

AGENDA

CANBY CITY COUNCIL MEETING

November 2, 2005, 7:30 P.M.

Council Chambers
155 NW 2nd Avenue

Mayor Melody Thompson

*Council President Teresa Blackwell
Councilor Randy Carson
Councilor Walt Daniels*

*Councilor Roger Harris
Councilor Georgia Newton
Councilor Wayne Oliver*

CITY COUNCIL 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 Accounts Payable \$213,245.88

B. Approval of Minutes of the October 19 City Council Workshop & Regular Meeting

C. Approval of Minutes of the October 20 City Council Special Meeting & Executive Session

7. **PUBLIC HEARING**

A. MLP 05-09/ZC 05-02 BRJM, LLC

Pg. 1

8. **RESOLUTIONS & ORDINANCES**

A. Res. 913, Requesting Clackamas County to Surrender Jurisdiction of Approximately 0.47 Miles of SE First Avenue and Approximately 0.92 Miles of S. Township Road to the City of Canby

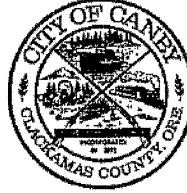
Pg. 59

B. Ord. 1191, Vacating Ten Feet of the Public Right-of-Way on the West Side of Oak Street Fronting Tax Lot 1200 of Map 3-1E-33AA (2nd Reading)

Pg. 64

- C. Ord. 1192, Vacating Ten Feet of the Public Right-of-Way on the East Side of South Fir Street Fronting Tax Lot 100 of Map 4-1E-04AC (2nd Reading) Pg. 65
 - D. Ord. 1193, Amending the Zoning Map to Change the Zoning Boundary Between the Heavy Commercial Zone and the Light Industrial Zone. The Zoning District Boundary Shift Affects Tax Lots 400, 500, 600, 601 and 602 of Tax Map 4-1E-05A, Located at the SW Corner of Highway 99E and S Berg Parkway (2nd Reading) Pg. 66
 - E. Ord. 1194, Authorizing Contract with Winstead and Associates to Provide Building Code Services Pg. 67
 - F. Ord. 1195, Authorizing Contract with Curran-McLeod, Inc. Consulting Engineers for Engineering Services to Extend South Berg Parkway Approximately 1,700 Feet to Connect Highway 99E to the Existing Termination of SW 13th Avenue Pg. 74
 - G. Ord. 1196, Amending the Zoning Map of the City of Canby for Tax Lot 3000 of Tax Map 3-1E-33CB Pg. 3
9. **NEW BUSINESS**
- A. Request for Qwest Litigation Contribution Pg. 88
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 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.



Memorandum

To: Honorable Mayor Thompson and City Council;
CC: BRJM LLC
Through: John Williams, Community Development Director
Date: 10/26/2005
Re: Proposed Zone Change for 535 Knightsbridge Rd. (City file ZC 05-02)
Prepared By: Kevin C. Cook, Associate Planner

Issue:

ZC 05-02, an application to change the zoning designation for a .29 acre tax lot at 535 Knights Bridge Road. Current zoning on the subject parcel is R-1 Low Density Residential. The applicant proposes to amend the zoning to reflect the Comprehensive Plan designation of R-2 High Density Residential. The lots to the north, east, and west are currently zoned R-1 Low Density Residential. The lots to the south are currently zoned R-2 High Density Residential. The Comprehensive Plan designation for the lots east, west, and south is for High Density Residential. The lots to the north, across Knights Bridge Rd., have a Comp. Plan Designation of Low Density Residential. The applicant seeks to create a 2-lot partition. Parcel #1 would retain the existing single family dwelling along Knights Bridge Rd. and parcel #2 would feature a new duplex building. The proposal to partition the parcel is contingent on the outcome of this request for a zone change; the partition request is being reviewed under a separate application (File # MLP 05-09).

Synopsis:

The City Council has final approval authority on zone change applications. The Planning Commission holds a public hearing and then makes a recommendation to the Council. The Council may either approve the zone change as based on the Planning Commission's record or hold a new public hearing and accept additional testimony. If the Council decides to hold a new hearing, public notice will be sent to neighboring property owners and will be published in the Canby Herald at least 20 days prior to the public hearing date. **It is staff's recommendation that the Council approve the zone change based upon the Planning Commission's record. If however, the Council wishes to accept new testimony, we must continue this matter and notice the neighboring property owners of a new public hearing.**

Recommendation:

Zone changes are adopted by Ordinance. Staff and the Planning Commission recommend that the City Council approve **ZC 05-02** by adopting **Ordinance 1196**.

October 25, 2005

Rationale:

The Planning Commission voted to recommend that the City Council approve the zone change application, finding that it met all requirements of the Comprehensive Plan and Land Development and Planning Ordinance. Approval of this application would allow a Minor Land Partition and the construction of a new duplex building. The Minor Land Partition was approved by the Planning Commission conditioned upon the outcome of this zone change request.

Options:

1. Approve ZC 05-02 as proposed. The Planning Commission recommends this option.
2. Deny ZC 05-02. This option is not recommended because the Planning Commission found that the application meets all applicable criteria and standards.
3. Approve ZC 05-02 with conditions. This option is not recommended because all needed conditions have been addressed by the Planning Commission through the Minor Land Partition.

Attached:

1. Ordinance 1196
2. Planning Commission findings
3. 9/9/05 Staff Reports

ORDINANCE NO. 1196

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON FOR TAX LOT 3000 OF TAX MAP 3-1E-33CB.

WHEREAS, an application was filed with the City by BRJM, LLC to change the zoning of a single 0.29 acre parcel from Low Density Residential (R-1) to High Density Residential (R-2); and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on September 26, 2005 after public notices were mailed, posted and printed in the Canby Herald, as required by law; and

WHEREAS, the Canby Planning Commission heard and considered public testimony regarding the proposed zone change at the public hearing. At the conclusion of the public hearing, the Planning Commission voted 6-0 to recommend that the City Council approve the application. The Findings, Conclusions and Order was approved by the Planning Commission and forwarded to the Council with its recommendation; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission at a regular meeting on November 2, 2005; and

WHEREAS, the Canby City Council, after the staff report and review of the record, voted to accept the Planning Commission's recommendation;

NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Tax lot 3000 of map 3-1E-33CB is rezoned from Low Density Residential (R-1) to High Density Residential (R-2) as called for in Canby's Comprehensive Plan.

Section 2. The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate change on the City's zoning map in accordance with the dictates of Section 1 of this Ordinance.

SUBMITTED to the Council and read the first time at a regular meeting thereof on November 2, 2005, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on November 16, 2005, commencing after the hour of 7:30 p.m., at the Council's regular meeting chambers at the Canby City Hall in Canby, Oregon.

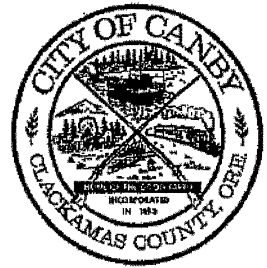
ENACTED on the second and final reading by the Canby City Council at a regular meeting thereof on November 16, 2005 by the following vote:

YEAS _____ NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, City Recorder Pro Tem



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

A REQUEST TO CHANGE ZONING) FINDINGS, CONCLUSION & FINAL ORDER
FROM LOW DENSITY RESIDENTIAL) ZC 05-02
TO HIGH DENSITY RESIDENTIAL) (BRJM)

NATURE OF APPLICATION

The applicant is seeking to change the zoning designation for a .29 acre tax lot at 535 Knights Bridge Road. Current zoning on the subject parcel is R-1 Low Density Residential. The applicant proposes to amend the zoning to reflect the Comprehensive Plan designation of R-2 High Density Residential. The lots to the north, east, and west are currently zoned R-1 Low Density Residential. The lots to the south are currently zoned R-2 High Density Residential. The Comprehensive Plan designation for the lots east, west, and south is for High Density Residential. The lots to the north, across Knights Bridge Rd., have a Comp. Plan Designation of Low Density Residential. The applicant seeks to create a 2-lot partition. Parcel #1 would retain the existing single family dwelling along Knights Bridge Rd. and parcel 2 would feature a new duplex building. The proposal to partition the parcel is contingent on the outcome of this request for a zone change; the partition request is being reviewed under a separate application (File # MLP 05-09).

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of September 26, 2005.

CRITERIA AND STANDARDS

In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider:

- A. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefor, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development;
- 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.

FINDINGS AND REASONS

After holding a public hearing and considering the September 9, 2005 staff report, the Planning Commission deliberated and reached a decision on September 26, 2005 recommending approval of the applicant's request for zone change to the City Council. The Planning Commission finds that the applicant's request is in compliance with the Comprehensive Plan of the City of Canby and the Commission adopts the findings and conclusions contained in the September 9, 2005 staff report.

CONCLUSION

The Planning Commission concludes that, with regards to the zone change:

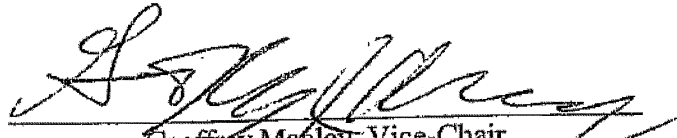
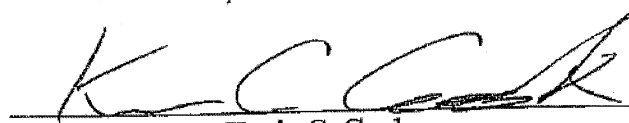
- A. This application is in compliance with all elements of the Comprehensive Plan of the City, including Policy 6 of the Land Use Element, and the plans and policies of the County, state and local districts.
- B. All required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

RECOMMENDATION

IT IS RECOMMENDED BY THE PLANNING COMMISSION of the City of Canby that the Canby City Council approve **ZC 05-02**.

I CERTIFY THAT THIS ORDER recommending approval of ZC 05-02 was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 10th day of October, 2005.


Geoffrey Manley, Vice-Chair
Canby Planning Commission
Kevin C. Cook
Associate Planner

ATTEST:

ORAL DECISION – September 26, 2005

AYES: Brown, Helbling, Lucas, Molamphy, Tessman, Manley

NOES: None

ABSTAIN: None

ABSENT: Ewert

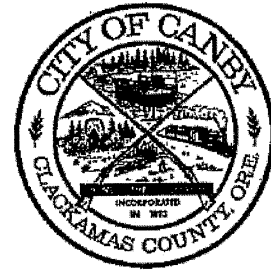
WRITTEN FINDINGS – October 10, 2005

AYES: Manley, Ewert, Molamphy, Helbling, Lucas

NOES: None

ABSTAIN: None

ABSENT: Brown, Tessman



- STAFF REPORT -

APPLICANT:
BRJM LLC
2225 N Baker Dr
Canby, OR 97013

FILE NO.:
ZC 05-02
(BRJM LLC)

OWNER:
BRJM LLC
2225 N Baker Dr
Canby, OR 97013

STAFF:
Kevin Cook
Associate Planner

LEGAL DESCRIPTION:
Tax Lot 3000 of Tax Map 3-1E-33CB

DATE OF REPORT:
September 9, 2005

LOCATION:
535 Knights Bridge Road

DATE OF HEARING:
September 26, 2005

COMP. PLAN DESIGNATION:
R-2 High Density Residential

ZONING DESIGNATION:
R-1 Low Density Residential

I. APPLICANT'S REQUEST:

The applicant is seeking to change the zoning designation for a .29 acre tax lot at 535 Knights Bridge Road. Current zoning on the subject parcel is R-1 Low Density Residential. The applicant proposes to amend the zoning to reflect the Comprehensive Plan designation of R-2 High Density Residential. The lots to the north, east, and west are currently zoned R-1 Low Density Residential. The lots to the south are currently zoned R-2 High Density Residential. The Comprehensive Plan designation for the lots east, west, and south is for High Density Residential. The lots to the north, across

Knights Bridge Rd., have a Comp. Plan Designation of Low Density Residential. The applicant seeks to create a 2-lot partition. Parcel #1 would retain the existing single family dwelling along Knights Bridge Rd. and parcel 2 would feature a new duplex building. The proposal to partition the parcel is contingent on the outcome of this request for a zone change; the partition request is being reviewed under a separate application (File # MLP 05-09).

II. APPLICABLE REGULATIONS

City of Canby General Ordinances:

- 16.16 R-1 Low Density Residential
- 16.20 R-2 High Density Residential
- 16.54 Amendments to Zoning Map
- 16.88 General Standards

III. MAJOR APPROVAL CRITERIA

16.54.040 - Amendments to the Zoning Map - Standards and Criteria

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.

IV. FINDINGS

A. Background and Relationships

The subject parcel contains 0.29 acres zoned R-1 Low Density Residential. The proposed zone change would amend zoning on the parcel from R-1 to R-2 High

Density Residential. The applicant hopes to construct a new duplex building in addition to the existing single family dwelling.

B. Comprehensive Plan Consistency Analysis

ii. URBAN GROWTH ELEMENT

- GOAL:**
- 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.**

iii. 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.**

- Policy #1** Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.

ANALYSIS: *The proposed zone change will allow more density by allowing two new housing units (by way of a single duplex building) in addition to the existing single family dwelling. All of the lots to the south are currently zoned R-2 High Density Residential and the lots to the east and west have a Comprehensive Plan designation of High Density Residential. Only the lots to the north, across Knights Bridge Rd., have a Comp. Plan designation of Low Density Residential. Staff does not anticipate conflicts arising from the proposed zone change.*

Policy #2 Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

ANALYSIS: *The proposed zone change directly supports the policy of increasing residential density over encouraging sprawl.*

iv. **ENVIRONMENTAL CONCERNS ELEMENT**

GOALS: TO PROTECT IDENTIFIED NATURAL AND HISTORIC RESOURCES.

TO PREVENT AIR, WATER, LAND, AND NOISE POLLUTION.

TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.

ANALYSIS: *There are no known natural or historic resources affected by the proposed use; nor are there any known outstanding natural hazards affecting the site.*

While pollution is invariably associated with residential development, it is widely recognized that increased density is more favorable than sprawl in terms of cumulative environmental impacts.

vi. **PUBLIC FACILITIES AND SERVICES**

GOAL: TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.

Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.

ANALYSIS: *All needed public facility and service providers were sent a "Request for Comments" form regarding the proposed Zone Change and partition. All responses to the Request for Comments indicate that services are available or will become available through development. The City Engineer requests sidewalk along the entire property frontage along Knights Bridge Road. The City Traffic Engineer suggests combined access with the existing lot if possible; this is due to Knights Bridge Road's classification as an arterial in the City's Transportation System Plan.*

ix. **ENERGY CONSERVATION ELEMENT**

GOAL: **TO CONSERVE ENERGY AND ENCOURAGE THE USE OF RENEWABLE RESOURCES IN PLACE OF NON-RENEWABLE RESOURCES.**

Policy #4: Canby shall attempt to reduce wasteful patterns of energy consumption in transportation systems.

ANALYSIS: *Compared with urban sprawl, increased residential density reduces overall vehicle miles traveled and thus an energy savings is realized.*

Energy efficiency standards will be applied through the building permit process at the time of development or expansion.

Conclusion Regarding Consistency with the Policies of the Canby Comprehensive Plan:

Staff concludes that the proposed Zone Change is consistent with the policies of the Comprehensive Plan. The subject parcel is currently zoned R-1 but the Comprehensive Plan designation recommends eventual R-2 zoning as is proposed.

V. **CONCLUSION**

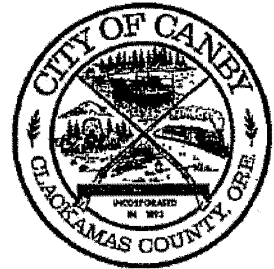
This proposal to amend the Current Zoning map is appropriate in light of the Goals and Policies of the Comprehensive Plan. All public facilities and services exist or will be provided concurrent with the development of the property.

