Zone Change and Site and Design Review applications filed by Fred Meyer Stores, Inc. (the “Applicant”) for a new Fred Meyer fuel center. At the September 24, 2012 public hearing, the Planning Commission left the record open to allow all parties to submit supplemental evidence and argument by October 1, 2012 pursuant to ORS 197.763(6). This letter and the attached letter from Lancaster Engineering, dated October 1, 2012 (“Lancaster’s October 1st Letter”), constitute SDC’s supplemental submittal.

1. The City’s approval of the Text Amendment and Zone Change will establish precedent for future development in the downtown area.

Acknowledging that it would be detrimental to establish a precedent that the City will not strictly enforce the Downtown Canby Overlay (“DCO”) and will amend it to accommodate development proposals that cannot satisfy the standards, the Applicant argued at the September 24th hearing that the City should not be concerned because there is no precedent in land use cases. The Applicant’s claim that the City’s decision will not establish a precedent nor have any bearing on future development in the downtown area is flawed in several respects.

The Applicant’s claim that there is no precedent in land use cases and the City can freely apply different standards and interpretations to different applications is wrong. The Oregon Court of Appeals specifically rejected the authority of local governments to selectively apply different standards and interpretations to different applicants. *Holland v. City of Cannon Beach*, 154 Or

App 450, 458-59, 962 P2d 701 (1998); *Alexanderson v. Clackamas County*, 126 Or App 549, 552, 869 P2d 873, rev. den. 319 Or 150, 877 P2d 87 (1994).

The Applicant's argument is particularly problematic because its justification for the Text Amendment and Zone Change are based on broader concerns about the DCO, not the specific facts of this application or characteristics of this property. The Applicant argues that the Text Amendment and Zone Change are primarily justified because the current CC sub-area regulations have not fostered development since their adoption and the CC sub-area boundary is too broad. These same principles obviously apply to other properties in the CC sub-area and the DCO as a whole. If the City approves the Text Amendment and Zone Change based on these justifications, it is adopting broad policies and principles that will apply to the entire DCO.

Regardless of whether or not the City will be legally bound by the precedent established in this case, the City should make its decision based on the DCO as a whole and not just this application. The City is not allowed to give preferential treatment to the Applicant. The City should assume that the DCO policies and interpretations it adopts in this case will apply to other property owners and applicants. Other property owners and applicants will demand and are entitled to similar treatment. If the City does not apply the DCO policies and interpretations consistently, it will open itself up to accusations that the City is not enforcing the DCO fairly and equitably and legal challenge.

The City's approval of the Text Amendment and Zone Change will establish a bad precedent and its adoption of the Applicant's rationale will call the entire DCO into question. The City should not jeopardize the DCO for this single development.

2. The City cannot rely on the Text Amendment/Zone Change applications for purposes of reviewing the Site and Design Review application.

In its July 24, 2012 letter, SDC requested that the City clarify if it is processing the Text Amendment/Zone Change and Site and Design Review applications as consolidated applications. It is apparent from the September 24th public hearings that the City is not processing the applications as consolidated applications. The Planning Commission is considering the applications separately and has yet to hold a public hearing for the Site and Design Review application. The City staff stated at the September 24th hearing that the Planning Commission's decision on the Site and Design Review application is subject to an appeal to the City Council, which indicates that this application is being processed under the Type III process as opposed to the Type IV process for the Text Amendment/Zone Change applications. If all of the applications were consolidated, they would all be processed pursuant to the Type IV process.

Since the applications are not going through a consolidated process, the City cannot rely on the Text Amendment/Zone Change applications for purposes of reviewing the Site and Design Review application. The fixed goal-post rule requires the City to review all land use applications based on the acknowledged comprehensive plan and land use regulations in effect on the date the applications are filed. ORS 227.178(3)(a) provides that "approval or denial of the application shall be based upon the standards and criteria that were *applicable at the time the application was first submitted.*" (Emphasis added). Even if the Comprehensive Plan and Canby Municipal Code ("CMC") provisions change as a result of the approval of the Text Amendment/Zone

Change applications, the City must review the Site and Design Review application based on the provisions in effect when the application was filed since the applications are not consolidated.

The Applicant and the City staff acknowledge that the proposed fuel station does not comply with the City's regulations without the Text Amendment/Zone Change. Therefore, the City cannot approve the Site and Design Review application.

3. The Applicant's Traffic Analysis is flawed and unreliable.

The attached letter from Lancaster Engineering, dated October 1, 2012 ("Lancaster's October 1st Letter"), addresses additional flaws with the Applicant's traffic analysis. Lancaster Engineering confirmed that the Applicant's Transportation Impact Analysis, dated May 17, 2012 (the "TIA"), is inconsistent with ODOT and the City's traffic engineer's instructions based on recent conversations with ODOT and a review of ODOT and the City's traffic engineer (DKS Associates) written instructions. ODOT advised Lancaster Engineering that it intends to conduct an internal safety audit related to this proposed development and the potential safety and operational impacts prior to the City Council hearing for the project, a highly unusual step for ODOT and indicative of the problem with the TIA. Finally, Lancaster's October 1st Letter includes data from the Fred Meyer fuel station in Cornelius demonstrating that the trip generation for the proposed facility will likely be far in excess of the volumes relied on by the TIA.

Additionally, it is important to emphasize that the Applicant's traffic engineer acknowledged at the September 24th hearing that Applicant could have done more to accurately assess the traffic impacts of an off-site fuel station. In response to a question from the Planning Commission, the Applicant's traffic engineer confirmed that the Applicant could have performed surveys of Fred Meyer fuel stations located off-site from the Fred Meyer stores but chose not to do so because it would be too labor intensive. The Applicant's traffic engineer acknowledged that it "certainly" could have performed a survey of the Oak Grove fuel station since it is located approximately 0.6 miles from the store, but that it did not do so because it assumed that the traffic impact analysis was "pretty close to reality" and a survey would have required "quite a bit more effort" and would be too "labor intensive." The Applicant should not be allowed to cut corners simply because it requires more analysis than the Applicant wants to do, especially given that the Applicant did not provide *any* evidence of the impacts of an off-site fuel station. Given the existing traffic safety and congestion problems along Highway 99 and the significant problems projected in the future, the Applicant should be required to provide all of the available information to fully assess the traffic impacts.

Conclusion

This supplemental evidence and argument continues to demonstrate that SDC's concerns about the project are well-founded. The entire DCO would be undermined if the City approved the Text Amendment and Zone Change applications based on the rationale provided by the Applicant. Moreover, the Applicant has significantly underestimated the traffic impacts of the proposed fueling station and failed to adequately evaluate the impact on the surrounding transportation system. Regardless of how the City feels about this project, it should not approve such a flawed proposal that will have broader repercussions well beyond this particular property.

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP


E. Michael Connors

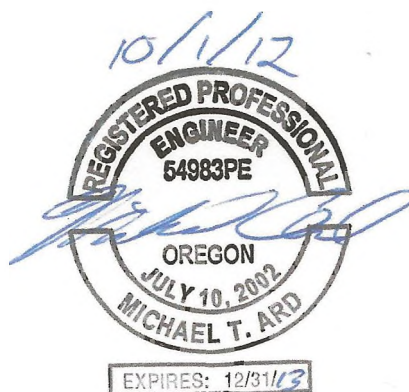
EMC/df

Enclosure

cc: Save Downtown Canby

October 1, 2012

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RE: Fred Meyer Canby – Fuel Facility

Dear Mike:

This letter is written to provide additional information related to the proposed Fred Meyer Fuel Facility in Canby, Oregon. We have continued investigating the many concerns we raised in our letter dated September 24, 2012 and we now are supplementing that letter with this additional information.

Zone Change Analysis

Our concerns regarding the need for a Transportation Planning Rule analysis have not yet been addressed. In order to make a finding of “no significant effect” which would indicate that no mitigation is needed for the proposed text amendment and zone change, an analysis is needed to demonstrate the reasonable worst case development scenarios under the existing and proposed conditions. Since this analysis is still conspicuously absent, there is insufficient information in the record to conclude that the proposed actions will not result in a significant effect. In the absence of this data, the proposed text amendment and zone change should not be approved.

Shared Trip Reductions

As described in detail in our previous review letter dated September 24, 2012, there are significant problems with utilization of “internal” or “shared trip” reductions for this project. We have subsequently reviewed comments provided by DKS Associates and the Oregon Department of Transportation that also express concerns about utilization of “shared trip” data.

