

**PLANNING COMMISSION
Meeting Agenda
Monday, January 9, 2017
7:00 PM**

City Council Chambers – 222 NE 2nd Avenue

Commissioner John Savory (Chair)

Commissioner Larry Boatright (Vice Chair)

Commissioner Derrick Mottern

Commissioner Shawn Varwig

Commissioner John Serlet

Commissioner Tyler Hall

Commissioner Andrey Chernishov

1. CALL TO ORDER

- Invocation and Pledge of Allegiance
- Introduction of new Planning Commissioner – Andrey Chernishov

2. CITIZEN INPUT ON NON-AGENDA ITEMS

3. MINUTES

- a. November 28, 2016 Planning Commission Minutes

4. NEW BUSINESS

5. PUBLIC HEARING

- a. Consider a request for a Zone Change to change current zoning at 548 N Locust St from R-1, Low Density Residential Zone to R-2, High Density Residential Zone. (ZC 16-05)

6. FINAL DECISIONS

(Note: These are final, written versions of previous oral decisions. No public testimony.)

- a. CUP/VAR 16-02 – Scott & Teresa Sasse, Puddin River Chocolates

7. ITEMS OF INTEREST/REPORT FROM STAFF

- a. Next Planning Commission Meeting scheduled for January 23, 2017 – Minor Partition and Lot Line Adjustment

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001. A copy of this agenda can be found on the City's web page at www.canbyoregon.gov. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5.

For a schedule of the playback times, please call 503-263-6287.

PUBLIC HEARING FORMAT

The public hearing will be conducted as follows:

- **STAFF REPORT**
- **QUESTIONS** (If any, by the Planning Commission or staff)
- **OPEN PUBLIC HEARING FOR TESTIMONY:**
 - APPLICANT** (Not more than 15 minutes)
 - PROponents** (Persons in favor of application) (Not more than 5 minutes per person)
 - OPponents** (Persons opposed to application) (Not more than 5 minutes per person)
 - NEUTRAL** (Persons with no opinion) (Not more than 5 minutes per person)
 - REBUTTAL** (By applicant, not more than 10 minutes)
- **CLOSE PUBLIC HEARING** (No further public testimony allowed)
- **QUESTIONS** (If any by the Planning Commission)
- **DISCUSSION** (By the Planning Commission)
- **DECISION** (By the Planning Commission)

All interested persons in attendance shall be heard on the matter. If you wish to testify on this matter, please step forward when the Chair calls for Proponents if you favor the application; or Opponents if you are opposed to the application; to the microphone, state your name address, and interest in the matter. You will also need to sign the Testimony sheet and while at the microphone, please say your name and address prior to testifying. You may be limited by time for your statement, depending upon how many people wish to testify.

EVERYONE PRESENT IS ENCOURAGED TO TESTIFY, EVEN IF IT IS ONLY TO CONCUR WITH PREVIOUS TESTIMONY. All questions must be directed through the Chair. Any evidence to be considered must be submitted to the hearing body for public access.

Testimony and evidence must be directed toward the applicable review criteria contained in the staff report, the Comprehensive Plan, or other land use regulations which the person believes to apply to the decision.

Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and interested parties an opportunity to respond to the issue, may preclude appeal to the City Council and the Land Use Board of Appeals based on that issue.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue may preclude an action for damages in circuit court.

Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The Planning Commission shall grant such requests by continuing the public hearing or leaving the record open for additional written evidence or testimony. Any such continuance or extension shall be subject to the limitations of the 120-day rule, unless the continuance or extension is requested or agreed to by the applicant.

If additional documents or evidence are provided by any party, the Planning Commission may, if requested, allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any such continuance or extension of the record requested by an applicant shall result in a corresponding extension of the 120-day time period.

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – November 28, 2016
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Commissioners John Savory, John Serlet, Kris Rocha, Tyler Hall, and Derrick Mottern
ABSENT: Commissioner Larry Boatright
STAFF: Bryan Brown, Planning Director, and Jamie Stickel, Main Street Manager
OTHERS: Pat Sisul, Scott Sasse, Teresa Sasse, Bev Doolittle, Jon Landry, Angie Landry, Greg Perez, Brian D’Ambrosio, Carol Palmer, Joe Schiewe, Mike Allen, Darius Viregan, Janet Sanders, Chase D’Ambrosio, Scott Sanders, Andrey Chernishov, Jerry and Heather Slater, and Rian Tuttle

1. CALL TO ORDER

Chair Savory called the meeting to order at 7:00 pm.