VI. RECOMMENDATION

Based on the findings and conclusions presented in this report, and without benefit of a public hearing, staff recommends that the Planning Commission recommend approval of ZC 05-02 to the City Council.

Exhibits:

1. Applicant's packet
2. Responses to Request for Comments
3. Responses to Request for Comments from the pre-application meeting of May 10, 2005
4. Minutes from the neighborhood meeting of August 24, 2005



- STAFF REPORT -

APPLICANT:

BRJM LLC
2225 N Baker Dr
Canby, OR 97013

OWNER:

BRJM LLC
2225 N Baker Dr
Canby, OR 97013

LEGAL DESCRIPTION:

Tax Lot 3000 of Tax Map 3-1E-33CB

LOCATION

535 Knights Bridge Road

COMPREHENSIVE PLAN DESIGNATION:

R-2 High Density Residential

FILE NO.:

MLP 05-09
(BRJM LLC)

STAFF:

Kevin Cook
Associate Planner

DATE OF REPORT:

September 9, 2005

DATE OF HEARING:

September 26, 2005

ZONING DESIGNATION:

R-1 Low Density Residential

I. APPLICANT'S REQUEST:

The applicant is seeking approval to partition one 0.29 acre parcel into two separate tax lots. Parcel #1 would retain the existing single family dwelling along Knights Bridge Road. Parcel #2 is proposed to be a flag lot containing a duplex building. Access for the flag lot would be off of Knights Bridge Road. The width of the flag strip is proposed at just 8 feet wide. The applicant proposes to make the access legal through a 4 foot wide access easement to be dedicated by tax lot 3000 to the west; this has been agreed to in writing by the owners of tax lot 3000. Condition 2 requires the easement be recorded prior to the signing of the final plat. The partition request is contingent upon the outcome of a simultaneous zone change request being reviewed under separate application (File # ZC 05-02).

The proposed lot sizes are as follows:

Parcel 1: 7,100 sq. ft.

Parcel 2: 4,996 sq. ft.

II. APPLICABLE CRITERIA:

1. In judging whether a Minor Partition should be approved, the Planning Commission must consider the following standards and criteria (Ord. 16.60.030):
 - A. Conformance with the text and the applicable maps of the Comprehensive Plan;
 - B. Conformance with all other applicable requirements of the Land Development and Planning Ordinance;
 - C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;
 - D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels;
 - E. 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 land division.
2. Other Applicable Criteria:
 - A. 16.10 Off-Street Parking and Loading
 - B. 16.20 R-2 High Density Residential Zone
 - C. 16.56 General Provisions (Land Division Regulations)
 - D. 16.60 Major or Minor Partitions
 - E. 16.64 Subdivisions - Design Standards

III. FINDINGS:

1. Location and Background

The subject parcel contains 0.29 acres zoned R-1 Low Density Residential. The applicant hopes to construct a new duplex building in addition to the existing single family dwelling. Parcel #1 would retain the existing single family dwelling along Knights Bridge Road. Parcel #2 is

proposed to be a flag lot containing a duplex building. The subject lot is currently zoned R-1 Low Density Residential but is designated as R-2 High Density Residential in the Comprehensive Plan. The lots to the north, east, and west are currently zoned R-1 Low Density Residential. The lots to the south are currently zoned R-2 High Density Residential. The Comprehensive Plan designation for the lots east, west, and south is for High Density Residential. The lots to the north, across Knights Bridge Rd., have a Comp. Plan Designation of Low Density Residential. The applicant has applied for a zone change to R-2 because the proposed density and lot size would not be allowed under the current zoning.

2. Comprehensive Plan Consistency Analysis

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.

Applicable Policies:

Policy #1: Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.

Analysis: The proposed development is a permitted use under the R-2 zoning district. Approval of this application is contingent upon approval of the zone change application being reviewed concurrently through File ZC 05-02 (see condition #1). New residences may be required to comply with Infill Home Standards through the building permit approval process.

Policy #2: Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

Analysis: This application will permit additional development of the subject parcel and will help to maximize the efficient use of the property. The applicant is proposing a duplex unit in addition to the existing single family residence which would be allowed under the proposed R -2 zoning district.

Policy #3: Canby shall discourage any development which will result

in overburdening any of the community's public facilities or services.

Analysis: A "Request for Comments" has been sent to all public facility and service providers (please see discussion under Public Services Element).

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.

There are no known natural or historic resources affected by the proposed use; nor are there any known outstanding natural hazards affecting the site.

While pollution is invariably associated with residential development, it is widely recognized that increased density is more favorable than sprawl in terms of cumulative environmental impacts.

Policy #3-R: Canby shall require that all existing and future development activities meet the prescribed standards for air, water and land pollution.

Analysis: The proposed partition must meet storm water management approval from DEQ and Canby Public Works prior to issuance of building permits (see Condition #10).

TRANSPORTATION ELEMENT

GOAL: TO DEVELOP AND MAINTAIN A TRANSPORTATION SYSTEM WHICH IS SAFE, CONVENIENT AND ECONOMICAL.

Applicable Policies:

Policy #1: Canby shall provide the necessary improvements to city streets...in an effort to keep pace with growth.

Analysis: Existing street and utility improvements are sufficient to support development of the proposed partition. An approved curb cut and apron are required to provide drive access to Parcels 2 (See Condition 15).

Policy #4: Canby shall work to provide an adequate sidewalk and pedestrian pathway system to serve all residents.

Analysis: The City Engineer requests sidewalk along the entire property frontage along Knights Bridge Road. (See Condition 16).

Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.

Analysis: The Canby Police Department and Canby Fire District received notice of the proposed partition. The Police Department did not express concern with the proposed access. The Fire Dept. responded to a request for comments for the pre-application meeting and indicated that they are OK with a 12' width but they would like to see an unobstructed width of 20' (see Condition 15).

PUBLIC FACILITIES AND SERVICES ELEMENT

GOAL: TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.

Applicable Policies:

Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.

Analysis: All needed public facility and service providers were sent a "Request for Comments" form regarding the proposed Zone Change and partition. All responses to the Request for Comments indicate that services are available or will become available through

development. Comments are summarized below:

Canby Public Works Dept: Sewer service to the existing home will need to be relocated. If the elevation works for the new home, the existing lateral, located in the proposed driveway, could be used (see Condition 14). Will need to remove all trees on the west side of the subject parcel. Street frontage improvements are required (see Condition 16).

Canby Water Dept: Water service would be located on the east side of the driveway next to properly staked and established property corners and established driveway approach.

Canby Electric: A power plan will be developed after plat approval. -Adequate public services will become available through the development.

Canby Telephone: Adequate public services will become available through the development.

Waste Water Treatment Plant: Adequate public services will become available through the development.

Canby School Dist: Adequate public services of the School District are available. School district boundaries are still being determined.

Police Dept.: Adequate public services of the Police Dept. are available.

Postal Service: Adequate public services will become available through the development.

City Engineer: Sidewalk should be constructed along the entire site frontage of Knights Bridge Road.

City Traffic Engineer: The street system can handle the additional traffic anticipated from the development. There is some concern regarding the spacing of driveways on Knights Bridge Rd., which is an arterial. The problem of too many driveways on Knights Bridge will become more acute as Canby continues to grow. If it is feasible, combined access with the existing house at the east

property line, instead of the west, would solve the problem of creating additional access onto Knights Bridge Rd.; this scenario remains a suggestion at this time because the feasibility has not been determined. [ANALYSIS: Shared access along the eastern boundary is not feasible due to the location of the existing house relative to the existing house and driveway of the house to the east.

Neighborhood Meeting: A neighborhood meeting was held on August 24th. According to the minutes of the meeting, the only concern raised related to maintaining privacy for the town-homes bordering the rear of the property to the south. The applicants agreed to plant a community arborvitae hedge on the south side of the property and to minimize windows on the south side of any future construction (see Condition 17).

CONCLUSION REGARDING CONSISTENCY WITH THE POLICIES OF THE CANBY COMPREHENSIVE PLAN:

Review of the goals, policies, and implementation measures of the Comprehensive Plan indicates that the proposed partition, with recommended conditions of approval, is consistent with Canby's Comprehensive Plan. Development of the parcels shall comply with applicable provisions of the City of Canby Land Development and Planning Ordinance, Building Codes, and other County and State regulations.

3. Evaluation Regarding Minor Land Partition Approval Criteria

- A. Conformance with the text and with the applicable maps of the Comprehensive Plan.
See discussion in part III.2, above.
- B. Conformance with all other requirements of the Land Development and Planning Ordinance.
Section 16.46.030 of the CMC requires minimum spacing of 300 feet for access points along an arterial street. Knights Bridge Road is classified as an Arterial in the City's Transportation System Plan. The proposed access drive would be located approximately 115 feet from the next driveway to the west and 65 feet from the driveway serving the existing dwelling on the site.

Per 16.46.030, "...proposed developments or land use actions that do not comply with these standards will be required to obtain conditional access approval from the City of Canby. This conditional approval applies to

properties that have no reasonable access or cannot obtain reasonable alternative access to the public street system (Ord. 1043 section 3, 2000; Ord. 1076, 2001)"

Section 16.46.060 (Amount of access points) states: "In the interest of promoting unified access and circulation systems, the number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation. (Ord 1043 section 3, 2000)"

Analysis: Staff believes that the applicant does not have a reasonable alternative to the proposed access location.

Per section 16.46.070:

A. 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;

Analysis: No other alternatives have been identified.

2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and

Analysis: No engineering or construction solutions have been identified.

3. No alternative access is available from a street with a lower functional classification than the primary roadway.

Analysis: Alternative access has not been identified.

B. 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.

Analysis: Staff believes that the current plan, with conditions, is consistent with the area plan goals desired by the Commission.

C. *No exception shall be granted where such hardship is self-created.
(Ord. 1043 section 3, 2000)*

Analysis: The applicant did not create the conditions which cause the hardship today.

Staff believes that an exception to the spacing standards should be granted based upon the above findings.

With the recommended conditions, the partition will comply with the requirements of the Land Development and Planning Ordinance, including lot sizes, frontage, access, and coverage requirements.

- C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
With recommended conditions, the proposed partition will be functional and will provide building sites, necessary utility easements, and access facilities. Proposed parcels meet lot size and coverage requirements of the R-2 zone.

- D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels.

No private roads will be created by this partition and parking shall be prohibited in the private access drive. The drive shall be maintained for continuous, unhindered access for emergency vehicles and shall be paved for the entire width (see Condition 15).

- E. 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 land division.

Public services and facilities are available to adequately meet the needs of this land division. See discussion in part III.2, above.

IV. CONCLUSION

1. Staff concludes that the partition request, with appropriate conditions, is considered to be in conformance with the Comprehensive Plan and the Municipal Code.

2. Staff concludes that, with appropriate conditions, the overall design and arrangement of the proposed parcels are functional; utility easements and access facilities necessary for development of the subject property can be provided without unduly hindering the use or development of adjacent properties.
3. No private roads will be created.
4. Staff concludes that all necessary public services will become available through the development of the property to adequately meet the needs of the proposed partition.

V. RECOMMENDATION

Based on the application and drawings submitted and based on the facts, findings and conclusions of this report, and without benefit of a public hearing, staff recommends that the Planning Commission approve MLP 05-09 with the following conditions:

For the Final Plat:

1. This approval is tied to the approval of the associated zone change request, File ZC 05-02. The partition request is approved upon the final approval of the zone change request to R-2 (High Density Residential). If the final outcome for the zone change request is a denial, the approval for the partition plat will become automatically void. The final partition plat shall not be recorded until final approval of the zone change.
2. A 12 foot wide driveway is required to serve the rear lot. The proposed access easement on lot 3000 must be recorded prior to the signing of the final partition plat.
3. A final partition plat illustrating the conditions of approval shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application: City of Canby File Number ZC 05-02/MLP 05-09
4. The final partition plat shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. The partition map shall be recorded with the Clackamas County Surveyor and with the Clackamas County Clerk; a final copy of the signed and recorded map shall be provided to the Canby Planning Department upon completion.
5. A new deed and legal description for the proposed parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
6. All monumentation and recording fees shall be borne by the applicant.

7. Twelve (12) foot utility easements shall be provided along street lot lines. Ten (10) foot utility easements shall be provided along non-street exterior lot lines unless adjacent lots have recorded utility easements of four (4) or more feet, in which case the non-street exterior lot lines shall have six (6) foot utility easements. All interior lot lines shall have six (6) foot utility easements.

Notes:

8. The final plat must be recorded with the Clackamas County Surveyor within one (1) year of the preliminary plat approval in accordance with Canby Ordinance 16.60.060. Mylar copies of the final plat must be signed by the City Planning Director prior to recording the plat with Clackamas County.
9. House numbers shall be visible from the street but numbers painted on the curb shall not be the primary method of meeting this requirement.

Prior to Construction:

10. If required, a stormwater permit shall be obtained from the State of Oregon (DEQ) prior to issuance of a building permit. An acceptable stormwater system plan shall be approved by the State of Oregon - DEQ and the Canby Public Works Department.
11. Prior to permit, the applicant shall demonstrate compliance with offstreet parking requirements as listed in Chapter 16.10 of the CMC.
12. The design, location, and planned installation of all utilities, including but not limited to water, electric, sanitary sewer, natural gas, telephone, and cable television shall be approved by the appropriate utility provider. Final approval of site and utility plans is required prior to the issuance of any building permit. To facilitate this fifteen (15) copies of pre-construction plans shall be given to the City to be reviewed and approved by the Canby Utility Board, the Canby Telephone Association, the City and other required utility provider prior to the pre-construction conference. The construction plans shall include the street design, storm water, sewer, water, electric, telephone, gas, street lights, mail boxes and street trees.

During Construction:

13. The applicant is responsible for all costs associated with the relocation of utilities.
14. Any new sewer main and/or new laterals shall be installed by the applicant at the time of development. Location and construction of the sewer main and/or laterals shall be approved by the Public Works Supervisor *prior to excavation*.

15. The applicant shall construct an approved curb cut, approach apron and sidewalk ramps at each drive entrance to the flag lot. The private access drive shall be paved for the entire length and width. There shall be no parking allowed at anytime within the the access drive. In addition to the 12 foot paved surface, an unobstructed width of 20 feet shall be maintained. Access improvements shall be inspected and approved by Canby Public Works prior to installation.
16. A five (5) foot sidewalk inclusive of curb shall be constructed for the full frontage of the parent parcel along Knights Bridge Road. Where mailboxes, fire hydrants or other obstructions are located at the curb, sidewalks shall swing away from the curb in order to remain unobstructed for a full five-foot width.
17. The applicant shall plant an arborvitae hedge on the south side of the property as a privacy screen between properties.

Exhibits:

1. Applicant's Packet (narrative and proposed partition plan)
2. Responses to the Request for Comments

ZONE MAP CHANGE APPLICATION

Fee \$2,640

OWNERS

APPLICANT*

Name: BRJM LLC

Name: BRJM LLC

Address: 2225 N Baker Dr

Address: 2225 N Baker Dr

City: Canby State: OR Zip: 97013

City: Canby State: OR Zip: 97013

OWNERS SIGNATURE William C. Ray Phone: 503 799-5668

DESCRIPTION OF PROPERTY:

Address: 535 Knightsbridge Road, Canby OR

Tax Map: T3S-R1E-33CB

Tax Lot(s): 3000

Lot Size: .29 Acres
(Acres/Sq.Ft.)

PROPERTY OWNER LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be **typed onto an 8-1/2" x 11" sheet of labels**, just as you would address an envelope.