I spoke with Avi Tayar of ODOT, and he informed me that he had expressly instructed Group Mackenzie **not** to use shared trip data. This instruction is also included in his email correspondence with Group Mackenzie (contained in the appendix to May 17, 2012 Transportation Impact Analysis), which stated “ODOT has concerns regarding applying diverted and internal trip reductions for this development. ODOT suggests that the analysis follow ITE’s Trip Generation Handbook with its recommendation for pass-by trip reduction for the proposed land use for the site.”



Mike Connors
October 1, 2012
Page 2 of 5

Chris Maciejewski of DKS Associates also expressed concerns regarding utilization of “shared trips”, stating “Also, I’m not sure that the internal reductions reasonably apply when the site is not adjacent to the Fred Meyer store... I’ll think more about that as I review the survey information.”

Despite the specific instruction from ODOT and the concerns expressed by DKS Associates, Group Mackenzie persisted in utilizing the shared trip data, and have recently asserted that these “shared trips” will have a lesser impact on the highway than would typical primary trips. This assertion is directly contradicted by the text of Group Mackenzie’s own Transportation Impact Analysis, which describes the shared trips as “Distribution for shared trips is simply between the fuel facility and the Canby Fred Meyer store location, **similar to primary trips.**”

In order to have a reduced impact on the street system, the “shared trips” would need to function in a manner similar to pass-by traffic. However, since an explicit pass-by trip reduction has already been taken, it is inappropriate to assume that additional trips will act as pass-by trips. Again, there is no reliable data in the record supporting any kind of reduction.

Group Mackenzie has also asserted that the “shared trip” reductions were taken in a manner consistent with standard transportation engineering procedures. The concerns expressed by ODOT, DKS Associates and Lancaster Engineering are ample evidence that the utilization of a “shared trip” reduction for non-conjoined sites is highly unusual. In fact, the ITE Trip Generation Handbook does not provide for nor is there any precedent for utilization of “internal” trip reductions for a project in which the secondary “shared trip” destination is wholly outside the study area of the project. These trips can in no way be considered as internal, and the reductions taken are not reflective of the standard practice of transportation engineering.

It is clear from a cursory review of the “shared trip” analysis that inadequate thought was put into the application of the reductions, and the result is not just inconsistent with standard transportation engineering procedures, but wrong. No consideration was given to the fact that internal trips are made principally because they are convenient, and travel to a site ½ mile distant greatly reduces that convenience. Similarly, no consideration was given to the fact that the trip distribution drawn from the City’s planning model already accounts for trips to and from the Fred Meyer site, resulting in an effective “shared trip” rate well in excess of the reported 38 percent.

The “shared trip” data utilized in the Transportation Impact Analysis is not applicable at the proposed development site due to lack of proximity, the application of the data is inconsistent with the standard practice of transportation engineering, and the resulting site trip distribution is not reflective of the actual impacts of the proposed development.

Traffic Impact Study Scoping

We have also spoken to ODOT regarding the scoping of the traffic impact study. ODOT plans to conduct an internal safety audit related to the Fred Meyer Fuel Facility development and the potential safety and operational impacts prior to the City Council hearing for this project. Specifically, since there has been no analysis provided for the intersection of Highway 99E at Ivy



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Street, it is unknown whether the addition of site trips from the proposed development may have adverse operational and safety impacts on this intersection. ODOT's safety review of this intersection will focus on the likely impacts of the added traffic from the proposed development and the nature of the historical crashes at the intersection to determine whether additional traffic may exacerbate the existing safety hazards. It will be critical to correct all errors associated with the site trip generation and distribution prior to the safety analysis so that the impacts can be appropriately assessed.

It is unusual that analysis tasks need to be undertaken by ODOT rather than the applicant in order to determine whether site trips from a proposed development will have unacceptable safety impacts on nearby streets and intersections. It is the purpose of a transportation impact analysis to provide this specific information. In this instance, the lack of relevant information in the record demonstrates the incompleteness of the analysis provided by the applicant. There remains at this time insufficient information to make an appropriate determination as to whether operational or safety mitigations will be needed at the intersection of Highway 99E and Ivy Street as a result of the proposed development.

Trip Data

Since the applicant chose to use data from similar sites to estimate traffic impacts from the proposed development without collecting relevant "shared trip" data from the comparable site at Oak Grove, we also investigated another Fred Meyer fuel facility located in a suburban area where specific data was available that relates to trip generation and traffic volumes.

The Fred Meyer fuel facility in Cornelius, Oregon is subject to a two-cent-per-gallon tax, and the City keeps records of taxes paid, providing insight into the fuel sales of the Fred Meyer facility as well as the other fuel stations in town. Records for fiscal year 2012 (July 2011 through June 2012) show that Fred Meyer paid \$89,317.06 in taxes, which equates to sales of 372,000 gallons of fuel per month. Fuel sales for July and August of 2012 (September data was not yet available) show an average of 466,000 gallons of fuel sold per month.

For comparison, according to the NACS (National Association of Convenience Stores), the average convenience store in the United States sold 121,000 gallons of fuel per month in 2009. The Fred Meyer store in Cornelius sold 3 times this average. Within the City of Cornelius, the Fred Meyer fuel facility sold 2.35 times more fuel than the second-highest sales fuel station. These comparisons demonstrate that Fred Meyer fuel facilities generate far more traffic than typical fuel stations.

Fred Meyer provided trip generation data taken from Fred Meyer fuel facilities for use in the traffic impact study, and demonstrated that expected traffic volumes are slightly in excess of typical traffic volumes for a fuel station, however the above fuel tax data demonstrates that a reasonable expectation of the trip generation for the proposed facility may be far in excess of the volumes studied. Accordingly, there remains a serious concern that low-traffic sites may have been purposefully or inadvertently chosen as a basis for comparison.



Mike Connors
October 1, 2012
Page 4 of 5

In order to ensure that the trip data is representative of typical Fred Meyer facilities, one of two things should occur:

- 1) Fred Meyer should provide sales data for all facilities in the Portland Metropolitan area demonstrating that the sales volume at the selected comparable sites are reflective of typical fuel sales volumes; or
- 2) The City of Canby should randomly select the locations at which comparable trip generation data will be collected.

Access Control

In the DKS Associates review material, several comments were made regarding the potential need for a right-in, right-out restriction at the site access driveway in the future. The need for this restriction was based on several potential triggers, including construction of a pedestrian refuge within Highway 99E at S Locust Street and potential queuing on Highway 99E at the site access. DKS Associates recommended that ODOT monitor, evaluate and design and needed improvements for this access location.

Although it is appropriate to have ODOT monitor, evaluate and design these improvements since it involves a state transportation facility, the recommendation does not account for some additional effects of the potential future turning movement restrictions that directly impact City transportation facilities. For instance, the DKS Associates review specifically notes that "...it appears that the site access to OR 99E could be modified to right-in/right-out movements only, **which should divert some traffic to the SE 2nd Avenue access** and still provide access for fueling trucks via S Locust Street to SE 2nd Avenue." However, a diversion of additional traffic to SE 2nd Avenue will increase impacts on this local residential street, exacerbating the need for a Neighborhood Through Trip Study. As previously described in our letter dated September 24, 2012, there will be a projected increase of 34 peak-hour trips along SE 2nd Avenue immediately southwest of the site, even with the preferred full access on Highway 99E. Implementation of a future right-in, right-out restriction will further increase the traffic volumes on this local street.

Since it is anticipated that the primary site access driveway on Highway 99E will be converted to a right-in, right-out access in the future, it is necessary to analyze the impacts of the proposed development within the context of this future restriction. The still-needed Neighborhood Through Trip Study should therefore explicitly account for this restriction.



Mike Connors
October 1, 2012
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Conclusions

The concerns raised in our previous review letter dated September 24, 2012 have not been addressed, and further review of the project continues to raise red flags regarding the analysis assumptions including the fundamental attributes of trip generation and distribution for the site, as well as the operational and safety impacts of the proposed development.

The transportation analysis materials provided by the applicant include numerous unfounded assertions and draw several incorrect conclusions. Serious questions remain, and the material provided is insufficient to determine that the impacts of the development will not immediately compromise public safety at the intersection of Highway 99E and Ivy Street or neighborhood livability along SE 2nd Avenue adjacent to the site. Additionally, questions remain regarding the site access location on Highway 99E including when and how access control may be implemented to restrict the driveway to right-in, right-out movements only.