2. CITIZEN INPUT – None

3. MINUTES

- a. August 22, 2016 and September 26, 2016 Planning Commission Minutes

Motion: A motion was made by Commissioner Serlet and seconded by Commissioner Rocha to approve the August 22, 2016 and September 26, 2016 Planning Commission Minutes. Motion passed 5/0.

4. PUBLIC HEARING

- a. Consider a request for a Conditional Use Permit and Major Variance at 1440 S Ivy St, to establish a home occupation to manufacture candy and baked goods (**CUP/VAR 15-02 – Scott & Teresa Sasse, Puddin River Chocolates**)

Chair Savory said this hearing was being continued to December 12, 2016. He opened the public hearing in order to take public testimony.

An unidentified Canby resident, said the map in the packet did not match what she received in the notice for the hearing. She wanted to verify the area they were talking about. Bryan Brown, Planning Director, explained the map.

Scott and Teresa Sasse, applicants, said they would like to build an accessory building that would have a commercial kitchen inside. It would not be a retail site and no more cars or trucks would be coming in and out than they did now. City water, sewer, and electric would be connected to the building. Because they were outside the 600 foot home occupancy, it had to be a major variance. There had

been a line of site issue, but the driveway for the new building would be 28 feet wide which he thought was sufficient for turning around in a truck. They were in a tight timeframe as his building had been sold and they had to be out by February.

- b. Consider a request for a Subdivision for 105 lots with a park dedication on 21.74 acres, consistent with the SE 13th Ave Development Concept Plan and R-1.5 Medium Density Residential Zone. **(SUB 16-03 – Timber Park, LLC)**

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had a conflict of interest or ex parte contact to declare. There was none.

Bryan Brown, Planning Director, entered the staff report into the record. This was a subdivision request for 105 lots on property that was annexed in 2014. He explained the proposed subdivision which would be developed in two phases. For the first phase, the access would be an extension of S Walnut Street off of SE 13th Avenue. There would also be an emergency access which was approved by the Fire Department. For the second phase, four streets would eventually extend from the west which would give multiple connection points to the site. Park land would also be dedicated. There was a development agreement indicating the applicants would not have to pay Park SDCS since they were dedicating land for the park and making park improvements. The park would be completed in Phase 1. There would also be connections to the Logging Road Trail nearby. He discussed the shadow plat that had been done to show how everything would fit together in the larger area and then explained the park plan, the screening wall along SE 13th Avenue, sidewalk that would meander some, and street trees along 13th Avenue. Staff recommended approval of the application with the conditions of approval listed. Condition #14 had a substantial change in the wording as a result of recommendations from Clackamas County that a traffic study should be performed. A traffic study was done for the annexation/zone change in 2014, but additional study is often recommended when an actual specific development proposal is presented. The study would be focused on the SE 13th and Sequoia Parkway intersection. The intent was to clarify the multi-modal operations that were causing some safety concerns. The Bike and Pedestrian Committee and Traffic Safety Commission have pointed out safety concerns to the City and County who share responsibility for the operation of that intersection. City and County officials believe an all way stop is needed at least as a interim solution, but a traffic study is needed to help to document and validate that need. The all way stop would be funded by the developer. For Condition #28, the words “by separate instrument” in the first sentence would be removed. For Condition #30, the word “interior” would be added. For Condition #42, the word “garages” would be substituted with “three or more garage doors in a row.” A letter had been received from Union Pacific Railroad. They requested ways to prevent trespassing on the railroad tracks adjacent to the subdivision be added. They also wanted to emphasize the noise that trains caused and for the developer to give consideration to barriers, fencing, buffers, or setbacks to mitigate it and to let potential home owners know there was a train track nearby and trains sometimes blew whistles. The current spur line had limited rail traffic and significant changes would have to be made in the rail system to result in heavier traffic. Once the dedication and improvements to the park were made by the developer, the City would accept responsibility for the park and its future maintenance.