USE OF PROPERTY

Existing Use: Residential, One Single-Family Home

Proposed Use: Two Single-Family Dwellings

Existing Structures: One Home

Project Description: A zone change to allow two dwellings on the property

Zoning: R1

Comprehensive Plan Designation: LDR

Previous Land Use Action (if any): None

FOR CITY USE ONLY	
File #:	MLP 05-09 / ZC 05-02
Date Received:	By:
Completeness:	
Pre-App Meeting:	
Hearing Date:	

EXHIBIT	
tabbies	# 1

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

MINOR LAND PARTITION APPLICATION

FEE \$1,280.00
PROCESS TYPE III

OWNERS

APPLICANT*

Name: BRJM LLC

Name: BRJM LLC

Address: 2225 N Baker Dr

Address: 2225 N Baker Dr

City: Canby State: OR Zip: 97013

City: Canby State: OR Zip: 97013

Owners Signature: *William C. Ruff*

Phone: 503 799-5668

DESCRIPTION OF PROPERTY:

Tax Map: T3S-R1E-33CB

Tax Lot(s): 3000

Lot Size: .29 Acres (Acres/Sq.Ft.)

PROPERTY OWNERS LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be **typed onto an 8-1/2" x 11" sheet of labels**, just as you would address an envelope.

USE OF PROPERTY

Existing Use:

Proposed Use:

Existing Structures:

Zoning:

Comprehensive Plan Designation:

Previous Land Use Action (if any):

FOR CITY USE ONLY	
File #:	MLP 05-09/ZC 05-02
Date Received:	7-29-05 By: <i>Ua</i>
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.

MINOR LAND PARTITION: INSTRUCTIONS TO APPLICANTS

1. The applicant may request a pre-application conference, or the City Planner may determine that a pre-application conference is necessary after the application has been discussed, or upon receipt of the application by the City.
2. If a pre-application conference is necessary, the applicant completes and returns a completed pre-application form to the City and a conference is scheduled.
3. Any application for a land partition, on forms prescribed for the purpose, shall be filed with the City Planner, typed or printed, and accompanied by the following:

Applicant Check	City Check	
--------------------	---------------	--

<input checked="" type="checkbox"/>	<input type="checkbox"/>	One (1) copy of pages 1, 2, and 3 of this application. The checklist on pages 2 and 3 should be included in the application with all relevant items checked by the applicant in the "applicant" column. If any items are considered to be not applicable, the omissions should be explained in the narrative. The City may request further information at any time before deeming the application complete.
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<input type="checkbox"/>	<input type="checkbox"/>	Payment of \$\$1,280, cash or checks only. Checks should be made out to the City of Canby.
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	A list of property owners within 200 feet of the subject property, on mailing labels (1" x 2-5/8"). If the address of a property owner is different from the address of a site, a label for each unit on the site must also be prepared and addressed to "occupant." A list of property owners may be obtained from a title insurance company or from the County Assessor.
-------------------------------------	--------------------------	---

<input checked="" type="checkbox"/>	<input type="checkbox"/>	Twenty-five (25) copies of a written statement, on 8-1/2" x 11" paper, describing the proposed partition and explaining how the proposal meets the approval criteria (page 4) and is compatible with surrounding land use patterns.
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ten (10) copies of a traffic impact analysis, conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (through the City), including an accident report for the adjacent roads and nearby intersections, for any project that results in any one of the following:
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- A. More than one access onto any collector or arterial street (such streets being designated by the City of Canby Transportation System Plan);
- B. More than six (6) residential units that enter onto any collector or arterial street;
- C. Any multiple family dwellings (apartments, condominiums, townhouses, etc.) with more than six (6) units; or
- D. Industrial or commercial enterprises which generate more than one hundred (100) vehicles per day.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	Twenty-five (25) copies of the tentative partition map, drawn to scale on paper no less than 8.5" x 11". The map shall include the following information:
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- ☒ ☐ A. Vicinity map of the property;
- ☒ ☐ B. The date, north point, scale, and sufficient description to define the location and boundaries of the tract to be partitioned;
- ☒ ☐ C. Name and address of the owner and the person who prepared the tentative map;
- ☒ ☐ D. Size of each parcel involved in the partitioning;
- ☒ ☐ E. Outline, location, and description of all existing buildings, showing those to remain in place and setbacks to proposed property lines;
- ☒ ☐ F. For land adjacent to and within the tract to be partitioned, the location, names, and existing right-of-way and pavement widths of streets, location, width, and purpose of any existing easements; and location and size of all utilities, including sewer, water, electric, telephone, and natural gas lines and power poles;
- ☒ ☐ G. Proposed parcel layout, showing sizes, dimensions, and relationships to existing or proposed streets and utility easements;
- ☒ ☐ H. Location of any forested areas, wetlands as delineated by the Division of State Lands, or other significant natural features;
- ☐ ☐ NA I. If the applicant is a corporation, a certificate of good standing from the State Corporation Commission shall be filed. The name of the individual authorized to act as the registered agent of the corporation shall also be provided; and
- ☐ ☐ NA J. If the development is located in an area designed by the Hazard ("H") Overlay Zone, one (1) copy of an affidavit signed by a licensed professional engineer that the development will not result in any undue hazard for the occupants or users of the development, nor in any unusual public expense in the event of flooding, landslide, or other natural disaster.

4. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are routed to various City/State/County departments, as applicable, for their comments. Along with the comments received from others, the application is reviewed for completeness. The City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.
5. Staff investigates the request, writes a staff report, places a public notice in the newspaper, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
6. The staff report will be available seven (7) days prior to the hearing.
7. The Planning Commission then issues findings of fact which support approval, modification or denial of the application. A decision may be appealed to the City Council.
8. If an approval or a denial has been appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). However, only testimony regarding items already in the record is permitted, and no new information may be entered. In the case of an appeal, the Council may affirm, revise or reverse the action of the Planning Commission in all or in part. The Council may also remand the matter back to the hearing body for further consideration.

Lynda Hines
617 Knights Bridge Rd.
Canby, OR 97013

03/09/05

Dear Lynda,

This agreement is for an access and utility easement four feet wide along the entire length of the east property line of your property at 617 N Knights Bridge Rd. Legal description is Section 33 Township 3S Range 1E Quarter CB Tax Lot 03100. This easement will be used to serve a future lot behind 535 Knights Bridge Rd. Also utility conduit will be installed at the same time to serve one unit for the future at 617 Knights bridge Rd.

The exact width of the easement is 4.5 Feet

John Meredith
8-14-05
Lynda Hines
8-14-05

Lynda Hines
Lynda Hines,
617 Knights Bridge Rd 4-4-05
Canby, OR 97013

John Meredith
John Meredith,
535 Knights Bridge Rd 03/09/05
Canby, OR 97013

Zone Change & 2-Lot Minor Partition

John Meridith, Compass Engineering Job #5922

Site Address: 535 Knightsbridge Road., Canby
Assessor Map: T3S-R1E-33CB, TL 3000
Zoning: R1 **Plan:** HDR **Area:** .29 Acres

Applicant & Contract Owner

BRJM LLC
2225 N Baker Dr.
Canby, OR 97013
503 799-5668, Fax 503 236-3510

Consultant & Representative

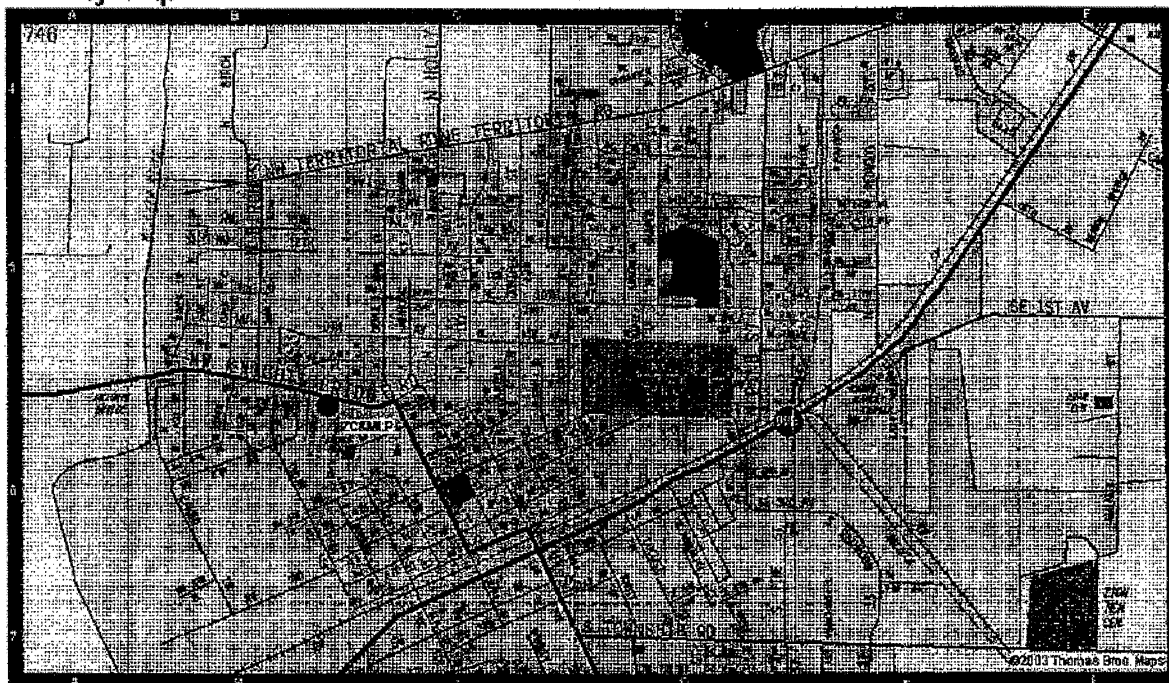
Karl Mawson AICP, Compass Engineering
6564 SE Lake Road, Milwaukie, Oregon 97222
Tel: (503) 653-9093, Fax: (503) 653-9095
Email: karlm@compass-engineering
Job #5887

Jurisdiction: City of Canby. Comment forms, returned by May 10, 2005, were sent and returned by Telephone, Water, Electric, Building, Fire, Gas, Sanitary.

Project

Zone Change & 2 lot Partition

Vicinity Map



Narration

Background

This site has a plan designation of High Density Residential, but is zone for R1. It is adjacent to property zoned and developed as high density – multiple-family units. An existing single-family home is on the site. The site has very little slope. There are a couple of larger trees on the property, and a row of trees on the adjacent property to the west.

The Comprehensive Plan shows a Low Density Residential designation on the north side of Knights Bridge Road, and High Density on the South side. This proposal is to change the zone such that a flag pole lot could be created and an additional dwelling unit constructed on that back portion.

Zone Change

16.54.040 Standards and criteria.

In judging whether or not the zoning map should be amended or changed, the Planning Commission and city council shall consider:

- A. **The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefor, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development;**

The Canby Comprehensive Plan shows this area as High Density Residential (HDR). Maps show the dividing line to be on the south side of Knights Bridge Road. The zone change make the zoning more in conformance with the Comprehensive Plan. Also because the property to the south is both zoned and developed to R2 standards, this zone change is a logical step in making the zoning more compatible with the Comprehensive Plan.

- 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. (Ord. 749 section 1(B), 1984; Ord. 740 section 10.3.85(D), 1984)**

This zone change results in one additional lot, and one additional single-family house. All utilities (water, sanitary sewer, power, etc.) are available in Knights Bridge Road. Because this is infill development all utilities have been provided to the property.

Minor Land Partition

16.60.030 Minor partitions.

Application for a minor partition shall be evaluated based upon the following standards and criteria:

A. Conformance with the text and applicable maps of the Comprehensive Plan;

As discussed above, the partition is in conjunction with a zone change bringing the zoning in conformance with the Comprehensive Plan.

B. Conformance with all other applicable requirements of the Land Development and Planning Ordinance;

This proposal was routed to City of Canby and public utilities in late April, 2005. Either the design met with agency standards, or the design could be easily modified to address listed concerns. Based partly on that information, we don't believe any Variance requests are required.

C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;

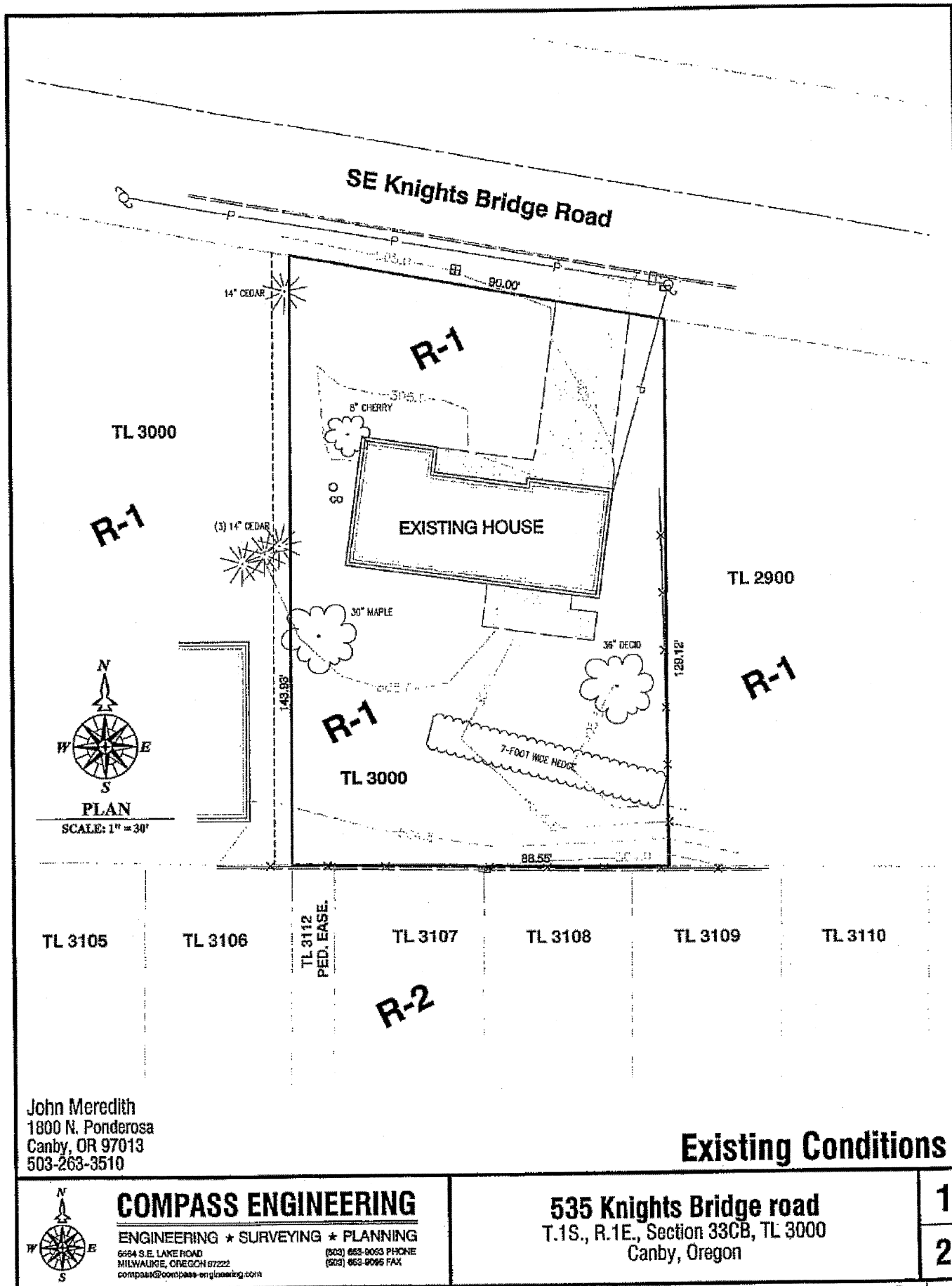
The flag pole design provides access to the proposed dwelling for both vehicular access and utilities. If required, an additional easement could be created along the east property line for electrical power. There appears to be an adjacent pedestrian easement. Although that easement lines up with the flag "pole" of the partition, there is access to Knights Bridge Road via sidewalks roughly 100 feet both to the west and east. The existing pedestrian routes are more than adequate. And additional pedestrian way (with the issues of lighting and security) is not needed.