Sincerely,



Michael Ard, PE
Senior Transportation Engineer

APPENDIX

Fuel Tax
Fiscal Year 2012

Summary FY2012 Turnover

Fuel Station	Total Remitted FY2012	June 2012	May 2012	April 2012	March 2012	February 2012	January 2012	December 2011	November 2011	October 2011	September 2011	August 2011	July 2011
Cornelius Fast Serv	37,934.84	2,628.08	2,967.92	3,060.92	3,237.48	3,234.54	2,915.82	3,123.10	3,224.84	3,327.78	3,368.72	3,398.72	3,446.92
EATA LLC	12,436.27	1,785.04	798.44	627.40	621.14	698.50	756.98	1,304.80	997.28	1,161.31	1,092.32	1,362.80	1,230.26
Baseline Market	13,946.14	886.46	1,289.48	1,056.48	1,509.42	1,306.62	1,120.58	882.50	1,106.64	1,281.18	1,110.70	1,332.68	1,063.40
Fred Meyer	89,317.06	8,565.06	8,330.04	7,640.92	7,051.22	5,681.38	6,954.72	7,451.18	7,154.98	7,750.58	7,554.22	7,789.68	7,393.08
Tarr, LLC	9,576.58	774.86	941.81	834.37	793.33	739.95	687.43	644.31	733.74	869.58	889.75	817.30	850.15
Mansfield Oil(Frontier)	460.06	-	-	-	-	100.02	40.00	-	-	156.02	-	164.02	-
Cornelius Oil LLC	18,492.48	803.84	1,048.46	1,151.26	1,478.92	1,477.20	1,428.20	1,438.26	1,520.02	1,925.66	1,693.28	2,114.60	2,412.78
Total collections	\$ 182,163.43 182,163.43	15,443.34	15,376.15	14,371.35	14,691.51	13,238.21	13,903.73	14,844.15	14,737.50	16,472.11	15,708.99	16,979.80	16,396.59

Fuel Tax
Fiscal Year 2013

Summary FY2013 Turnover

Fuel Station	Total Remitted FY2013	June 2013	May 2013	April 2013	March 2013	February 2013	January 2013	December 2012	November 2012	October 2012	September 2012	August 2012	July 2012
Cornelius Fast Serv	6,042.76											3,166.60	2,876.16
EATA LLC	2,420.79											1,134.59	1,286.20
Baseline Market	2,424.94											1,086.16	1,338.78
Fred Meyer	18,655.72											9,249.54	9,406.18
Tarr, LLC	1,787.90											919.81	868.09
Mansfield Oil(Frontier)	-											-	-
Cornelius Oil LLC	2,195.26											1,028.56	1,166.70
Total collections	\$ 33,527.37 33,527.37	-	-	-	-	-	-	-	-	-	-	16,585.26	16,942.11

Fueling America: Key Facts and Figures

NACS ANNUAL FUELS REPORT 2011



Convenience stores sell approximately 80 percent of the fuels purchased in the United States. Here are some facts and figures related to the industry.

Demand

U.S. gasoline demand is projected to average 9.12 million barrels per day in 2011.

Americans are expected to travel 8.27 billion miles per day in 2011. This equates to an average of 33 miles per vehicle per day.

Petroleum Infrastructure

The U.S. petroleum distribution industry includes:

- 148 refineries
- 38 Jones Act vessels (U.S. flag ships that move products between U.S. ports)
- 3,300 coastal, Great Lakes and river tank barges
- 200,000 rail tank cars
- 1,400 petroleum product terminals
- 100,000 tanker trucks
- Approximately 200,000 miles of oil and refined product pipelines

Fueling Outlets

There were 159,006 total retail fueling sites in the United States in 2010.

A total of 117,297 convenience stores sell motor fuels in the United States. This represents 80 percent of the 146,341 convenience stores in the country.

Overall, 58 percent (67,504 stores) of the country's 117,297 convenience stores selling fuels are one-store operations. By contrast, about 1 percent are owned and operated by the integrated oil companies, of which only two (ChevronTexaco and Shell) still are committed to selling fuel at the retail level.

Fuels Sales

The gross margin (or markup) on gasoline in 2010 was 16.3 cents/gallon, or 5.6 percent.

Motor fuels sales in convenience stores totaled \$328.7 billion in 2009. Motor fuels sales accounted for 68 percent of the convenience store industry's sales in 2009. However, because of low margins, motor fuels sales contributed only 27 percent of total store gross margins dollars.

The average convenience store in 2009 sold 121,000 gallons of motor fuels per month — approximately 4,000 gallons per day.

Fuels Expenses

The federal excise tax on gasoline is 18.4 cents per gallon and 24.4 cents per gallon for diesel fuel.

In January 2011, motor gasoline taxes averaged 48.1 cents per gallon and diesel fuel taxes averaged 53.1 cents per gallon.

Factoring in all gasoline sales in 2009 transactions — whether the customer paid by cash, check or by either debit or credit card — credit and debit card fees averaged 4.7 cents per gallon.

Sources for this information include the U.S. Energy Information Administration, American Petroleum Institute, National Petroleum News, OPIS, National Petrochemical and Refiners Association, Association of Oil Pipe Lines, Nielsen TDLinx and NACS.



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October 8, 2012

STEVEN W. ABEL
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swabel@stoel.com

VIA EMAIL AND HAND DELIVERY

Planning Commission
Attn: Bryan Brown, Planning Director
City of Canby
111 NW Second Street
Canby, OR 97013

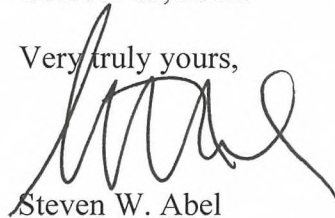
Re: Fred Meyer Submittal, File #ZC 12-01 and #TA 12-01

Dear Commissioners:

On behalf of Fred Meyer, Inc. ("Applicant"), please find enclosed Applicant's rebuttal evidence for the pending text and map amendment applications. The Group Mackenzie letter explains succinctly why the allegations raised by Save Downtown Canby in its submittal dated October 1, 2012 are not relevant in this proceeding.

Thank you for your consideration, and we look forward to submitting final written argument by October 15, 2012.

Very truly yours,



Steven W. Abel

Enclosure

cc: Michael Connors (*via email and hand delivery*)

GROUP MACKENZIE

October 8, 2012

City of Canby
Attention: Bryan Brown
111 NW 2nd Avenue
Canby, OR 97013

Re: **Fred Meyer Map and Text Amendment TA 12-01/ZC 12-02**
TPR Analysis Response
Project Number 2120130.00

Dear Mr. Brown:

This letter has been prepared in response to the October 1, 2012 letters from Michael Connors of Hathaway Koback Connors LLP and Michael Ard of Lancaster Engineering. Specifically, we are responding to comments related to the Transportation Planning Rule (TPR) and our Transportation Impact Analysis (TIA) report.

The TPR is a different traffic analysis than that performed as a part of the TIA. The TIA relates to a specific development proposal whereas a TPR is a big-picture analysis that is sometimes triggered during a comprehensive plan or zoning code amendment. The TIA was prepared for the Site and Design Review application for the Fred Meyer fuel station and supports findings that the proposed development meets the applicable development standards. Comments related to the TIA's content, such as those in the Lancaster Engineering letter, are not relevant to Text and Map Amendment applications and therefore, are not addressed.

With respect to the applicability of the TPR to the Text and Map Amendment applications, as noted in the September 4, 2012 letter from Steve Abel with Stoel Rives LLP, Fred Meyer is not proposing to change the underlying C-2 zone. The requests only change the boundary between two subareas of the Downtown Canby Overlay Zone (DCO). The change from Core Commercial (CC) to Outer Highway Commercial (OHC) only affects the design and development standards that apply to the site, not the allowed uses under the C-2 zone or the DCO. The TPR requires analysis of a worst-case scenario when considering a zone change, with the difference in traffic impacts between the existing and proposed zones being addressed. For example, when a residential zone is changed to a commercial zone, the increased trips associated with possible new uses of the land must be analyzed to ensure that the existing transportation system can accommodate any increased traffic. Here, there is no change in the allowed uses, and therefore Fred Meyer does not need to provide a TPR analysis.