D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels;

The parcel created has direct access to Knights Bridge Road. The proposed access will be reviewed by the Fire Marshall, and modifications made if required.

E. 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 land division. (Ord. 740 section 10.4.30 (B)(1), 1984)

As discussed above, required public facilities and services are available.



**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

<input type="checkbox"/> FIRE	<input type="checkbox"/> CANBY POST OFFICE
<input type="checkbox"/> POLICE	<input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR
<input type="checkbox"/> PUBLIC WORKS	<input type="checkbox"/> CLACKAMAS COUNTY 911
<input type="checkbox"/> CANBY ELECTRIC	<input type="checkbox"/> CLACKAMAS COUNTY TRANSPORTATION
<input type="checkbox"/> CANBY WATER	<input type="checkbox"/> TRAFFIC SAFETY COMMITTEE
<input type="checkbox"/> WWTP	<input type="checkbox"/> CLACKAMAS COUNTY
<input type="checkbox"/> CITY ENGINEER	<input type="checkbox"/> CANBY SCHOOL DISTRICT
<input type="checkbox"/> CTA	<input type="checkbox"/> OREGON DEPT. TRANSPORTATION
<input type="checkbox"/> NW NATURAL	<input type="checkbox"/> ODOT/REGION 1/DIST 2B
<input type="checkbox"/> WILLAMETTE BROADBAND	<input type="checkbox"/> STATE OF OREGON/REVENUE
<input type="checkbox"/> CANBY DISPOSAL	<input type="checkbox"/> CANBY BUSINESS REVITALIZATION
<input type="checkbox"/> CITY ATTORNEY	<input type="checkbox"/> PARKS AND RECREATION
<input type="checkbox"/> BIKE AND PEDESTRIAN COMM	<input type="checkbox"/> CITY TRANSPORTATION ENGINEER
<input type="checkbox"/> PGE	<input type="checkbox"/> OTHER _____

The City has received ZC 05-02 / MLP 05-09, an application from William C Reif, BRJM, LLC requesting a zone change from R-1 to R-2 and a minor land partition to add a single family residence on the newly created flag lot. The existing single family residence would remain. The property is located at 535 Knight's Bridge Road.

Please review the enclosed application and return comments to **Kevin Cook** by **Wednesday, September 14, 2005**. Please indicate any conditions of approval you wish the Commission to consider. Thank you.

Comments or Proposed Conditions:

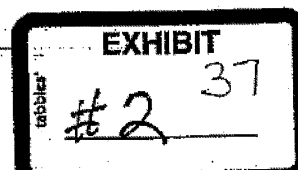
*Sewer Service To Existing Home will need to be Relocated.
IF Elevation works FOR New Home Existing Lateral which
is in Proposed driveway could be used.
Remove All Trees on West side OF 535 Knight's Bridge Rd.
Building on TL-3000 Check set backs FOR New Lot Line.
Frontage improvements are Required FOR Existing House & New Home.*

Please check one box and sign below:

- ☐ Adequate Public Services (of your agency) are available
- ☐ Adequate Public Services will become available through the development
- ☒ Conditions are needed, as indicated
- ☐ Adequate public services are not available and will not become available

Signature: Ray Hester **Date:** 9 Sep 05

Title: PW Supervisor **Agency:** City



CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

(503) 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

<input type="checkbox"/> FIRE	<input type="checkbox"/> CANBY POST OFFICE
<input type="checkbox"/> POLICE	<input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR
<input type="checkbox"/> PUBLIC WORKS	<input type="checkbox"/> CLACKAMAS COUNTY 911
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<input type="checkbox"/> NW NATURAL	<input type="checkbox"/> ODOT/REGION 1/DIST 2B
<input type="checkbox"/> WILLAMETTE BROADBAND	<input type="checkbox"/> STATE OF OREGON/REVENUE
<input type="checkbox"/> CANBY DISPOSAL	<input type="checkbox"/> CANBY BUSINESS REVITALIZATION
<input type="checkbox"/> CITY ATTORNEY	<input type="checkbox"/> PARKS AND RECREATION
<input type="checkbox"/> BIKE AND PEDESTRIAN COMM	<input type="checkbox"/> CITY TRANSPORTATION ENGINEER
<input type="checkbox"/> PGE	<input type="checkbox"/> OTHER _____

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Please review the enclosed application and return comments to Kevin Cook by Wednesday, September 14, 2005. Please indicate any conditions of approval you wish the Commission to consider. Thank you.

Comments or Proposed Conditions:

WATER SERVICE would be located on the East side of the driveway next to properly staked & established property corners and established driveway approach.

Please check one box and sign below:

- ☒ Adequate Public Services (of your agency) are available
- ☐ Adequate Public Services will become available through the development
- ☐ Conditions are needed, as indicated
- ☐ Adequate public services are not available and will not become available

Signature: Patrick PhinneyDate: 9/16/05Title: Foreman; Water Dept.Agency: Canby Utility

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

(503) 266-9404

FAX 266-1574

DATE: September 6, 2005

Gary Kordenat
Canby Electric
City Shops

TO: ☐ FIRE
☐ POLICE
☐ PUBLIC WORK
☐ CANBY ELECTRIC
☐ CANBY WATER
☐ WWTP
☐ CITY ENGINEER
☐ CTA
☐ NW NATURAL
☐ WILLAMETTE BROADBAND
☐ CANBY DISPOSAL
☐ CITY ATTORNEY
☐ BIKE AND PEDESTRIAN COMM
☐ PGE

T OFFICE

AS COUNTY ASSESSOR

AS COUNTY 911

☐ CLACKAMAS COUNTY TRANSPORTATION
☐ TRAFFIC SAFETY COMMITTEE
☐ CLACKAMAS COUNTY
☐ CANBY SCHOOL DISTRICT
☐ OREGON DEPT. TRANSPORTATION
☐ ODOT/REGION 1/DIST 2B
☐ STATE OF OREGON/REVENUE
☐ CANBY BUSINESS REVITALIZATION
☐ PARKS AND RECREATION
☐ CITY TRANSPORTATION ENGINEER
☐ OTHER _____

The City has received ZC 05-02 / MLP 05-09, an application from William C Reif, BRJM, LLC requesting a zone change from R-1 to R-2 and a minor land partition to add a single family residence on the newly created flag lot. The existing single family residence would remain. The property is located at 535 Knight's Bridge Road.

Please review the enclosed application and return comments to Kevin Cook by Wednesday, September 14, 2005. Please indicate any conditions of approval you wish the Commission to consider. Thank you.

Comments or Proposed Conditions:

A power plan will be developed after plat approval

Please check one box and sign below:

- ☐ Adequate Public Services (of your agency) are available
- ☒ Adequate Public Services will become available through the development
- ☐ Conditions are needed, as indicated
- ☐ Adequate public services are not available and will not become available

Signature: Gary KordenatDate: 9-14-05Title: Line ForemanAgency: Canby Utility Elect

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
| <input type="checkbox"/> CANBY ELECTRIC | <input type="checkbox"/> CLACKAMAS COUNTY TRANSPORTATION |
| <input type="checkbox"/> CANBY WATER | <input type="checkbox"/> TRAFFIC SAFETY COMMITTEE |
| <input type="checkbox"/> WWTP | <input type="checkbox"/> CLACKAMAS COUNTY |
| <input type="checkbox"/> CITY ENGINEER | <input type="checkbox"/> CANBY SCHOOL DISTRICT |
| <input type="checkbox"/> CTA | <input type="checkbox"/> OREGON DEPT. TRANSPORTATION |
| <input type="checkbox"/> NW NATURAL | <input type="checkbox"/> ODOT/REGION 1/DIST 2B |
| <input type="checkbox"/> WILLAMETTE BROADBAND | <input type="checkbox"/> STATE OF OREGON/REVENUE |
| <input type="checkbox"/> CANBY DISPOSAL | <input type="checkbox"/> CANBY BUSINESS REVITALIZATION |
| <input type="checkbox"/> CITY ATTORNEY | <input type="checkbox"/> PARKS AND RECREATION |
| <input type="checkbox"/> BIKE AND PEDESTRIAN COMM | <input type="checkbox"/> CITY TRANSPORTATION ENGINEER |
| <input type="checkbox"/> PGE | <input type="checkbox"/> OTHER _____ |

The City has received ZC 05-02 / MLP 05-09, an application from William C Reif, BRJM, LLC requesting a zone change from R-1 to R-2 and a minor land partition to add a single family residence on the newly created flag lot. The existing single family residence would remain. The property is located at 535 Knight's Bridge Road.

Please review the enclosed application and return comments to Kevin Cook by Wednesday, September 14, 2005. Please indicate any conditions of approval you wish the Commission to consider. Thank you.

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Signature: _____

Date: 9-9-05

Title: ASSOCIATE ENGINEER

Agency: CTA

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

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Signature: Darin J. Loomis **Date:** 9/12/05

Title: Supervisor **Agency:** WWTP

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

(503) 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

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Signature:

Date:

Title:

Agency:

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REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

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Comments or Proposed Conditions:

THE MAIN BR WOULD BE LOCATED ON KNIGHTS BRIDGE RD SE, SO IF ALL
POSSIBLE THE FLAG LOT HAVE A KNIGHTS BRIDGE ADDRESS.

Please check one box and sign below:

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- ☐ Adequate public services are not available and will not become available

Signature: _____

Date: 9/7/05

Title: Postmaster

Agency: Post Office

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

RECEIVED

SEP 17 2005
[503] 266-9400 FAX 2005 374

P.O. Box 930, Canby, OR 97013

CURRAN-MCLEOD

DATE: September 6, 2005

- TO:
- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
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Comments or Proposed Conditions:

Sidewalk should be constructed along the entire site
fringe (SE Knight's Bridge Road).

Please check one box and sign below:

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Signature: _____

Date: _____

Title: _____

Agency: _____

44

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-9404

FAX 266-1574

DATE: September 6, 2005

TO:

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Comments or Proposed Conditions:

SEE attached

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Signature: _____

Date: *9/8/05*

Title: *Superintendent*

Agency: *Canby School District*

Canby School District

Attachment to Request for Comments

The property under consideration is in the Eccles Elementary School attendance area. School district patrons approved a bond in November 2004 to build a new middle school to alleviate the pressure on Ackerman Middle School and reopen the Lee campus of AMS into an elementary school. A boundary committee will convene in September 2005 to determine the elementary school boundaries. It is unknown at this time which elementary school will ultimately be impacted by the annexation of this application.

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

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(503) 266-9404

FAX 266-1574

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Comments or Proposed Conditions:

COMMENTS ARE ATTACHED

Please check one box and sign below:

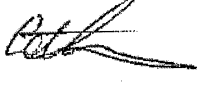
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Signature: [Signature] **Date:** 7 SEPT 2005

Title: ENGINEERING TECHNICIAN **Agency:** LANCASTER ENGINEERING



MEMORANDUM

To: Kevin Cook
From: Catriona Sumrain 
Date: September 7, 2005
Subject: ZC 05-02/MLP 05-09 Transportation Comments

Kevin:

I have reviewed the proposed zone change at 535 Knights Bridge Road and have the following comments. The zone change would generate only one additional trip during the peak hour and approximately five trips during the day and the street system will support the increase in trips.

The site plan, as shown, would increase the number of driveways onto Knights Bridge Road. Knights Bridge Road is classified as an Arterial roadway and serves as the major route between Canby and Portland, carrying a high number of vehicles during the day. Traffic on Knights Bridge Road is expected to increase as development continues in the City.

To ensure the adequacy of the system, the function of Knights Bridge Road will need to be maintained. Keeping the number of access points onto the road to a minimum is one method of preserving the function of the road since increasing the number of driveways on Knights Bridge Road will eventually increase the delay on the road.

If the proposed driveway shown in the application for this zone change project is relocated to the eastern site boundary, there is the potential for sharing access with the existing driveway. Shared access will at least maintain the existing number of driveways onto Knights Bridge Road. The feasibility of an eastern location has not been determined; therefore, this remains a suggestion, not a recommendation.

CS



CITY OF CANBY COMMENT FORM

If you are not able to attend the Planning Commission hearing of this application, you may submit written comments on this form or in a letter to the Planning Commission.

Please send comments to the City of Canby Planning Department.

By mail: Planning Department, PO Box 930, Canby, OR 97013
In person: Planning Department at 170 NW Second Street
E-mail: cookk@ci.canby.or.us

Written comments must be received prior to the hearing at 7:00 PM September 26, 2005.

APPLICATION: Minor Land Partition (Request to create 1 flag lot) and zone change

APPLICANT: William C Reif, BRJM, LLC

CITY FILE #: ZC 05-02 / MLP 05-09

COMMENTS: "Cram 'em, jam 'em" typifies the attitude of city officials
at the expense of inhabitants. This is an absurd proposal for a lot
that demands a neighbors' land for a driveway and no turn-around will
allow 2 cars to pass. Backing out onto Knights Bridge Road already
presents a nightmare for existing residents. A play area for kids
is also negated.

Attending your meetings wastes time for everyone!

YOUR NAME: _____

ORGANIZATION or BUSINESS (if any): _____

ADDRESS: _____

PHONE # (optional): _____

DATE: _____

Thank you!

From: "Isano" <lsano@web-ster.com>
To: <cookk@ci.canby.or.us>
Date: 9/12/05 1:24PM
Subject: file # zc 05-02 / mlp 05/09

try to live the good life, redoos don't exist

Dear Mr. Cook,
I feel it is disingenuous to submit an applicaation for a single family residence while requesting a zone change which would allow a multiple family residence when the plan along was to construct a multiple family residence namely, a duplex. Why would the applicants obscure their plans to the planning commission? This plan to construct a duplex was clearly stated at the 08/24/05 interested parties meeting.

Respectivly,
Lawrence N. Sano

City of Canby
PLEASE RETURN THIS COMMENT FORM
To Ronda Rozzell, City Shops by Tuesday, May 10, 2005

PO Box 930, Canby, OR 97013
1470 Territorial Road

503-266-4021 ext. 298
503-266-7238

Date: April 26, 2005

TO: Canby Planning, Matilda Deas
CU, Water, Pat Thurston
CU, Asst Gen. Mgr, Karl Hansen
CU, Electric, Gary Stockwell
Willamette Broadband, Lynn Tussing

NW Natural Gas, Lee Larson
Canby Fire District, Ron Yarbrough
Curren-McLeod, Curt McLeod
Canby Building, Bob Godon
Lancaster Eng., Cat Sumrain

Canby Public Works, Roy Hester
Canby Telephone, Dinh Vu
Parks Dept, Jeff Snyder

Subject: 2-Lot Minor Partition at 535 Knightsbridge Road

The City is trying to improve and coordinate the preapplication process.

The goal is to assure that the developer is building from *Approved Construction Plans* and are acceptable to the utilities.

- Please review the attached plans and provide any necessary comments and corrections to Ronda Rozzell by Tuesday, May 10, 2005

Please check one box:

☒ The plans meet with the approval of this agency. There are no additional concerns.

☐ The plans require correction (please explain below and attach corrected blue prints if necessary).

Comments or concerns: 16" STL LINE ACROSS KNIGHTS BRIDGE Rd.

#72524 2366

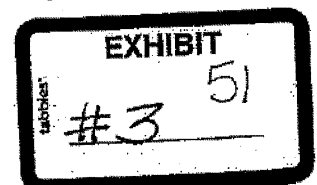
Signature: [Signature]

Date: 4/27/05

Title: WATER DEPT. FOREMAN Agency: CANBY UTILITY

Phone: 263-4309

Sign and return this form with your comments or needed drawing changes to Ronda Rozzell at the City Shop Office, 1470 NE Territorial Rd (City of Canby, P O Box 930, Canby 97013) by Tuesday, May 10, 2005



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Comments or concerns: _____

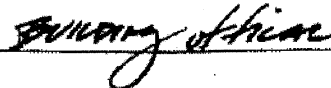
Signature: _____



Date: _____



Title: _____



Agency: _____



Phone: _____

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52

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- ☐ The plans require correction (please explain below and attach corrected blue prints if necessary).