The following support the fact that no TPR analysis is required:

- The City's Staff Report for the Text and Map Amendment application clearly states on pages 8 and 9, "the base C-2 Zone allows fuel stations". On page 5, the City notes "A retail fuel station is permitted within the C-2 zone. The site is also located within the Core Commercial (CC) area of the Downtown Overlay Zone. A fuel

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Group
Mackenzie,
Incorporated

Architecture
Interiors
Structural
Engineering
Civil Engineering
Land Use Planning
Transportation
Planning
Landscape
Architecture

Locations:
Portland, Oregon
Seattle, Washington
Vancouver, Washington

City of Canby
Fred Meyer Map and Text Amendment TA 12-01/ZC 12-02
Project Number 2120130.00
October 8, 2012
Page 2

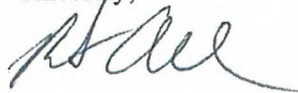
station could be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea; therefore not conflicting with the base C-2 Zone's permitted fuel station use."

- The Pre-Application Conference summary provided by the City of Canby states on page 5, "the proposed use is clearly permitted outright within the underlying C-2 zone". Staff also suggests in the summary that the applicant consider submitting a text amendment to modify the boundary between CC and OHC subareas in order to move the property into the more "suitable" OHC, where compliance with the applicable design guidelines can be more easily demonstrated.
- At no time in the application process did the City of Canby, its consultant DKS Associates, or the Oregon Department of Transportation (ODOT) require a TPR analysis. This includes any comments at the pre-application conference, where staff suggested the Text Amendment, and which was attended by Seth Brumley and Abraham Tayar from ODOT. Further, the March 29, 2012 traffic study scoping letter prepared by DKS Associates well after the pre-application meeting only addressed the need for a TIA for the site and design review application. No mention was made of the need for a TPR analysis. A copy of the scoping letter is attached.

It is clear that the proposed amendments to simply change from CC to OHC do not result in any change in allowed uses in the underlying C-2 zone, but only the design standards that are applied to those uses. With no change in allowed uses, there is no additional transportation impact, and therefore no requirement for an analysis per the Transportation Planning Rule. A TIA was prepared for the Site and Design Review application for the specific fuel station development, but that application has yet to be considered by the Planning Commission.

From a transportation engineering perspective, the pending Text and Map Amendment applications do not raise any new transportation system concerns and should be approved.

Sincerely,



Brent Ahrend, PE
Senior Associate | Traffic Engineer

Enclosure: DKS Scoping Memo

- c: Steve Abel – Stoel Rives
James Coombes – Fred Meyer
Jake Tate – Great Basin Engineering
Lee Leighton – Westlake



MEMORANDUM

DATE: March 29, 2012
TO: Bryan Brown, City of Canby
FROM: Chris Maciejewski, PE, PTOE
SUBJECT: Canby Fred Meyer Fuel Station Traffic Impact Study (TIS) Scope

P11010-015

This memorandum describes the scope of services to evaluate the transportation impacts associated with the proposed Fred Meyer Fuel Station in the City of Canby. This scope of services has been prepared through our on-call services contract and coordination with ODOT staff¹. The proposed fuel station would consist of twelve fueling stations (6 fuel pumps), a 3,956 square foot covered canopy, a 176 square foot kiosk with bathroom, two underground storage tanks, three employee parking spaces, an air dispenser station, and a 1,000 gallon propane fuel station². No convenience store will be provided.

The project site is located on the southwest corner of the intersection of Highway 99E (SE 1st Ave) and S Locus Street. Highway 99E is a state facility and is classified as a regional highway and state truck route³. Both S Locus Street and SE 2nd Avenue are classified as local City streets.

The site is made up of five property lots all of which are currently vacant. All lots are currently designated as Highway Commercial (HC) per the City's Comprehensive Plan and are zoned Highway Commercial (C-2). A service station is an outright permitted development based on the current zoning of the site; therefore no zone change would be required for the proposed application.

Scope of Services

Task 1: Existing Conditions Analysis/Data Collection

An existing conditions analysis will document the existing transportation conditions within the project study area. A description of the surrounding transportation network will be provided

¹ Phone conversation with Abraham Tayar, ODOT, March 14, 2012

² Fred Meyer Gas Station Pre-Application Meeting, February 28, 2012.

³ 1999 Oregon Highway Plan, Appendix D: Highway Classification by Milepoint.

including functional classification of roadways, roadway cross-sections, posted speed limits, and pedestrian/bicycle/transit facilities.

The study intersections will be reviewed to determine the existing geometry, traffic control, and operations during the peak hours. Existing intersection operating conditions will be analyzed to establish the current peak hour performance. The critical peak periods for this evaluation will be the weekday morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm). These are the times during a typical weekday when the study area street system would be expected to experience the highest vehicle volumes. DKS will collect vehicle turn movement counts at the study area intersections during each of the identified peak periods.

The study area intersections include the following:

- Highway 99E/S Locust Street
- S Locust Street/SE 2nd Avenue
- Onsite and Offsite study intersections (see Access Management Plan)

Furthermore, collision records at study intersections will be reviewed and summarized in a table.

Preliminary trip generation and distribution estimates indicate that trip levels would not trigger analysis to be conducted at any other intersections based on the City's and ODOT's intersection analysis evaluation guidelines. In addition, it does not appear that a Neighborhood Through-Trip Study would be required⁴.

Task 2: Project Trip Generation/Trip Distribution

The amount of new vehicle trips generated by the proposed fuel station to the site will be estimated using traffic counts collected by DKS at one similar land use within the surrounding area. DKS will collect traffic counts (entering/exiting volume) during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods. The counts collected will be compared to trip generation estimates published in the ITE Trip Generation Manual for similar land use type⁵. The greater trip generation estimate will be used for analysis to evaluate worst case impacts. Trip generation estimates will be provided for daily, morning, and evening peak hour periods. The project trip generation estimate will be summarized in a table, including pass-by trip reductions.

The distribution of site vehicle traffic will be based on the existing travel patterns as determined by traffic counts at surrounding intersections, the City of Canby Travel Forecast Tool, and input from the project team. The project trip distribution will be shown on a study area figure.

⁴ City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010

⁵ Trip Generation Manual, Institute of Transportation Engineers, 8th Edition.

Task 3: Traffic Impact Analysis

A transportation impact analysis for the proposed project will be conducted in accordance to the City's requirements⁶. The new vehicle trips generated by the proposed project will be added onto the existing traffic volumes to identify the expected traffic operating conditions once the project is built and fully operational. The traffic conditions will be evaluated at the same study intersections as was considered in the Existing Conditions analysis. At this time, there are no significant approved but un-built projects in the study area, so a future background growth scenario will not be evaluated.

Street facilities and intersections that are shown to fall below the minimum acceptable operating thresholds will be identified for possible mitigation measures. Typical mitigation measures can include traffic control strategies, access management plans, intersection widening for turn lanes, and roadway widening. Transportation performance criteria will consider City of Canby and ODOT standards, where applicable.

Task 4: Site Access and Circulation Review

The forecasted site traffic accessing the public road system via the sites access will be evaluated for performance and safety. DKS will collect video recordings during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods at a similar land use site to assist with estimating vehicle stacking within the proposed site. The video recordings will take place simultaneously with the traffic counts collected as part of Task 2.

Internal circulation routes will be examined using the AutoTURNTM turn simulation software to determine adequacy for serving fuel delivery vehicles, emergency vehicles, and motor vehicle traffic. In addition, site access for non-auto modes of travel (pedestrians and bicyclists) will be evaluated for connectivity to the surrounding transportation system. Any inadequacies discovered during the evaluation will be identified and mitigation measures will be recommended, as needed.

Sight distance will be verified at all site access locations and vision triangles will be checked to ensure that they are clear from any obstructions.

Task 5: Access Management Plan

The preliminary site plan indicates two proposed full accesses to the site. One is located along Highway 99E and the other along SE 2nd Avenue. Proposed access locations will be compared to both ODOT and the City's access spacing requirements. Preliminary review of the proposed site plan reveals that the City's access spacing standards would not be able to be met based on the close proximity of adjacent intersections (S Locust Street). The City's standard requires that accesses be located at least 330 feet away from any street intersection; therefore an access management plan

⁶ City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010.

will be prepared per the City's requirements to assess the potential impacts of the proposed access locations⁷. At a minimum the access management plan will include:

- The minimum study area shall include the length of the site's frontage plus 250 feet measured from each property line or access point(s), whichever is greater.
- The potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.
- A comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the City standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.
- A list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.
- References to standards or publications used to prepare the access management plan.