Comments or concerns: DRIVING SURFACE MAY BE 12', WITH
UNOBSTRUCTED WIDTH SHALL BE 20'.

"OFC-MCC FIRE APPLICATION GUIDE-FIRE APPARATUS
ACCESS ROADS -

Signature: Ron Yarbrough

Date: 5-2-05

Title: Fire Marshal Agency: CFO #62

Phone: 266-5851

Sign and return this form with your comments or needed drawing changes to Ronda Rozzell at the City Shop Office, 1470 NE Territorial Rd (City of Canby, P O Box 930, Canby 97013) by Tuesday, May 10, 2005

53

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CU, Water, Pat Thurston	Canby Fire District, Ron Yarbrough	Canby Telephone, Dinh Vu
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☐ The plans meet with the approval of this agency. There are no additional concerns.

☐ The plans require correction (please explain below and attach corrected blue prints if necessary).
 Comments or concerns: ① Accurate depth on the sanitary sewer is not available

Engineer/Developer need to verify sanitary sewer depth on Knightsbridge Rd.

② Storm water disposal will be subject to DEED approval.

③ FINAL PLANS WERE NOT SUBMITTED AS PART OF THIS SUBMITTAL

Signature: Han H. H. H.

Date: 5/9/05

Title: Project Engineer

Agency: Curren-McLeod, Inc

Phone: 503 684 3478

Sign and return this form with your comments or needed drawing changes to Ronda Rozzell at the City Shop Office, 1470 NE Territorial Rd (City of Canby, P O Box 930, Canby 97013) by Tuesday, May 10, 2005

Minutes from the neighborhood meeting held at the Canby Methodist Church, on August 24th, at 6:00 p.m., in regards to the proposed lot partition, at 535 Knight Bridge Road.

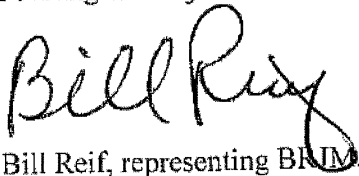
In attendance were Jeanie Sweet and another neighbor, representing the 8 townhouse owners to the south.

Bill Reif and John Meredith, representing BRJM, LLC, owners of the property, hosted the meeting.

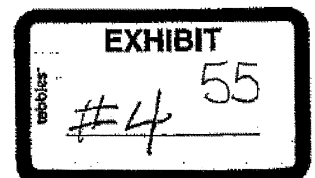
The only concern was the privacy issue in regards to their townhouses.

We cooperatively agreed that we would plant a community Arborvitae hedge on the south side of the property and minimize windows on the south side of any future construction on the proposed partition lot at 535 Knights Bridge Road.

Meeting was adjourned at 6:45 p.m.



Bill Reif, representing BRJM, LLC



9-17-05

To: Canby Planning Dept

RE: Dream House Construction LLC - Zone Change

City File # = MUR05-07 / ZC 05-01

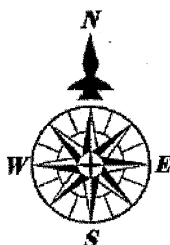
I am in favor of the zone change for the above mentioned business Dream House Construction, &

own the property next door to 919 N. Maple Lane Canby OR
My property 911 N. Maple Lane Canby OR closest to
the playground was purchased in 1983 and I lived
in it till 1995. In 1995 I started renting the
property out to tenants, with no opposition from any
neighbors, & always rent to families and child
there not extensively. I have never had any
complaints from any neighbors ever!!

I see as soon as people building in there
back yards a flagpole, so I think it is time to change
the zoning on this side of town, it is just time to do so.
Again I am in favor of changing the zone to
medium density,

Thank you for your time on this matter.

Jesse Roosa - owner
911 N. Maple Lane 56



COMPASS ENGINEERING

ENGINEERING - SURVEYING - PLANNING

6564 SE Lake Road
Milwaukie, Oregon 97222

503/653-9093
FAX 503/653-9095
e-mail: compass@compass-engineering.com

TO:

John Meredith

DATE:

August 31, 2005

JOB NO./PROJECT NAME:

ENCLOSED ARE:

<u>COPIES</u>	<u>DESCRIPTION</u>
25	11 X 17 Townhouse Plan Sets
1	36" X 24" Townhouse Plan Set
2	Letters to Kevin Cook (Townhouse & Knightsbridge MLP)

THESE ARE TRANSMITTED:

☐ FOR YOUR APPROVAL

☐ FOR YOUR USE

☐ AS REQUESTED

☒ OTHER

REMARKS:

To be taken to Canby Planning, c/o Kevin Cook

COPIES TO:

COMPASS ENGINEERING

BY: KARL

57



COMPASS ENGINEERING

ENGINEERING

SURVEYING

PLANNING

6564 SE Lake Road
Milwaukie, Oregon 97222

503/653-9093
FAX 503/653-9095

e-mail: compass@compass-engineering.com

August 30, 2005

Kevin C. Cook, Associate Planner
Canby Planning Department
PO. Box 930
182 N. Holly
Canby, OR 97013

RE: Knightsbridge MLP, MLP 05-09/ZC 05-02

Dear Mr. Cook:

This letter is in response to your letter of August 25th, 2005, regarding the incompleteness of our application. You pointed out that you did not have any information regarding a pre-application meeting or a neighborhood meeting. A neighborhood meeting has been held by John Meredith, but the record of that meeting was not included in the application. Two neighbors from the adjacent multifamily development attended and had a few questions about the land division. John Meredith will be bringing in notes from that meeting.

A pre-application meeting was held on May 10, 2005, the same meeting held for the townhouse subdivision request on Territorial Road. Requests for comments was made regarding the Knightsbridge project, and some of the topics were briefly discussed at that meeting. Attached are copies of the department notes received. Rhonda should also have these copies.

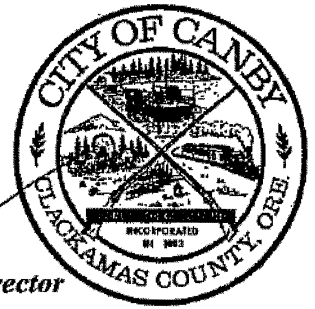
If you have any questions, or if additional work is required, please let us know. We understand the variance and MLP goes before the Planning Commission on September 26th.

Sincerely,

Karl Mawson, AICP

Attachments: City of Canby Comment Forms

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *October 13, 2005*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Transfer of parts of SE First Avenue and S. Township Road from county to city jurisdiction.

Synopsis: SE First Avenue lies partially within the Canby Pioneer Industrial Park, and improvements will be needed as industrial clients start to move in. The jurisdictional transfer would allow the City, rather than the County, to be in control of these actions. The proposal is to take over First from Sequoia to Walnut. S. Township Road from Ivy to the Logging Road is now fully improved and should be transferred to the City per our agreement with Clackamas County.

Recommendation: Staff recommends that the Council approve Resolution 913.

Rationale: SE First has over 20 feet of paved width, with at least 60 feet of right-of-way along this 0.47 mile section. Our agreement with Clackamas County allows road transfers when pavement surface is fully improved. SE First was paved seven years ago and the County estimates that half of the pavement's life is remaining. Thus, they are proposing to pay us roughly half of the improvement cost, or \$12,000 (attached letter says \$11,000, but this was later amended). Roy Hester has reviewed and approved this cost estimate.

As properties on SE First Avenue and S. Hazel Dell Way start getting developed, First Avenue will need utilities, sidewalks, and widening. We would prefer to be in control of the road for permitting and design purposes as these actions take place. Additionally, we need to install traffic control signs and cut the bank back at Hazel Dell and First right now in order to open up this intersection. It is unclear that these improvements would be allowed by the County at all.

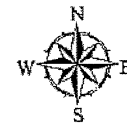
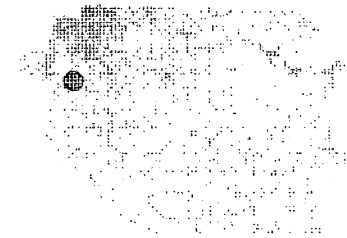
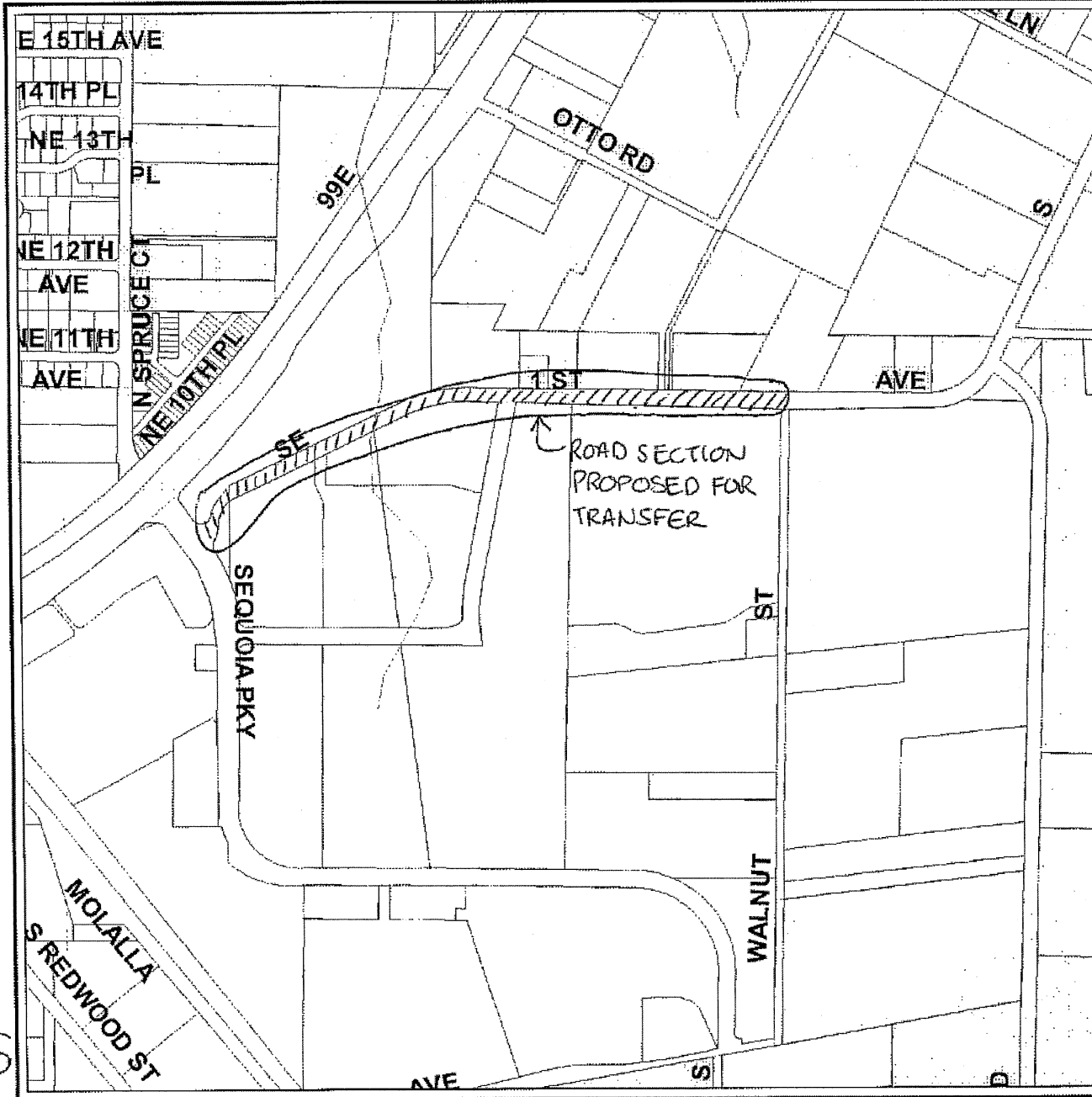
S. Township Road is fully improved in the section from Ivy to the railroad crossing and our IGA specifies that roads in this condition should be transferred.

The down side, of course, is that we will be responsible for pavement maintenance on both of these roads. But on the whole, staff believes that Canby should eventually have jurisdiction over all roads (except 99E) within City limits. This would clear up jurisdictional issues relating to construction standards, access limitations, and maintenance responsibilities.

Option: 1. Do not accept jurisdiction of these roads. This will save the city maintenance costs in the future but may make it more difficult to quickly make needed infrastructure improvements for the Pioneer Industrial Park and is not in keeping with our IGA with Clackamas County.

Attached: Resolution 913, map of road locations, letter from Clackamas County.

SE First Avenue Road Transfer



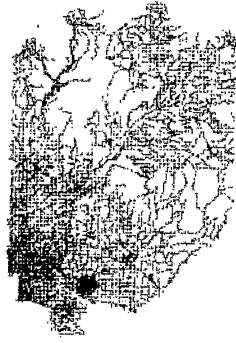
*Clackamas
County*

Geographic Information Systems
121 Library Court
Oregon City, OR 97045

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before making decisions.

October 13, 2005 02:24 PM

S. Township Road Transfer

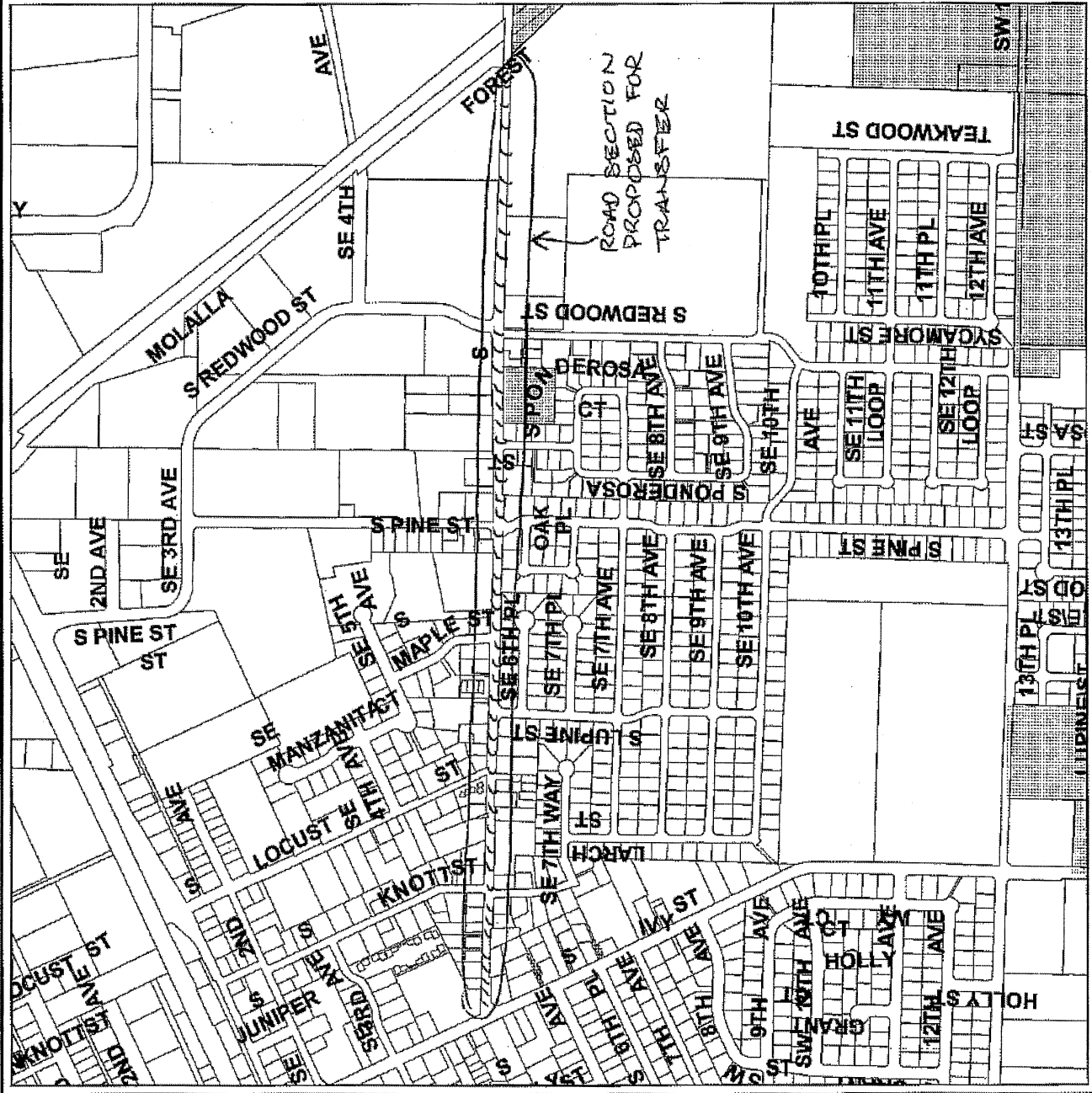


Jackson County

Geographic Information Systems
121 Library Court
Oregon City, OR 97045

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before making decisions.