The access management plan will examine access alternatives such as the relocation of proposed access locations and the potential for shared use with adjacent accesses (property to the west). The plan will include the following alternative scenarios:

- No Access to Highway 99E
- Shared access to Highway 99E with the development to the west
- Restricted movement access to Highway 99E
- Full Access to Highway 99E

Based on the preliminary access management plan study area, approximately seven access points along Highway 99E and one additional intersection (Highway 99E/S Knott Street) would need to be analyzed. DKS will collect traffic counts at these locations during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods. These counts will be collected in conjunction with those identified in Task 1.

Task 6: Documentation

The findings and recommendations of this traffic impact analysis will be presented in a Draft Report that will be submitted to the City and ODOT (one electronic copy). The report will document data collection, analysis procedure, results, and mitigation measures for the proposed project traffic if necessary. A technical appendix supporting calculations will accompany the report. After the City

⁷ City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010.

and ODOT have reviewed the Draft Report, we will make appropriate edits and submit a revised Draft Report. Once comments are received, DKS will make appropriate edits and submit a Final Report (one electronic copy).

Task 7: Meetings

The DKS project manager will attend up to one (1) coordination meeting or hearing as part of this project. Additional meetings as directed by the City will be provided for an additional fee on a time and expenses basis.

Budget

The level of effort for these tasks is up to 130 hours in addition to data collection efforts. Therefore, including expenses, our fee estimate for this effort is \$17,000.

If the applicant chooses to utilize another consultant to complete this task, our assistance with forecasting (using the Canby TSP Travel Forecast Tool) and review with written response of the applicant's TIS would be approximately \$1,500.

If you have any questions, please feel free to call or email.



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fax 503.220.2480
www.stoel.com

October 15, 2012

STEVEN W. ABEL
Direct (503) 294-9599
swabel@stoel.com

VIA EMAIL AND HAND DELIVERY

Planning Commission
Attn: Bryan Brown, Planning Director
City of Canby
111 NW Second Street
Canby, OR 97013

Re: Fred Meyer Final Written Argument, File #ZC 12-01 and #TA 12-01

Dear Commissioners:

Fred Meyer, Inc. ("Fred Meyer") filed three land use applications seeking approval of the proposed fuel station in the City of Canby ("City"). These three land use applications are consolidated, but at this point in the proceeding, the Planning Commission is only considering whether to recommend approval of Applications #ZC 12-01 and #TA 12-01 to the City Council. As described below, recommending approval is the proper course.

The three applications, in combination, would (1) allow Fred Meyer to use the design standards of the Outer Highway Commercial ("OHC") subarea of the Downtown Canby Overlay ("DCO") for the proposed fuel station rather than the design standards of the Core Commercial subarea (Applications #ZC 12-01 and #TA 12-01, or "Text and Map Amendment"), and (2) demonstrate that the project does in fact meet the OHC design standards and other DCO requirements (Application #DR 12-03 or "SDR"). Save Downtown Canby business owners ("SDC Business Owners") have tried to overcomplicate this proceeding and confuse the issues. Trying to create confusion is a common approach taken by project opponents. Fred Meyer's request, however, is straightforward and the record demonstrates there are no outstanding substantive or procedural issues.

With respect to substantive City requirements, Fred Meyer has demonstrated that the Text and Map Amendment application meets the applicable criteria in the Canby Municipal Code ("CMC"), specifically CMC 16.54 and 16.88. See City Staff Reports and Fred Meyer submittals included in the record. The SDC Business Owners raised traffic as a substantive concern, but Fred Meyer demonstrated that the Text and Map Amendment does not result in a change to the underlying zone or permitted uses, and therefore, no additional transportation considerations



must be addressed in order to recommend approval of the Text and Map Amendment. The Planning Commission may rely on, among other things, Fred Meyer's letters dated September 4, 2012 and October 8, 2012, including the Group Mackenzie's TPR Analysis response, when making this conclusion. Traffic considerations related to the fuel station development itself will be considered when the Planning Commission hears the SDR application. At that time, Fred Meyer will demonstrate to the Planning Commission that the SDR application raises no transportation concerns.

With respect to procedural City requirements, the City is following the proper process when reviewing the Text and Map Amendment and SDR applications. ORS 227.175(2) directs the City to establish a consolidated procedure "by which an applicant may apply at one time for all permits or zone changes needed for a development project." ORS 227.275(2) "facilitate[s] consolidated review of multiple applications, including zone changes, that will be required for a development project." *See North East Medford Neighborhood Coalition v. City of Medford*, 53 Or LUBA 277, 281-82 (2007) (determining that development applications requiring a zone change are judged by the standards and criteria that apply under the new zoning designation). Under ORS 227.175(2), the applications do not need to be filed on the same date to be considered filed "at one time," and nothing prevents the City from processing the applications on different timelines, recognizing that different applications have different procedural requirements. *Id.*; *see also Devin Oil Co., Inc. v Morrow County*, 62 Or LUBA 227, 260-61 (2010) (challenge by competing gas station owners to local government procedure denied). Accordingly, the City may proceed with the Text and Map Amendment, and when it comes time to review the SDR, the SDR application will be reviewed against the applicable CMC and comprehensive plan requirements in place at the time the SDR application was filed, *as amended* by the Text and Map Amendment. SDC Business Owners' arguments, to the contrary, are simply wrong as a matter of law.

Finally, recommending approval of the Text and Map Amendment does not establish a precedent that could undermine the DCO policy. The City reviews each land use application against the criteria applicable to the request. There is no requirement that a local government's actions must be consistent with past decisions, but only that the decision must be correct when made. *See, e.g., Reeder v. Clackamas County*, 20 Or LUBA 238, 244 (1990); *Okeson v. Union County*, 10 Or LUBA 1, 5 (1983). *See also BenjFran Development v. Metro Service District*, 17 Or LUBA 30, 46-47 (1988); *S & J Builders v. City of Tigard*, 14 Or LUBA 708, 711-12 (1986). In every proceeding, each applicant has the burden to demonstrate that the applicable criteria from the CMC have been met. Therefore, in recommending approval of the Text and Map Amendment, the City is not binding itself to approve any future adjustments to the DCO subarea boundaries.

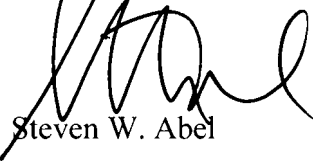


Planning Commission
October 15, 2012
Page 3

In fact, the City is doing what it should – using its regulatory authority to create positive economic conditions in the City.

Thank you for your consideration, and we encourage the Planning Commission to recommend approval of the Text and Map Amendment to the City Council.

Very truly yours,



Steven W. Abel

cc: Michael Connors (via email)

ORDINANCE NO. 1364

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH HUBBARD CHEVROLET OF HUBBARD, OREGON; WILSONVILLE CHRYSLER JEEP DODGE OF WILSONVILLE, OREGON; WIRE WORKS OF SALEM, OREGON; AND FORD MOTOR CREDIT CORPORATION FOR THE LEASE / PURCHASE OF ONE (1) 2013 CHEVROLET TAHOE AND ONE (1) 2013 DODGE CHARGER WITH POLICE EQUIPMENT PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to lease/purchase one (1) 2013 Chevrolet Tahoe and one (1) 2013 Dodge Charger vehicle with police equipment packages for the Canby Police Department; and

WHEREAS, the cost of the vehicles and equipment will be paid by the Canby Police Department which has budgeted said lease/purchase for the fiscal years 2012-2013 through 2016-2017; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, Exhibit A, Section G (18), the City wishes to utilize an existing solicitation from another governmental agency; and

WHEREAS, the State of Oregon awarded Hubbard Chevrolet of Hubbard, Oregon a contract to supply Chevrolet vehicles to the State and other public agencies in accordance with Price Agreement # 0433 and Hubbard Chevrolet is able to provide one (1) 2013 Chevrolet Tahoe in the amount of \$28,291.15; and

WHEREAS, the State of Oregon awarded Wilsonville Chrysler, Jeep, Dodge of Wilsonville, Oregon, a contract to supply Dodge vehicles to the State and other public agencies in accordance with Price Agreement # 0432 and Wilsonville Chrysler, Jeep, Dodge is able to provide one (1) 2013 Dodge Charger in the amount of \$23,988.00; and

WHEREAS, the City of Gresham awarded Wire Works of Salem, Oregon, a contract to supply police equipment packages to the City of Gresham in accordance with Contract # 5637 and Wire Works is able to provide two (2) police equipment packages in the amount of \$28,810.21; and

WHEREAS, Hubbard Chevrolet, Wilsonville Chrysler, Jeep, Dodge, and Wire Works are able to provide one (1) 2013 Chevrolet Tahoe vehicle, one (1) 2013 Dodge Charger vehicle, and one (1) police equipment package to the City of Canby's Police Department for the total sum of \$81,089.36; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this proposed sales price, reviewed the staff report and believes it to be in the best interest of the City to purchase these vehicles from Hubbard Chevrolet and Wilsonville Chrysler, Jeep, Dodge; and Wire Works; and

WHEREAS, in order to fund the purchase of these vehicles, the City wishes to enter into a lease/purchase agreement with Ford Motor Credit Company under its Municipal Finance Program (Bid # 72566R); now therefore

2nd Reading

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and City Administrator are hereby authorized and direct to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate contract with Hubbard Chevrolet of Hubbard, Oregon, Wilsonville Chrysler, Jeep, Dodge of Wilsonville, Oregon and Wire Works of Salem, Oregon for the total purchase price of \$81,514.36 , which includes the Ford Credit underwriting fee of \$425.00 .