October 21, 2005 05:14 AM





*Clackamas
County*

DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

Sunnybrook Service Center

Campbell Gilmour
Director

October 10, 2005

Roy Hester
City of Canby
182 N. Holly Street
PO Box 930
Canby OR 97013

Re: 1st Street (31079)

This letter is a follow up of our phone conversation. We were talking about transferring jurisdiction of 1st Street between the Walnut Street intersection and the end of County maintenance. The distance between these intersections is 0.47 miles.

The Urban Growth Management Agreements that the County and Cities have signed typically discuss a formula to arrive at a compensation value to the City in lieu of improvements. This formula is the value of a two inch layer of asphalt, 20 feet wide and however long. Clackamas County uses an ODOT formula to estimate the number of tons of asphalt to pave a given length of roadway. The calculation is as follows:

$$2482 (\text{length in feet}) \times 20 (\text{width in feet}) \times 2 (\text{depth in inches}) \times 0.0065 (\text{ODOT factor}) = \text{tons} \\ 645.3 = \text{tons}$$

The County has recent bids for our Asphalt Paving Program last summer. Our price for paving in the Canby area is 34 dollars per ton. 34 dollars per ton times 645 tons equals \$21,930.

This road was paved 7 years ago and is only 1/2 of the way through its life cycle. The next capital outlay for this road is not anticipated until 2010 or 2015.

If the City of Canby wants to ask the County for money to accompany the Request for Jurisdictional Transfer, staff believes that one half of the \$22,000 or \$11,000 specifically, would meet the intent of the UGMA. This amount could be made available in the County Road Department's current 2005-06 budget.

This would also be a good time to transfer the portion of Township Road between the Forest Road and Ivy Street. I believe we have spoken about this before. The roadway has been improved to City Standards by the adjoining developments and the City is maintaining the street by County Permit. Therefore no monies should accompany the transfer of Township Road.

If you have any specific concerns or questions, please contact me by telephone at 503-353-4674.


William A. Garity, Specialist
Construction Engineering Section

RESOLUTION NO. 913

A RESOLUTION REQUESTING CLACKAMAS COUNTY TO SURRENDER JURISDICTION OF APPROXIMATELY 0.47 MILES OF SE FIRST AVENUE AND APPROXIMATELY 0.92 MILES OF S. TOWNSHIP ROAD TO THE CITY OF CANBY.

WHEREAS, development of the Canby Pioneer Industrial Park will require street improvements, traffic control, and utility improvements on and under SE First Avenue from S. Sequoia Parkway to S. Walnut Street; and

WHEREAS, the City Council has determined that it would be advantageous to have local control over these decisions since the area has been annexed and the new roads and development will be within the City of Canby; and

WHEREAS, S. Township Road is improved to City standards from S. Ivy Street to just west of the railroad crossing at the Logging Road; and

WHEREAS, these roads are improved per the City's agreement with Clackamas County; and

WHEREAS, pursuant to ORS 373.270(6)(a), the city council may initiate the surrender of county jurisdiction over a county road by passage of appropriate municipal legislation;

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

- (1) Clackamas County is hereby requested to surrender jurisdiction over SE First Avenue between Walnut Street and S. Sequoia Parkway, a distance of approximately 2,482 lineal feet.
- (2) Clackamas County is hereby requested to surrender jurisdiction over S. Township Road from S. Ivy Street to just west of the railroad crossing at the Logging Road, a distance of approximately 4,858 lineal feet.

This resolution will take effect on November 2, 2005.

ADOPTED this 2nd day of November, 2005 by the Canby City Council.

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer
City Recorder, Pro-Tem

ORDINANCE NO. 1191

AN ORDINANCE VACATING TEN FEET OF THE PUBLIC RIGHT-OF-WAY ON THE WEST SIDE OF OAK STREET FRONTING TAX LOT 1200 OF MAP 3-1E-33AA.

WHEREAS, the City presently owns a 10 foot wide portion of right-of-way as shown in Exhibit "A" on the west side of Oak Street fronting Tax Lot 1200 of Map 3-1E-33AA; and

WHEREAS, a petition for vacation of ten feet of this right-of-way was filed by Thomas A. Welch on September 8, 2005; and,

WHEREAS, the petition was reviewed by the City Staff and the petition was found to be complete and more than two-thirds of the affected property owners were in agreement with the petition; and,

WHEREAS, the vacation is requested to comply with the original intention of the subdivision plat and return the 10 feet of unneeded right-of-way to this property; and,

WHEREAS, notice of a public hearing was published for two (2) consecutive weeks in the Canby Herald newspaper and posted on the property; and,

WHEREAS, a public hearing was held on this matter before the Canby City Council on October 19, 2005 and all statutory requirements for the vacation were found to be met; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

The public right-of-way as shown in attached as Exhibit "A", shall be vacated and title to the vacated property shall attach to the neighboring property described as Tax Lot 1200 of Map 3-1E-33AA.

SUBMITTED to the City Council and read the first time at a regular meeting thereof on Wednesday, October 19, 2005; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the City of Canby Charter and to come before the City Council for final reading and action at the regular meeting thereof on Wednesday, November 2, 2005; commencing after the hour of 7:30 P.M., at the City Council's Chambers at Canby City Hall, Canby, Oregon.

Kimberly Scheafer, City Recorder, Pro Tem

2nd Reading

64

ORDINANCE NO. 1192

AN ORDINANCE VACATING TEN FEET OF THE PUBLIC RIGHT-OF-WAY ON THE EAST SIDE OF SOUTH FIR STREET FRONTING TAX LOT 100 OF MAP 4-1E-04AC.

WHEREAS, the City presently owns a 10 foot wide portion of right-of-way as shown in Exhibit "A" on the east side of South Fir Street fronting Tax Lot 100 of Map 4-1E-04AC; and

WHEREAS, a petition for vacation of ten feet of this right-of-way was filed by Sean and Rita Patterson on September 9, 2005; and,

WHEREAS, the petition was reviewed by the City Staff and the petition was found to be complete and more than two-thirds of the affected property owners were in agreement with the petition; and,

WHEREAS, the vacation is requested to comply with the original intention of the subdivision plat and return the 10 feet of unneeded right-of-way to this property; and,

WHEREAS, notice of a public hearing was published for two (2) consecutive weeks in the Canby Herald newspaper and posted on the property; and,

WHEREAS, a public hearing was held on this matter before the Canby City Council on October 19, 2005 and all statutory requirements for the vacation were found to be met; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

The public right-of-way as shown in Exhibit "A", shall be vacated and title to the vacated property shall attach to the neighboring property described as Tax Lot 100 of Map 4-1E-04AC.

SUBMITTED to the City Council and read the first time at a regular meeting thereof on Wednesday, October 19, 2005; ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the City of Canby Charter and to come before the City Council for final reading and action at the regular meeting thereof on Wednesday, November 2, 2005; commencing after the hour of 7:30 P.M., at the City Council's Chambers at Canby City Hall, Canby, Oregon.

Kimberly Scheafer, City Recorder, Pro Tem

2nd Reading

65

ORDINANCE NO. 1193

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON TO CHANGE THE ZONING BOUNDARY BETWEEN THE HEAVY COMMERCIAL (CM) ZONE AND THE LIGHT INDUSTRIAL (M1) ZONE. THE ZONING DISTRICT BOUNDARY SHIFT AFFECTS TAX LOTS 400, 500, 600, 601 AND 602 OF TAX MAP 4-1E-05A, LOCATED AT THE S.W. CORNER OF HIGHWAY 99E AND S. BERG PARKWAY.

WHEREAS, an application was filed with the City Planning Department by Group Mackenzie on behalf of Plantore LLC/SR Smith Company, owner of Tax Lots 400, 500, 600, 601 and 602 of Tax Map 4-1E-05A to change the zoning boundary between the Heavy Commercial (CM) zone and the Light Industrial (M1) zone; and

WHEREAS, the zoning boundaries were previously established by Ordinance 1149 and this modification thereof was processed administratively as a Minor Modification; and

WHEREAS, public notice was posted and printed in the *Canby Herald*, as required by law; and

WHEREAS, the Canby Planning Department staff recommends that the City Council approve the proposed zoning boundary adjustment; and

WHEREAS, the Canby City Council considered the matter and recommendation of Planning Staff, reviewed the record and public testimony pursuant to the Canby Municipal Code; and

WHEREAS, the Canby City Council, after concluding its review and discussion on this matter and by motion duly made and seconded, voted unanimously to approve the zone change application; now therefore

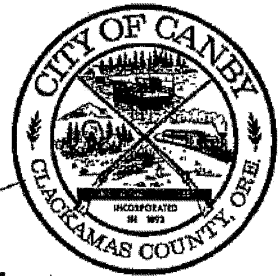
THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The boundary between the Heavy Commercial (CM) zone and the Light Industrial (M1) zone shall be as delineated in Exhibit A.

Section 2. The Mayor, attested by the City Recorder, is hereby authorized and directed to make the appropriate change on the City's zoning map in accordance with the dictates of Section 1 above.

2nd Reading
66

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *October 26, 2005*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Ordinance 1194 – a contract for Building Department plan review and inspection services agreement with Winstead and Associates of Oregon City.

Synopsis: The Building Department has had a contract with Winstead and Associates for years. The firm provides inspections while Bob Godon is on vacation and expedited plan review services when we have a backlog. They are conveniently located in Oregon City and have always offered professional and prompt services at excellent rates. At this time we are seeking Council approval of this contract because we are anticipating individual project costs over the \$15,000 charter limitation.

Recommendation: Staff recommends that the City Council approve Ordinance 1194.

Rationale: Winstead and Associates is one of a very small number of building code contract agencies available in Oregon. Most building departments have more than one official/inspector and do not require contract inspection services as we do. We are fortunate to have this full-feature firm right next door and know of no reason to not approve this contract. When we reviewed available firms several years ago, this was by far the most affordable and professional option for us.

Background: The City Council has for years approved a budget line item for contract inspection services when Bob Godon, our Building Official, is out of the office. The contract includes set fees for this service (\$55 per hour plus mileage). In addition, we now offer an expedited plan review service through this firm as part of our customer service goals. The charge for this is 70% of the plan review fee that we collect in advance from customers. Therefore, we run no risk of not having funds to pay this contract.

Options: 1. Seek more estimates for these services. Staff does not recommend this route because we have large plan reviews needing review and approval.

Attached: Ordinance 1194 and contract.

Finance Department Review:

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR
[Signature]

ORDINANCE NO. 1194

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH WINSTEAD AND ASSOCIATES TO PROVIDE BUILDING CODE SERVICES; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby has heretofore had a contract with Winstead and Associates (WA) to provide building inspections and plan check services; and

WHEREAS, this contract specifies that WA is to receive 70% of the plan review fee collected by the City of Canby for plan checks; and

WHEREAS, in order to process projects resulting in more than \$15,000 in fees, approval of an ordinance by the City Council is required due to the City Charter's requirements; and

WHEREAS, the City Council has reviewed the proposed contract and found it appropriate and in the best interests of the City of Canby; now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the City of Canby and on its behalf, an appropriate contract with Winstead and Associates. A copy of the contract with Canby is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete required plan review services as soon as possible, 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 therefore on Wednesday, November 2nd, 2005; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, November 16th, 2005, after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 16th day of November, 2005, by the following vote:

YEAS ____ NAYS ____

Melody Thompson
Mayor

ATTEST:

Kimberly Scheafer
City Recorder Pro Tem

**AGREEMENT FOR CONTRACT PLAN REVIEW AND INSPECTION
SERVICES**

THIS AGREEMENT is entered into this _____ day of _____, 2005 by and between Winstead and Associates, Architecture and Building Code Services, PC. (WA) and the City of Canby, Oregon (CITY). THIS AGREEMENT shall be valid between WA and the CITY until _____.

WHEREAS, WA is undertaking to provide plans checking services, including fire/life safety, structural, and mechanical, to the CITY.

WHEREAS, the projects involved are all types of construction projects requiring the issuance of a building permit within the City.

WHEREAS, WA represents itself as possessing the skills and experience necessary to perform said services.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **Scope of Services.** WA shall provide professional services at the request of, and in consultation with, the CITY, under the direction of the Building Official. The specific services that WA shall provide are set forth in the Statement of Services attached hereto as Exhibit A.
2. **Time of Performance.** WA shall complete the scope of services as follows:
Residential plans deemed simple within seven (7) working days.
Commercial plans may vary depending on the complexity, however a normal plan review time will be within ten (10) working days.
Inspections requested must be received within 24 hours of the inspection and will be conducted on the day requested.
3. **Compensation.** The CITY shall pay WA for services rendered in accordance with the attached Fee Schedule marked Exhibit B. Payment shall be made within 30 days after WA submits an itemized statement for work performed to the City Building Department.
4. **Obligations of CITY.** The CITY shall, to the extent reasonable and practicable, assist and cooperate with WA in the performance of WA services hereunder. Such cooperation and assistance shall include, but not be limited to, (a) providing two sets of plans and documents to WA at their designated office; (b) obtaining from the applicant, the necessary items to allow plan checking to be completed expeditiously- such items shall include complete plans, construction specifications, soils reports, energy calculations, structural calculations, name, address, and telephone number of the applicant or his designee and similar items necessary for a particular project; (c) providing the valuation for proposed construction or requesting that WA calculate the valuation; and (d) providing WA

with copies of any CITY ordinances that modify the Standard regulations of review.

5. **Insurance.** WA shall purchase and maintain a policy of general liability insurance from a reputable company in an insurable amount not less than \$1,000,000 combined single limit per occurrence. This insurance shall be in force during the life of this contract and the insurer shall agree to provide the CITY with 30 days notice of cancellation or change of policy.
WA shall purchase and maintain a policy of Professional Liability (Errors & Omissions) Insurance in an amount not less than \$1,000,000 in the aggregate. This insurance shall be in force during the life of this contract.
6. **Hold Harmless Agreement.** The CITY, its officers and employees shall not be liable for any claims, liabilities, penalties, fines, or any damage to goods, properties or effects of any person whatever nor for personal injuries or death of any person resulting from any negligent act, error or omission of WA or its employees or representatives.

WA agrees to defend, indemnify and save free and hold harmless the CITY and its authorized officers, and employees against any of the foregoing liabilities unless the liability or claim is due to the CITY's negligence.
7. **Non-Assignability.** This agreement is for the professional services of WA, and is non-assignable with prior written consent of the CITY.
8. **Notices.** Any notices required pursuant to this Agreement shall be served at the following addresses:

CITY
City of Canby
182 N. Holly
Canby, Oregon 97062

WA
Winstead and Associates,
Architecture and Building Code
Services, PC.
714 Main Street
Oregon City, Oregon 97045

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2005.