Section 2. The Mayor and City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate Municipal Lease Purchase Contract (Bid # 72566R2) with Ford Motor Credit Company to finance the purchase of the vehicles.

Section 3. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to provide the Police Department with these vehicles without further delay, and to better serve the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on October 17, 2012, 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 November 7, 2012, commencing at the hour of 7:30 P.M. in the City Council Chambers located at 155 NW 2nd Avenue, Canby, Oregon

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th of November 2012, by the following vote:

YEAS _____

NAYS _____

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

2nd Reading

ORDINANCE NO. 1365

AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.41 OF THE CANBY MUNICIPAL CODE CONCERNING THE SUBAREA BOUNDARY OF THE CANBY DOWNTOWN OVERLAY ZONE

WHEREAS, Great Basin Engineering, representing Fred Meyer Stores, Inc., applied for a text amendment and zone change to alter Chapter 16.41, Downtown Canby Overlay Zone (DCO) in order to change the subarea boundary of the Downtown Overlay Zone on taxlots 3S1E33DC00100, 00200, 00300, 02200 & 02300 from Core Commercial (CC) to Outer Highway Commercial (OHC), as shown in Exhibits “A” and “B”, and

WHEREAS, the Planning Commission held public hearings on July 23, 2012, September 24, 2012, and October 22, 2012 during which the citizens of Canby and their representatives were given the opportunity to present testimony on these proposed changes; and

WHEREAS, the Planning Commission found that the standards and criteria of the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance concerning text amendments and zone changes were not satisfactorily met, and therefore recommended by a vote of 3-1 to forward a recommendation of denial to the City Council, and

WHEREAS, the City Council, after reviewing the text amendment and zone change applications, supporting materials, and testimony on November 7, 2012, found that the proposed amendment complies with the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance, and the plans and policies of the county, state, and local districts and will preserve the function and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

- 1) The City Council hereby approves Text Amendment and Zone Change files TA 12-01 and ZC 12-02; and
- 2) Title 16, Chapter 16.41 of the Land Development and Planning Ordinance of the City of Canby, is modified as detailed in Exhibit “A.”

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, November 7, 2012 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

November 21, 2012, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.,

Kimberly Scheafer, MMC
City Recorder

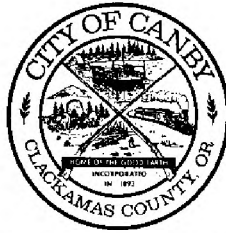
PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on November 21, 2012 by the following vote:

YEAS_____ NAYS_____

Randy Carson, Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder



MEMORANDUM

DATE: OCTOBER 26, 2012
TO: MAYOR CARSON AND CANBY CITY COUNCIL
FROM: JAMIE STICKEL, MAIN STREET MANAGER
RE: AMENDMENT TO CHAPTER 9.24.060 OF THE CANBY MUNICIPAL CODE

Issue: Whether or not to amend the current ordinance to allow for consumption of alcohol on public property during special events.

Background: The Canby Main Street promotion committee's recent planning sessions has unearthed the possibility of fundraising through special events. Many Oregon cities, such as Sandy and Sherwood, allow the sale of alcohol at special events as fundraisers. This amendment would allow Canby businesses or other organizations to create and expand their fundraising efforts to include the sale of alcohol on a case-by-case basis. The last amendment to this ordinance was in 2009, to allow for sidewalk cafes. Currently, the ordinance reads, "No person shall drink or consume alcoholic liquor in or on a street, alley, sidewalk, mall, public or private parking lot or parking structure, motor vehicles, public grounds or other public places unless the place has been licensed for that purpose by the Oregon Liquor Control Commission and the owner of the OLCC licensed premises has obtained a permit from the City of Canby to operate a sidewalk café."

Recommendation: Staff recommends that Council adopt Ordinance 1366 to allow qualifying events to sell alcohol on public property by adding the addition of "and other qualifying events" to that language from the 2009 ordinance as a logical extension of that tested opportunity.

Motion: "I moved to approve Ordinance 1366, an ordinance amending Canby Municipal Code Section 9.24.060 regarding drinking in public places, to come up for second reading on November 21, 2012."

Attached: Ordinance 1366.

ORDINANCE NO. 1366

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE SECTION 09.24.060 REGARDING DRINKING IN PUBLIC PLACES.

WHEREAS, the council has decided to make the change to allow qualifying events to sell alcohol on public property by adding the addition of “and other qualifying events” to that language from the 2009 ordinance as a logical extension of that tested opportunity.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Title 9 of the Canby Municipal Code (CMC), otherwise known as the “Drinking in Public Places Ordinance of the City”, Section 09.24.060, is amended as follows:

(Added text is illustrated below in **red underlined font** while deleted text is illustrated in ~~strikeout font~~).

09.24.060 Drinking in Public Places.

No person shall drink or consume alcoholic liquor in or on a street, alley, sidewalk, mall, public or private parking lot or parking structure, motor vehicles, public grounds or other public places unless the place has been licensed for that purpose by the Oregon Liquor Control Commission and the owner of the OLCC licensed premises has obtained a permit from the City of Canby to operate a sidewalk café **or other qualifying event**.

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, November 7, 2012, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, November 21, 2012, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 21st of November 2012, by the following vote:

YEAS_____

NAYS_____

Randy Carson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

BRIEFING:

Completion of Metro 2035 Regional Forecast

(Prepared 10.10.12 by Bryan Brown – Canby Planning Director from Data Supplied by Metro Staff and the Draft report from Clackamas County's Rural Cities Population Coordination project)

Metro, as the metropolitan region's planning agency, provides the technical analysis to produce population and employment forecasts for the Portland-Vancouver metropolitan region, including Multnomah County, Washington County, Clackamas County in Oregon and Clark County in Washington. Metro maintains the "Metro Boundary" and the metro area's "Urban Growth Boundary" which delineate the lands for future urban development from rural areas.

The agency manages "an integrated land use and transportation model" called Metroscope, and the data are also utilized in a "regional economic/population model" and a "travel demand model". Metro is required by state land use law to provide forecast changes in population, households, and employment every five years. For this current round of forecasts, Metro reached out more than ever before to involve surrounding rural City's in their forecasting and modeling efforts recognizing the importance that policies, investment trends, available land supply and growth capacities of outlying cities can influence the actual eventual distribution of the forecasted growth.

The Metro 2035 Regional Forecast "result in an equilibrium growth allocation or distribution among entities within the region which balances residential or employment capacity against regional population or employment growth trends". Canby was included within the forecast modeling this round. Clackamas County has chosen to utilize Metro results as they pertain to completion of the County's first "coordinated 20-year population and land supply forecast for the County's rural cities, per ORS 195.036".

The results of Metro's regional forecast as it pertains to Canby is clearly represented and summarized on page 20 & 21 of a Draft Report generated from the Clackamas County Rural Cities Population Coordination Report and Forecast released for review and input by staff recently (Attachment 1). The County coordinated population forecast of which Canby is a part is likely to recommend accepting the Metro forecast, from which a 20-year planning horizon of 2012 to 2032 would be extrapolated. The County draft population forecast result indicated below is for the Canby Urban Growth Boundary:

- 2012 population: 16,880
- 2032 population: 27,390

Metro's household and employment forecast for Canby and all the other region entities can be viewed on Attachment 2, 3, & 4.