CITY OF CANBY

BY _____

WINSTEAD AND ASSOCIATES, ARCHITECTURE AND BUILDING CODE
SERVICES

BY _____

EXHIBIT A
STATEMENT OF SERVICES

Winstead and Associates, Architecture and Building Code Services, PC. will provide professional services for the review of proposed building plans for conformance to regulations contained in the State mandated Specialty building and mechanical codes, as those codes are amended by the CITY or State; in State laws governing energy conservation in buildings, provisions for access to buildings by disabled persons.

I. PLAN CHECKING SERVICES:

In providing plan review services, WA will do the following:

Item 1. Perform traditional life-safety plan review of submitted plans to determine compliance with the most recent CITY adopted:

International Residential Code, latest edition
Oregon Structural Specialty Code, (OSSC)
City of Canby Municipal Codes

Item 2. Provide the applicant (or their designee) and the CITY, a typed list of items needing clarification or change to achieve conformance with the above regulations.

Item 3. Perform all necessary liaison with the applicant's designee, either by phone, mail, or meetings in WA office, and perform one re-check. If any additional re-checks are necessary, they shall be performed by the CITY.

Item 4. Perform all necessary liaison with the Building Official or his designee, either by mail, phone or in meetings to insure compliance with the OSSC and other applicable codes to insure compliance with local policy interpretations.

II. BUILDING INSPECTION SERVICES:

In providing building inspection services, WA will do the following:

Item 1. Perform traditional building inspection services to determine compliance with approved plans and documents and the most recent City of Canby adopted building codes and regulations.

Item 2. Furnish State Certified inspection personnel. The City of Canby shall have the right to interview and approve the qualifications of each inspector assigned by WA.

Item 3. Perform traditional building inspections in accordance with established policies and procedures, including preparation and keeping of inspection records, logs, and notices.

Item 4. Attend meetings related to building inspection projects.

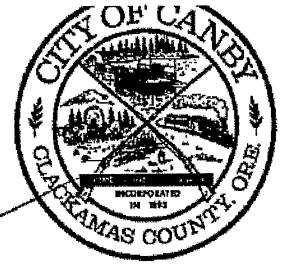
Item 5. Perform inspections during the normal working hours and days as performed by regular inspectors or as otherwise agreed.

Item 6. Building Finals and Occupancy Permits shall only be issued by prior approval of the Building Official or designee.

EXHIBIT B
FEE SCHEDULE

The fee for WA services will be calculated as follows:

1. Compensation for work performed under Part I, Item 1-4, of the Statement of Services shall be at the rate of 70% of the plan review fee collected by the City of Canby.
2. Compensation: Compensation for work performed under Part II, Item 1-6, of the Statement of Services shall be at the rate of \$55 per hour for each inspector furnished by WA with a minimum of four (4) hours per day. In addition, mileage shall be paid at the rate of \$.40 per mile for travel between City offices and inspection projects and between inspection projects.
3. No additional charges shall apply unless specifically authorized by agreement of both parties.



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *John R. Williams, Community Development & Planning Director*
DATE: *October 26, 2005*
THROUGH: *Mark C. Adcock, City Administrator*

Issue: Engineering services for S. Berg Parkway.

Synopsis: This ordinance awards the design engineering contract for S. Berg Parkway to Curran-McLeod, Inc. The \$43,900 contract includes surveying, roadway design, and contract bid preparation.

Recommendation: Staff recommends that the City Council approve Ordinance 1195.

Rationale: Curran-McLeod, Inc. has provided contract engineering services to the City for many years. Curran-McLeod has worked extensively on Berg Parkway over the years and we can capitalize on this work to save money and time in the engineering process. In fact, the proposed contract represents only 6% of the estimated construction costs, significantly less than a standard contract might be.

Background: On October 20, ODOT awarded \$1,231,650 to the City for completion of this contract. The engineering costs are an eligible expense from the ODOT money; however we will technically be taking the expenses of this contract out of our required 10% project match (which totals \$136,850) since we have not yet signed an IGA with ODOT to allow us to draw down from ODOT funds.

The City's 10% match will either come from Transportation SDC funds or Urban Renewal funds. This decision has not yet been made by the Council. Staff will be returning with more information on this issue soon.

Options: 1. Seek more estimates for these engineering services and delay adoption of the ordinance until this information is in hand. Staff does not recommend this option because we are confident in Curran-McLeod's work and would like to move forward with the next stages of this project.

Attached: Ordinance 1195 and contract.

THIS HAS BEEN REVIEWED
BY THE FINANCE DIRECTOR

Finance Department Review: _____

ORDINANCE NO. 1195

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR ENGINEERING SERVICES TO EXTEND SOUTH BERG PARKWAY APPROXIMATELY 1,700 FEET TO CONNECT HIGHWAY 99E TO THE EXISTING TERMINATION OF SW 13TH AVENUE; AND DECLARING AN EMERGENCY.

WHEREAS, the CITY OF CANBY has heretofore advertised and received proposals for municipal engineering services, completed oral interviews and selected CURRAN-McLEOD, INC. for the City's Engineer of Record; and

WHEREAS, CURRAN-McLEOD, INC. has provided preliminary planning, preliminary engineering and cost estimates for engineering and construction for the extension of South Berg Parkway to tie into SW 13th Avenue; and

WHEREAS, the CITY OF CANBY anticipates the need to complete construction of an extension of South Berg Parkway to SE 13th Avenue within calendar year 2006; Now therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. 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 contract with CURRAN-MCLEOD, INC for engineering services on in an amount not to exceed \$43,900.

Section 2. Inasmuch as it is in the best interest of the citizens of Canby, Oregon, to complete this project as soon as possible, 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 therefore on Wednesday, November 2, 2005; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, November 16, 2005, after the hour of 7:30 pm at the Council Chambers at the Canby City Hall, 182 N. Holly, Canby, Oregon.

Kimberly Scheafer, City Recorder Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 16th day of November, 2005, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, City Recorder Pro Tem

**CITY OF CANBY - SOUTH BERG PARKWAY EXTENSION
AGREEMENT FOR ENGINEERING SERVICES**

This Agreement is made this ____ day of _____, 2005, by and between the **CITY OF CANBY**, Oregon, hereafter referred to as the **OWNER**, and **CURRAN-McLEOD, INC. Consulting Engineers**, Portland, Oregon, hereafter referred to as the **ENGINEER**.

The **OWNER** intends to extend South Berg Parkway approximately 1,700 feet to connect Highway 99E to the existing termination of SW 13th Avenue, and for which the **ENGINEER** agrees to perform the various professional engineering services for the design and construction of said improvements.

WITNESSETH

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - ENGINEERING SERVICES

The **ENGINEER** shall furnish engineering services to accomplish the work identified above and as more specifically identified in the correspondence dated June 1, 2005, attached as Exhibit A:

1. The **ENGINEER** will attend conferences with the **OWNER**, representatives of the State, or other interested parties as may be required for completion of the work previously described.
2. After the **OWNER** directs the **ENGINEER** to proceed, the **ENGINEER** will perform the necessary alignment determination, accomplish the detailed design of the projects, prepare construction Drawings, Specifications and Contract Documents, and prepare a final cost estimate based on the final design. It is also understood that if additional subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the **ENGINEER** will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the **OWNER** as set out in Section D hereof.

Statements of probable construction costs and detailed cost estimates prepared by the **ENGINEER** represent his best judgement as a design professional familiar with the Construction Industry. It is recognized, however, that neither the **ENGINEER** nor the **OWNER** has any control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly the **ENGINEER** cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared by the **ENGINEER**.

3. The Contract Documents furnished by the **ENGINEER** under Section A-2 shall include the State of Oregon Prevailing Wage Rates, and **OWNER**, funding agency, and state requirements as appropriate.
4. Prior to the advertisement for bids, the **ENGINEER** will provide for each Construction Contract, not to exceed 10 copies of detailed Drawings, Specifications, and Contract Documents for use by the **OWNER**, and for appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, Specifications, and Contract Documents shall be included in the basic compensation paid to the **ENGINEER**. The **OWNER** pays the cost of permits and review fees as provided in Section F-2 of this Agreement.

5. The drawings prepared by the ENGINEER under the provisions of Section A-2 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be provided by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof, unless this task is identified and included in the proposed scope of work herein..
6. The ENGINEER will furnish additional copies of the Drawings, Specifications and Contract Documents as required by prospective bidders, materials suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER three sets of the Drawings, Specifications and Contract Documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Drawings and Specifications as instruments of service are and shall remain the property of the ENGINEER whether the project for which they are made is executed or not. They are not to be used by the OWNER on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the ENGINEER.
7. The ENGINEER will require prospective contractors to file an approved Pre-qualification Form with the Oregon Department of Transportation and will require a Bid Bond not to exceed 10% in the Bidding Documents to secure the Bid.
8. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, make recommendations for awarding contracts for construction.
9. The ENGINEER will assist in the Preconstruction Conference, and will review and approve, for conformance with the design concept, any necessary shop and working drawings furnished by Contractors.
10. The ENGINEER will interpret the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the Contractor. The ENGINEER will not, however, guarantee the performance of any Contractor. Planning and design of the project and construction engineering services shall be accomplished with due diligence and in conformance with accepted industry standards of the practice of professional engineering.
11. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to assure conformance with the design concept.
12. The ENGINEER will establish baselines and grades for locating the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents.
13. The ENGINEER, as representative of the OWNER during the construction phase, shall advise and consult with the OWNER and all of the OWNER'S instructions to the Contractor shall be issued through the ENGINEER. The ENGINEER shall have the authority to act on behalf of the OWNER to the extent provided in this Agreement.
14. Unless otherwise requested by the OWNER in writing, the ENGINEER will not provide Resident Construction Inspection. The ENGINEER'S undertaking construction inspection hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner; shall not make the ENGINEER an

insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.

15. The ENGINEER will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
16. The ENGINEER will prepare and review necessary contract Change Orders on a timely basis for consideration of approval by the OWNER.
17. The ENGINEER and a representative of the OWNER will make an inspection of the project or project element to determine the status of completion. The ENGINEER may issue a Certificate of Substantial Completion consistent with the General Conditions of the Construction Contract Documents.
18. The ENGINEER will provide the OWNER with one set of reproducible record drawings and two sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction, as specifically required in the Construction Contract, and reviewed by the ENGINEER, and from the ENGINEER'S construction data.
19. If State statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.
20. The ENGINEER will be available for site visits to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of Statement of Substantial Completion of the facility. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of initiation of the 12 month warranty period.

SECTION B - COMPENSATION FOR ENGINEERING SERVICES

1. The OWNER shall compensate the ENGINEER for services in accordance with the following schedule:

Design Engineering (as identified in the attached letter dated June 1, 2005 marked exhibit A):

- Forty three Thousand Nine Hundred Eighty Dollars (\$43,900)

Construction Engineering:

- Amount to be negotiated at the time of construction

2. The compensation for the above Engineering Services shall be as follows:
 - a. Design Services shall include items A-1 through A-5.
 - b. Billings shall be submitted monthly by the ENGINEER for Design Services during the previous month. Payments shall be made for these billings within 30 days. Billings shall be based on percent of completion of Design Services. The ENGINEER will provide a status report with the billing as requested.

- c. Construction Engineering Services and Construction Inspection shall include items A-6 through A-20 and shall be billed by the ENGINEER on an hourly basis. The total shall not exceed the budget figures under Article B.1 above without the express written authorization of the OWNER.
 - d. Where hourly rates are used, they shall be in accordance with the Standard Hourly Rate Schedule, attached herewith and referenced Exhibit B.
 - e. In the event of multiple construction contracts, the ENGINEER may negotiate revised figures under Article B.1.
- 3. The budget figures shown above shall not be exceeded except by express written authorization of the OWNER.
 - 4. Billings for Engineering Services shall be submitted in a format consistent with the payment provisions and format of the Agreement.

SECTION C - RESIDENT CONSTRUCTION INSPECTION

If the OWNER requests the ENGINEER to provide Resident Construction Inspection, the ENGINEER will, prior to the Preconstruction Conference, submit a resume of the Resident Inspector's qualifications, anticipated duties and responsibilities for approval by the OWNER. The OWNER agrees to pay the ENGINEER for such services in accordance with the "Inspector" rate schedule set out in Exhibit B. The ENGINEER will render to OWNER for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 10th day of the following period. A separate agreement shall be negotiated for Resident Construction Inspections Services setting out estimated hours required and maximum estimated fees and charges.

SECTION D - ADDITIONAL ENGINEERING SERVICES

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER.

- 1. Financial feasibility or other special studies.
- 2. Record boundary surveys or other similar surveys, excepting surveys required to locate the construction project, or as identified in the scope of work.
- 3. Laboratory tests, borings, specialized geological, soil, hydraulic, or other studies recommended by the ENGINEER.
- 4. Record property surveys, detailed descriptions of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
- 5. Necessary data and filing maps for storm water discharge permits, water rights, adjudication, and litigation.
- 6. Redesigns not initiated by the ENGINEER after final Plans and Specifications have been approved by the OWNER, except redesigns to reduce the project cost to within the funds available.
- 7. Appearances before courts or boards on matters of litigation or hearings related to the project and providing services as an expert witness in connection with any public hearing, arbitration proceeding, or the proceedings of a court of record.

8. Preparation of Environmental Assessments or Environmental Impact Statement (E.I.S.).
9. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
10. Preparing documents for alternate bids requested by the OWNER.
11. Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth as previously mentioned in this Agreement as may be required in connection with the replacement of such work.
12. Providing professional services made necessary by the default of the Contractor in the Construction Contract.
13. Providing construction engineering and inspection services after the construction contract time has been exceeded.

Unless identified as included in the proposed scope of work herein, payment for the services specified in this Section D shall be as agreed in writing prior to commencement of the work. The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER within 30 days.

SECTION E - OWNER'S RESPONSIBILITIES

1. The OWNER shall provide full information regarding his requirements for the project.
2. The OWNER shall designate, when necessary, a representative authorized to act in his behalf with respect to the project. The OWNER or his representative shall examine documents submitted by the ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ENGINEER'S work.
3. The OWNER shall furnish all pertinent existing mechanical, chemical or other laboratory tests, inspections and reports as required by law or the Contract Documents, and which may impact the design.
4. The OWNER shall furnish such legal, accounting and insurance counseling services as may be necessary for the project, and such auditing services as he may require to ascertain how or for what purposes the CONTRACTOR has used the moneys paid to him under the Construction Contract.
5. If the OWNER observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he shall give prompt oral notice with written confirmation thereof to the ENGINEER.
6. The OWNER shall furnish information required of him as expeditiously as necessary for the orderly progress of the work.