The completed Metro Regional 2035 Forecast is moving through final committee reviews and the Metro Council vote on an approving ordinance on November 24, 2012. Metro has requested that city staff update our local elected officials about the process, including that:

1. It was acknowledged that further refinement of the methodology was needed which will be accomplished through proposed research to be completed prior to the beginning of the next growth management decision process.
2. The first phase of this project in 2011 involved focusing on land supply assumptions and results which relied greatly on data supplied by each jurisdiction – including Canby.
3. The second phase of the project involved matching the demand (forecast households defined as housing units) with the land supply and producing the 2035 distribution.

The forecast allocation or distribution is important in that local communities and counties are required to utilize the forecast numbers in their community planning efforts which range from Buildable Lands Analysis, Comprehensive Plan updates, capital planning endeavors, infrastructure investments, and grant justifications and submissions.

Clackamas County Rural Cities Coordinated Population Forecast Attachment #1

CANBY

The Metro Gamma Forecast projects 4,951 new households in the TAZ group that includes the city of Canby between 2010 and 2035.

**Table 8. Metro Gamma Forecast Households 2010 to 2035.
Canby TAZ Group⁸**

2010 Existing	2035 Projection	Household Change
6,628	11,579	4,951

Assuming the City of Canby captures 90% of this new growth, this projection results in a total of 4,456 new households in the city between 2010 and 2035 for a total of approximately 10,150 households with a total of approximately 28,220 people in the city in 2035.⁵

The growth forecast suggested by Metro is compared to historic growth below. As suggested by this comparison, the forecast for approximately 28,220 people in Canby by 2035 is within the range of growth rates seen in the city over the last several decades but represents a 47% increase in the average number of new people annually in the city over the last two decades.

Table 9. Historic and Projected Growth. City of Canby

Year	Population	AAGR	Avg annual increase
1960	2,178	---	---
1970	3,813	5.8%	164
1980	7,659	7.2%	385
1990	9,115	1.8%	146
2000	12,790	3.4%	368
2010	15,829	2.2%	304
2035	28,220	2.3%	495

Source: US Census & Metro

Table 10 provides a comparison of the City's forecasts for households and jobs found in the City's Transportation System Plan (December 2010), with Metro's forecasts for household and jobs. Projected jobs growth is shown in the table for context;⁹ to the extent that strong (or weak) jobs growth occurs, so could population growth. It should be noted that both the forecasts found in Canby's TSP are "buildout" forecasts, in which the city assumes it will be fully built out by 2030, and are therefore not necessarily market driven but are limited by supply of buildable lands within the current UGB.

⁸ Includes TAZ#: 843,844,847,846,845

⁹ This report makes no attempt to assess or reconcile economic forecasts from the 2035 Metro Gamma Forecast with the city's forecasts. Employment forecasts are presented for context only.

Table 10.

City of Canby	2010	Projected Growth 2010 - 2035	AAGR 2010-2035	2035
Households				
Households (UGB) <i>2010 City TSP (1)</i>	6,337	5,245	2.4%	11,582
Households in TAZ group <i>Metro's Regional Forecast</i>	6,628	4,951	2.3%	11,579
Households in City of Canby <i>Metro's Regional Forecast</i>	5,694*	4,456	2.4%	10,150
Jobs				
Jobs (UGB) <i>2010 City TSP (1)</i>	4,185	2,201	3.4%	9,688
Jobs in TAZ group <i>Metro's Regional Forecast</i>	5,592	3,490	2.0%	9,082

*Per 2010 US Census

(1) City of Canby Transportation System Plan. December 2010. (DKS & Associates)

Canby's TSP forecasted 4,403 new households between 2009 and 2030. Based on this forecast, an average annual increase of 210 households was calculated and used to estimate 2010 and 2035 households.

Canby's TSP forecasted 4,623 new jobs between 2009 and 2030. Based on this forecast, an average annual increase of 220 jobs was calculated and used to estimate 2010 and 2035 jobs.

Staff Recommendation for City of Canby 2035 Forecast: The 2035 Metro Gamma Forecast indicates stronger population growth than the city has historically seen in terms of actual numbers of people per year. However, Metro is also projecting strong growth in employment in the city, which, if it occurs, could support the stronger population growth.

City staff needs to provide the county with information regarding:

1. Interest in pursuing economic development opportunities to attract high projected growth in employment
2. The extent that infrastructure in the city can accommodate or be expanded to accommodate this level of growth.
3. Any additional factors (see Appendix A) that would lead to the conclusion that the city could and will attract higher population growth that it has historically.

To the extent that the city can demonstrate the above and can continue to provide housing that is less expensive than that of the nearby Metro area, the city could possibly achieve this growth. Staff recommends accepting the Metro forecast, which would extrapolate to the following for the 20-year planning horizon of 2012-2032 specified for this project.

2012 population: 16,880

2032 population: 27,390

Attachment # 2

METRO 'GAMMA' FORECAST DISTRIBUTION PROFILES BY COUNTY AND CITY

JURISDICTION REVIEWED HOUSEHOLDS AND EMPLOYMENT

Published 9/19/2012 Metro Economic and Land Use Forecasting



Metro

DRAFT

METRO TAZ 'GAMMA' FORECAST -- JURISDICTION PROFILES

Published 9/19/2012 Metro Economic and Land Use Forecasting

County Summary for Clackamas

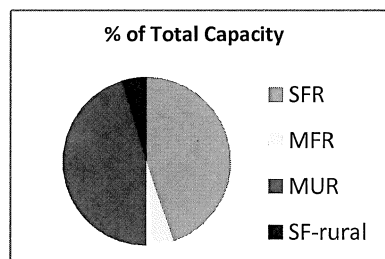
DRAFT

Household Forecast				
Year	SF	MF	Total	%APR
2010	109,231	37,093	146,324	
2025	146,808	41,341	188,149	1.7%
2035	161,217	47,220	208,437	1.0%
2040	167,598	51,814	219,412	1.0%

Households Change from 2010			
Year	SF	MF	Total
2025	37,577	4,248	41,825
2035	51,986	10,127	62,113
2040	58,367	14,721	73,088

2010-2045 Capacity Used			
Year	SF	MF	Total
2025	49%	5%	27%
2035	68%	13%	40%
2040	76%	19%	47%

2010-2045 Household Capacity by Type							
	SFR	MFR	MUR	SF-rural	All SF	All MF	Total
Capacity	69,435	8,172	70,254	7,446	76,881	78,426	155,307
% of Total	45%	5%	45%	5%	50%	50%	100%



SFR = Single Family Residential
MFR = Multi-Family Residential
MUR = Multi-Family, Mixed Use
SF-rural = Rural Single Family

SF = SFR + SF-rural
MF = MFR + MUR

Employment Forecast				
Year	Retail	Service	Other	Total
2010	27,114	40,035	70,797	137,946
2025	34,770	62,517	85,943	183,230
2035	39,943	77,957	92,544	210,444
2040	43,177	85,402	98,874	227,453

2010-2045 Employment Cap.		
	IND	COM
Acres	3,819	2,255
% of Total	63%	37%

DISCLAIMER: These data are for research purposes only, and do not reflect policy decisions by any jurisdictional authority.

METRO TAZ 'GAMMA' FORECAST -- JURISDICTION PROFILES

Published 9/19/2012 Metro Economic and Land Use Forecasting

City **Canby**

County **Clackamas**

Note: City geographies are approximated by TAZ boundaries.

DRAFT

Household Forecast

Year	SF	MF	Total	%APR
2010	5,115	1,513	6,628	
2025	9,069	1,593	10,662	3.2%
2035	9,796	1,783	11,579	0.8%
2040	9,816	1,895	11,712	0.2%

Households Change from 2010

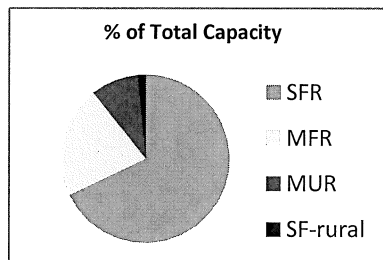
Year	SF	MF	Total
2025	3,954	80	4,034
2035	4,681	270	4,951
2040	4,701	382	5,084

2010-2045 Capacity Used

Year	SF	MF	Total
2025	87%	4%	62%
2035	100%	14%	76%
2040	100%	19%	78%

2010-2045 Household Capacity by Type

	SFR	MFR	MUR	SF-rural	All SF	All MF	Total
Capacity	4,442	1,400	600	99	4,541	2,000	6,541
% of Total	68%	21%	9%	2%	69%	31%	100%



SFR = Single Family Residential
MFR = Multi-Family Residential
MUR = Multi-Family, Mixed Use
SF-rural = Rural Single Family

SF = SFR + SF-rural

MF = MFR + MUR

Employment Forecast

Year	Retail	Service	Other	Total
2010	1,127	1,012	3,453	5,592
2025	1,227	1,356	3,560	6,143
2035	1,929	2,110	5,043	9,082
2040	2,218	2,461	5,519	10,198

2010-2045 Employment Cap.