SECTION F - SPECIAL PROVISIONS

The following is agreed to by both parties:

1. That the OWNER reserves the right to request replacement of any Resident Inspector(s) furnished by the ENGINEER or to furnish the Resident Inspector(s) from the OWNER'S own forces, subject to the approval of the ENGINEER regarding the qualifications of the Resident Inspector(s). If the OWNER furnishes the Resident Inspector(s), the OWNER agrees that the Resident Inspector(s) will be under the direction and supervision of the ENGINEER.
2. That the OWNER shall pay for advertisement for bids, building or other permits, licenses, technical review fees, etc., as may be required by local, State or Federal authorities, and shall secure the necessary land easements and rights-of-way.
3. The ENGINEER will endeavor to assure compliance of his work with applicable State and Federal requirements.
4. That insofar as the work under this Agreement may require, the OWNER shall furnish the ENGINEER all existing maps, field survey data, grades and lines of streets, pavements, and boundaries, rights-of-way, and other surveys presently available, which will be returned upon project completion. ENGINEER will provide the OWNER a copy of survey notes establishing bench marks and location of improvements.
5. That if the engineering work covered in this Agreement has not been completed on or after the expiration of a Twelve (12) month period from the date of execution of this Agreement, the OWNER or ENGINEER may, at the option of either, on written notice, request a renegotiation of Sections B, C, and D (providing for the compensation to be paid the ENGINEER for services rendered) to allow for changes in the cost of services. Such new schedule of compensation is to apply only to work performed by the ENGINEER after delivery date of such written notice.
6. That this Agreement is to be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. At least fifteen (15) days shall be allowed for such consent.
7. Attorney's fees: In the event a suit, arbitration or other legal action is required by either the OWNER or the ENGINEER to enforce any provision of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon litigation or upon appeal.
8. Termination
 - a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
 - b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given (1) not less than ten (10) calendar days' written notice, (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
 - c. If termination for default is effected by the OWNER an equitable adjustment in the price provided for in the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If termination for default is effected by the

ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.

- d. Upon receipt of a termination action under paragraphs a. or b. above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER reproducible data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement whether completed or in process.
 - e. Upon termination under paragraphs a. or b. above, the OWNER may take over the work and may award another party a contract to complete the work under this Agreement.
 - f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph c. of this clause.
9. The ENGINEER agrees to insure, hold harmless and indemnify the OWNER against all claims, damages, losses and costs, including costs of defense, arising out of the negligent performances of engineering services under this Agreement. OWNER may make claim under applicable law against ENGINEER or ENGINEER'S insurance carriers for any loss, damage or cost arising out of ENGINEER'S negligent performance of services under this Agreement.
10. The ENGINEER agrees to acquire and maintain for the duration of this Agreement, Professional Liability Insurance in the nominal amount of \$1,000,000. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Worker's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees of the ENGINEER'S functions and services required under this Agreement.
11. The ENGINEER will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
12. ENGINEER covenants that he presently has no interest and shall not acquire interest, direct or indirect, which would conflict in any manner or degree with the performance of his services under this Agreement. Any interest on the part of the ENGINEER or his employees must be disclosed to the OWNER.
13. INDEPENDENT CONTRACTOR. It is agreed that ENGINEER is providing the services hereunder as an independent contractor and not as an employee of OWNER.

OWNER shall have no right to control the manner of the performance of the services, but may place restrictions on ENGINEER relating to use of OWNER'S premises. As an independent contractor, ENGINEER shall not be eligible to receive benefits otherwise provided to employees of the OWNER.

14. The records and documents with respect to all matters covered by the Agreement shall be subject at all times to inspection, review or audit by the OWNER, County, Federal or State officials so authorized by law during the performance of this contract. Required records shall be retained for a period of three (3) years after termination of this Agreement
15. No member or delegate to the Congress of the United States and no Resident Commissioner or City Official shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.
16. This CONTRACT shall be construed according to the laws of the State of Oregon. Any litigation between the OWNER and the ENGINEER or out of work performed under this CONTRACT shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.
17. This Agreement, including Exhibits A and B, represents the entire integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER:

CITY OF CANBY

BY: _____

TITLE: _____

DATE: _____

ENGINEER:

CURRAN-McLEOD, INC.

BY: _____

TITLE: _____

DATE: _____

Exhibit A

**CURRAN-McLEOD, INC.
CONSULTING ENGINEERS**

6655 S.W. HAMPTON STREET, SUITE 210
PORTLAND, OREGON 97223

June 1, 2005

Mr. John Williams
City of Canby
182 N. Holly Street
Canby, OR 97013

**RE: CITY OF CANBY
BERG PARKWAY ENGINEERING & PRELIMINARY ALIGNMENT**

Dear John:

This letter is to summarize the engineering expense and preliminary alignment of Berg Parkway.

The TSP identifies the northern portion of Berg Parkway at the intersection of 99E as a three-lane arterial meeting new construction standards of 48 foot width without parking. South of the intersection the roadway is designated to be a three-lane arterial meeting the adequacy standards of 40 foot width without parking. One final design element, in the 1987 I-5 Access Improvement Study, the highway was shown with a dedicated right turn lane onto Berg Parkway with a pedestrian island.

We are proposing that the actual design for the roadway vary from the previous studies slightly. The roadway width at the intersection of 99E is proposed to be a 44 foot three-lane arterial to minimize the impact on SR Smith. This will provide three lanes and bike lanes and easily align with the existing 42 foot wide portion of Berg Parkway on the North side of the highway. We will coordinate with ODOT to determine if a dedicated right turn lane should be included. This alignment will only require minimal dedication from SR Smith and will place the sidewalks on easement.

Although the TSP calls for a 40 foot arterial connection to SW 13th, due to restrictive topography the roadway will reduce to a two lane 36 foot section until past the existing Industrial Seating building. This will require discontinuing the third lane through this reach. The roadway will ultimately expand to the typical 40 foot three-lane section as it approaches SW 13th Avenue.

We will need to secure right-of-way from SR Smith, Industrial Seating and Canby Disposal. The approximate area of each dedication is shown on the attached maps. We are proposing the right of way be limited to 50 feet from the highway to the park access road plus a 12 foot easement. South of the park access road the right-of-way will be 60 feet to match the existing, plus a 12 foot easement.

85

Exhibit A

Mr. John Williams
June 1, 2005
Page 2

We asked the surveyors to stake the centerline of the roadway for the property owners, however, they completed the entire topography survey of the site. This work was needed but we didn't think we authorize them to proceed yet on this work. I have reduced the surveying expense in the budget below and have included the cost in the current invoice to the City. We hope this is not a problem. This survey will be needed to complete the design so there are no lost efforts. This project is listed in the TSP and the SDC Capital Improvement Plan so the project is 100% SDC eligible.

Construction costs estimates have been completed several time and total approximately \$680,000 plus contingency. The design phase engineering expenses are estimated as follows:

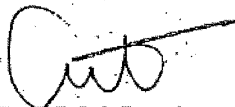
Research & Coordination	\$ 1,200
Geotechnical Review	2,500
Design Surveys	3,600
Dedication Legals & Coord	4,400
Roadway & Utility Designs	18,500
Retaining Wall Structural Design	2,500
Graphics & Printing	9,600
Contract Documents	<u>1,600</u>
DESIGN PHASE TOTAL	\$ 43,900

The engineering costs are higher as a percentage of construction than we had for Sequoia Parkway and SE 4th Avenue. This project will have additional geotech work, dedications, a retaining wall and coordination for construction within the ODOT right-of-way. This work can be completed within approximately six to eight weeks. If you elect to go to bid this season, we can accelerate the work and be ready to bid sooner.

Please review the engineering estimate and preliminary layout and let me know if you have any concerns.

Very truly yours,

CURRAN-McLEOD, INC.



Curt J. McLeod, PE
enclosure

Exhibit B

STANDARD HOURLY RATES

Effective January 1, 2004

Senior Principal Engineer	\$ 112.00
Principal Engineer/Manager	98.00
Project Engineer/Manager	88.00
Design Engineer/Design Manager	88.00
Design Technician	72.00
Graphics Technician	50.00
Word Processing	42.00
Resident Project Representative	60.00

REIMBURSABLE EXPENSES

Reproduction expenses are at cost.

Travel expenses reimbursed at 34¢ per mile.

Per diem expense at cost.

CURRAN-McLEOD, INC., Consulting Engineers

Memo to: Mayor and City Council

From: John Kelley, City Attorney 

Date: October 25, 2005

Re: Request from LOC for donation to support legal defense of Qwest case.

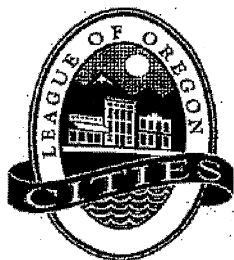
As you recall, at the last Council meeting Mr. Adcock mentioned a letter the City had received that day from the League of Oregon Cities requesting another contribution to the legal fund in support of the Qwest litigation the LOC is presently involved with.

The Council wanted me to review the letter and make a recommendation as whether the City should continue with its support of the matter. The letter from the League is very clearly written and explains the history of the case with Qwest very well. I have therefore, enclosed a copy with my memo. Please read it.

The LOC is requesting the City return a "Voluntary City Assessment" form with a recommended rate of two percent of our annual telecom franchise fees. That figure would be approximately \$2000.00.

In the past, the City has contributed to the LOC fund in the amount of \$2912.00 in May of 2002 and again in July, 2002 in the amount of \$970.79. It is my view that the City does benefit from the actions the LOC is taking and it is extremely important to protect what has been accomplished so far in the litigation. Therefore, I would recommend contributing to the fund. However, the amount you contribute can be anything from \$100.00 to the full \$2000.00. You may want to consider contributing less than the full 2% given the financial situation the City is facing. Your call.

Any questions, please call me at (503) 266-4021 ext 254.



League of Oregon Cities
Local Government Center
1201 Court St. NE, Suite 200
Salem, Oregon 97301-4194

P.O. Box 928
Salem, Oregon 97308-0928

(503) 588-6550 or
1-800-452-0338
Fax: (503) 399-4863
E-mail: loc@orcities.org
Web: www.orcities.org

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Helen Berg
Mayor, Corvallis

VICE-PRESIDENT

Mark Selmann
Mayor, Athena

TREASURER

Jim Fairchild
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DIRECTORS

Bob Austin
Mayor, Estacada

Chuck Becker
Mayor, Gresham

Jim Bennett
City Manager, Newberg

Leroy Blodgett
City Manager, Brookings

Tom Hughes
Mayor, Hillsboro

Shirley Kalkhoven
Mayor, Nehalem

Rex Mather
City Manager, Boardman

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Jim Randall
Councilor, Salem

Erik Sten
Commissioner, Portland

Bob Strosser
Councilor, Medford

Alan Unger
Mayor, Redmond

EXECUTIVE DIRECTOR

Ken L. Strobeck

October 14, 2005

RECEIVED
OCT 19 2005
CITY OF CANBY



Dear Mayors and City Manager/Recorders,

The court battle over city franchise authority isn't over. When Qwest stopped paying telecom franchise fees and filed suit challenging our franchise and right-of-way authority, cities united in a thus-far successful effort to defend our rights. Many cities across the state contributed financially to cover the high legal fees required for our collective defense.

Unfortunately, the case isn't over yet. While we succeeded in restoring the flow of funds, Qwest is now trying to persuade the Federal District Court to hear new arguments challenging cities' ability to receive gross revenue based fees. At the same time the Ninth Circuit Court of Appeals has ordered a review of some provisions included in franchise agreements. Much is still at risk.

In order to finish the job and cement our victory, the League of Oregon Cities Board of Directors has authorized an additional request to member cities for a voluntary assessment for legal fees. All the money collected so far has been expended. The Board does not make this request lightly, recognizing the tight financial condition of cities in Oregon. However, we have come so far in securing our rights to telecom fees; it would be irresponsible to stop before achieving victory in this case.

Litigation Background

In July of 2001, Qwest stopped paying city telecommunications franchise fees, claiming that a Washington state case prohibited such fees. Oregon cities disagreed and the City of Portland sued Qwest, demanding payment. In August of 2001, the League of Oregon Cities organized the successful intervention of several strategically-selected cities into the lawsuit (Ashland, Happy Valley, Keizer, North Plains, Pendleton, Redmond, Salem and Springfield). Many Oregon cities collaboratively funded this litigation by voluntarily contributing three percent of their telephone franchise fees to the effort.

In March of 2002, in a big victory for cities, the U.S. District Court issued an order stating, **"I conclude as a matter of law that Qwest's failure to pay the fees breached its franchise agreements with cities. The only issue of material fact remaining concerns the precise amounts due each city."** —Magistrate Judge Jelders. He ordered Qwest to immediately pay the withheld franchise fees. Qwest paid, but appealed to the Ninth Circuit Court of Appeals. Again, many Oregon cities responded to a second request for funds for this leg of the litigation effort by voluntarily contributing one percent of their telephone franchise fees from their reserve accounts.

(Over, please)

October 14, 2005
Page Two

On October 12, 2004 the Ninth Circuit issued a favorable decision which solidified cities' right to receive gross revenue-based telecommunications franchise fees. Oregon's cities, through their funding of this critical litigation, played an integral role in this success.

The Ninth Circuit's opinion affirmed that a city may structure its compensation for right-of-way use as a percentage of the telecom company's gross revenues under the Federal Telecommunications Act of 1996, but it was not the definitive decision we were hoping for. Because the Court decided to send back ("remand") the case to the Oregon District Court, there is still more legal work to be done. Specifically, the Court ordered the judge to make "individualized Section 253 preemption analysis for each city's ordinances..."

That ruling brings us to where we are today. The judge was ordered to review each individual franchise fee agreement for issues such as registration, right-of-way permitting, relocation and other provisions. Ideally, this review should not include arguments about the right to receive gross-revenue based fees or about the legality of Oregon statutes. However, in recent months, Qwest has been attempting to persuade the Court to hear such arguments. League attorneys are working hard to limit the scope of the remand to the topics indicated by the Ninth Circuit judges.

Funding Needed for Final Phases of the Litigation

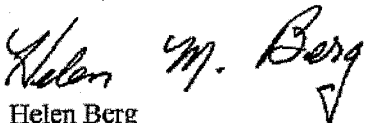
The remand is a new and likely, final phase of the litigation if we have the funding to mount an aggressive defense of city authority.

As we enter the homestretch, we again must ask for a voluntary assessment to fund the case which so far has cost more than \$300,000 in legal fees. Enclosed you'll find a Voluntary City Assessment form with a recommended rate of two percent of your telecom franchise fees. Please fill out this form and mail a check for your assessment to the League as soon as possible.

If you have any questions about legal issues, please call Christy Monson at the League office: 503-588-6550. If you have any questions about the funding of this litigation or about telecommunications issues in general, please feel free to call Ken Strobeck or David Barenberg at the same number.

Thank you for your ongoing dedication to the collective welfare of Oregon's cities. We look forward to hearing from you.

Sincerely,



Helen Berg
Mayor, Corvallis
2005 LOC President

Enclosure

(Your city's copy)

Qwest Litigation Contribution

Due December 31, 2005

City of _____

- | | |
|--|----------|
| 1. City's annual telephone franchise receipts: | \$ _____ |
| 2. Multiply by 2% | X .02 |
| 3. Total contribution: | \$ _____ |

Make check payable to: League of Oregon Cities
PO Box 928
Salem OR 97308

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Please detach and send with contribution

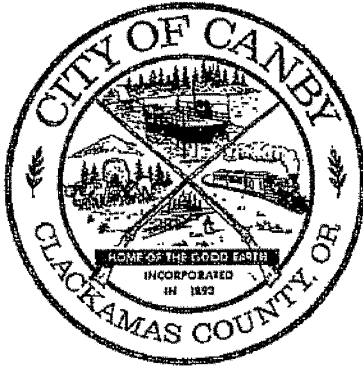
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Make check payable to: League of Oregon Cities
PO Box 928
Salem OR 97308



City of Canby

Office of the City Administrator
Phone 503-266-4021

October 25, 2005

Mr. Bruce Kerr, CEO
The Partners Group
5901 SW Macadam Avenue, Suite 200
Portland, Oregon 97239

Dear Mr. Kerr:

It was a pleasure meeting you this morning. On behalf of the Mayor and City Council, I want to express our appreciation in Willamette Valley Country Club's interest in the community and how the Club may enhance the achievement of community goals to our mutual benefit.

If there is any further information you would need to help in your membership growth activities, please do not hesitate to contact me. I hope that you will find your conversations with John Williams and Catherine Comer of value as well.

Again, it was my pleasure to be of assistance to you.

Very truly yours,

Mark C. Adcock
City Administrator

Cc: Mayor Thompson and City Councilors