	IND	COM
Acres	200	104
% of Total	66%	34%

DISCLAIMER

R: These

Management Team Meeting Minutes
October 15, 2012
2:00 p.m.
City Hall Conference Room

In attendance: Greg Ellis, Bret Smith, Bryan Brown, Julie Wehling, Penny Hummel, Joseph Lindsay, Kim Scheafer, and Amanda Zeiber.

Kim Scheafer

- Deadline for November 21 CC Meeting packet will be at noon on November 9
- City Hall and Municipal Court will be closed on October 16 from 10 a.m. – 12:30 p.m. due to a power outage to allow underground power to be hooked up
- Sue Ryan will be out of the office October 18-29
- Jane Moe-Wright is out of the office at the OACA Conference until Wednesday

Penny Hummel

- Will be in the final act of “Our Town” that is being put on by Canby High School Drama Department

Sue Engels

- A/P computer conversion is going on this week
- Sharon Tramel is out of office until Wednesday
- Consultant from TKW is coming into help do a report on SDC’s

Eric Laitinen

- Public swims have been scheduled for non-school days in October and November

Bryan Brown

- Received an inquiry from a church regarding expanding their building
- Written closing arguments are due today regarding the Fred Meyer Fuel Station
- Expecting application from Zoar Lutheran Church to remove a house on their property from a land mark designation
- CC and PC Work Session on October 17 is regarding transportation and parks SDC methodologies and fee updates
- Marion County is holding an Economic Summit on Wednesday night in Keizer

Joseph Lindsay

- Working with staff on revising CMC language regarding drinking in public places

Bret Smith

- Will be reposting for the lateral Police Officer
- Audio and video surveillance is being done at all times in the Community Room
- Community Open House will be held on October 29 from 2-7 p.m.

Greg Ellis

- The south 1st Avenue parking lot has been paved
- Visioning meeting regarding transportation and public safety will be held tomorrow at 7 p.m. at the Canby Police Department
- Attended a Light the Night meeting today
- A minor amendment to the URD Plan will go before the Agency on November 14

Julie Wehling

- Fare collection is going well
- Out of office October 17 and 23
- Found pass through partner for final BETC

Amanda Zeiber

- Holiday luncheon will be held December 13
- Conditional offer was made to Finance Director candidate
- A generator will be running the server tomorrow during the power outage

Minutes taken by Kim Scheafer

Management Team Meeting Minutes
October 22, 2012
2:00 p.m.
City Hall Conference Room

In attendance: Greg Ellis, Darwin Tramel, Renate Mengelberg, Bryan Brown, Julie Wehling, Penny Hummel, Darwin Tramel, Joseph Lindsay, Kim Scheafer, and Amanda Zeiber.

Kim Scheafer

- Deadline for November 21 CC Meeting packet will be at noon on November 9

Amanda Zeiber

- Handed out checklist regarding Key Leadership Practices
- Received a \$10,000 grant from CIS for a new Bi-Directional Amplifier 800 MHz in the Police Department
- Transit phones go live on November 6

Julie Wehling

- As of last Wednesday ridership was down 16.93% compared to October of 2011
- Total revenue collected through October 16 is \$7,044.85
- Attended meeting on Federal funding last week. 5311 and 5316 funds will be formulized into one program
- Will be out of office Tuesday

Bryan Brown

- Attended meeting in Vancouver last week regarding redevelopment of their waterfront

Darvin Tramel

- Four firms submitted proposals for the stormwater RFP
- Gave presentation on energy management last week
- Working on industrial pretreatment audit this week

Renate Mengelberg

- Attended Economic Development Conference in Pendleton last week
- 1st Avenue celebration will be held on November 24. More details will be forthcoming.
- Planters will be replanted this week for winter

Greg Ellis

- Visioning meetings will be held the next three evenings at the Police Department
- Assessed value in industrial park went up from 170 million to 202 million

Minutes taken by Kim Scheafer

CITY COUNCIL / URA MEETING FOLLOW-UP ITEMS

ORIG. CC / URA MTG. DATE	ITEM	STATUS	ASSIGNED TO	FOR CC OR URA MTG. OF
10/12/2011 URA	Entrance Sign Power Agreement - ODOT	Contact appropriate person at ODOT	Dan Drentlaw	TBD
10/12/2011 URA	Other use or market for solar panels	Researching	Dan Drentlaw	TBD
	Fred Myer Fuel Station Text Amendment	Scheduled	Bryan Brown	November 7, 2012
September 12, 2012	Industry Cluster Analysis	Underway	Renate Mengelberg	November 14, 2012
September 12, 2012	Team Track Feasibility Assessment	Begun	Renate Mengelberg	November 14, 2012
August 8, 2012	Available Properties Update	Underway	Jamie Stickel	November 14, 2012
	Downtown Parking Study Update	Completed	Matilda Deas	November 21, 2012
September 12, 2012	Industrial Property Sale	Underway	Renate Mengelberg	December 2012 latest
May, 2011	Hwy 99E Corridor & Gateway Plan	Completed	Matilda Deas	December 5, 2012
October 10, 2012	Industrial Area GIS Mapping	Begun	Renate Mengelberg	December 12, 2012
Several Mtgs.	Economic Development Plan	Underway	Renate Mengelberg	January 9, 2013
Community Driven	Code Amendment Improvement Package	Underway	Bryan Brown/Angie Lehnert	January 16, 2013
TSP Update Driven	Parks/Transportation SDC Methodology & Fee Update	Completed	Matilda Deas	January 16, 2013
	Clackamas County Coordinated Population Forecast	Underway	Bryan Brown	February 6, 2013
	Northwoods Park Playground Construction Contract	Design Completed	Matilda Deas	January, 2013
March 14, 2012	Urban Renewal Plan Annual Report	Not started	Renate Mengelberg	March 13, 2013
July 11, 2012	Retail Business Recruitment Update	Not started	Jamie Stickel	March 13, 2013
	Dog Park Construction Contract	Concept Plan Completed	Matilda Deas	April, 2013
	New Tree Ordinance	Underway	Matilda Deas/Sol Jacobsen	May, 2013
July 11, 2012	Main Street Annual Report	Not started	Jamie Stickel	June 12, 2013
	Stormwater Master Plan Contract Award	Proposals Due 10.19.12		December 5, 2012
	Stormwater Master Plan Adoption	Not started (Waiting for Selection of Consultant)	Darvin Tramel	June, 2013
	Buildable Land Needs Study	Not started (Waiting for Population Forecast)	Matilda Deas	August, 2013
	NE Canby Master Plan	Not started	Matilda Deas	December, 2013
	N Redwood Master Plan	Not started (Need Funding)	Matilda Deas	June, 2014

OTHER STAFF ITEMS

DATE	ITEM	STATUS	ASSIGNED TO	TARGET DATE
	Maintain Police Accreditation - Police	On-Going	Melody Thompson & Lt. Jorge Tro	
	Selling Property Partitioned Next to Maple Street Park (former location of Marshall House)	Waiting for better econmic times to sell property		
	Participate as member of NW Regional Computer Forensic Laboratory - Police	Not started	Bret J. Smith	TBD
	Develop Citizen's Academy - Police	Underway	Bret J. Smith	Feb - March 2013
10/30/2012	Develop Dept Website - Police	Underway	Melody Thompson & Lt.	January, 2013

	Formalize Volunteer Program - Police	Underway	Melody Thompson & Lt. Jorge Tro	January, 2013
	Identify Dept Mission Statement, Values and Vision Statement	Underway	Bret J. Smith	January, 2013
	Move Muni Court and Court Staff to Police Facility - Police	Underway	Bret J. Smith	January, 2013