Applicant: Pat Sisul, Sisul Engineering, was representing the applicants. In 2014 a development concept plan was created for this area. There were five property owners involved and the voters approved the annexation. The annexation request included 32 acres, and this subdivision would be 21.74 acres. The proposal was to develop 105 lots in two phases and to dedicate 1.215 acres for a park in the first phase. Pathways, picnic tables, restroom building, and irrigation system would be installed at the park. Phase 1 would develop 69 lots and would include the 13th Avenue frontage improvements. Phase 2 would include 36 lots and would be developed quickly behind Phase 1 and could potentially be developed at the same time due to market conditions. The area was zoned R-1.5, medium density residential. The site plan was the same as what was submitted for the development concept plan. The lot sizes would be between 5,662 to 8,119 square feet. The average lot size was 6,223 square feet. Ten lots would exceed the 6,500 square foot maximum threshold. There were two flag lots as well. The Planning Commission could approve lot area exceptions as long as no lots were less than 4,000 square feet and the average lot size was between 5,000 and 6,500 square feet. He requested approval to allow the ten oversized lots. The subdivision was located in an area of other subdivisions and the Faist addition phases 7, 8, and 9 that were planned to be developed. Several roads would remain as dead ends until the Faist additions were built. Until that time, there would be one way in and out, on S Walnut. The Code stated up to 30 lots could be served from a single point of access, but the Planning Commission could approve increases beyond that standard as long as emergency access was adequate and when no unwarranted problems for the public street system would be caused. The applicant hired a traffic engineer to submit a technical memorandum addressing how S Walnut would function. The engineer found that up to 98 lots could be developed with that one point of access. The 98 lots would be expected to generate 932 trips per day. Generally local streets were intended to carry 1,000 to 1,500 trips per day. Because this was temporary and additional points of access would be provided as soon as the Faist additions were developed, no unwarranted problems for the street system or emergency services would result from allowing the property to be developed. He requested the Commission approve up to 98 lots could use the one point of access. He explained where the sanitary sewer would be stubbed and how it would flow out the pedestrian pathway to a line that was already installed in Sequoia Parkway. There was a project currently being designed by the City Engineer to extend the sanitary sewer from Sequoia Parkway east to Mulino Road where there was a pump station being designed. That project would go to bid in January, construction was anticipated to start in March, and it was to be operational by June or July. This subdivision was planned to be completed by September. He asked that if a condition was added regarding the timing, that it state that building permits could be obtained prior to the pump station being completed, but final occupancy would depend upon completion of the pump station. He then discussed the shadow plat and park plan. The park site was on the southern end of the Logging Road Trail and could be a wayside feature for people who were using the Trail. The park would be designed with the City's Park Department's approval. Due to concerns regarding the future maintenance of the park by the City, the park had been scaled back from 2.5 acres to the 1.2 acres. A retaining wall was going to be built along 13th Avenue as well as a meandering sidewalk and planter strips. It would be maintained by the Homeowners Association. The applicants agreed to the changes to the conditions. The spur line was not adjacent to the site, but across the Logging Road Trail and he did not know if they could do anything on the Logging Road Trail to keep people

from trespassing. The park provided a natural buffer for noise. It would not be hidden, and people would know there was a rail line. There were only a few rail trips per week. He had not heard about any issues regarding noise from the gun club.

Proponents or Opponents: None.

Neutral Testimony: Bev Doolittle, Canby resident, asked if the pump station was a project on the Urban Renewal District Plan. Mr. Brown said it was a project on the City's Capital Improvement Plan which was being funded through SDCs. A sanitary sewer line on SE 13th was going to be financed through an Advanced Financing District. He did not think URD funds would be used.

Ms. Doolittle asked about the Logging Road Trail area by the park, would people be able to walk from the park to the Logging Road or was there going to be a fence except for one entrance access. Mr. Sisul said the plan was to leave the fence that existed around the property, but there would be an opening in the fence which would be the only way in or out of the park to the Logging Road Trail.

John Landry, Canby resident, said he lived on the property and there had been concerns regarding the noise from the gun club for many years. He did not think it was egregiously loud. The trains were louder than the guns.

Rebuttal: Mr. Sisul clarified for the possible new condition of approval regarding the pump station timing, they would like to be able to build homes up to the point of occupancy until the pump station was completed. They would like to have three model homes put up as quickly as possible.

Greg Perez, Canby resident, asked what would happen if the pump station was not completed on time. Chair Savory said the applicants would not be able to have the homes occupied.

Chair Savory closed the public hearing.

Deliberations:

Mr. Brown said the Code did not address model homes. In other applications model homes had been allowed based on the current zoning of the property and that any tax lot that existed before the plat was recorded was entitled to a home. This subdivision had three existing tax lots and they could qualify under the previous policy to have three model homes before the plat was recorded. Regarding the pump station condition, he was nervous to allow them to build all the lots to the point of occupancy. There was a chance the pump station would be delayed and that would put everything on hold, including buyers who wanted to move in. He was more comfortable with allowing the model home permits and building them to the point of occupancy, but not more than that.

There was discussion regarding the timing of what could be built before the pump station was completed.

Mr. Sisul clarified the pump station was for sanitary sewer, not water. They were not planning to build any homes until the on-site sewer and water systems were done and fire hydrants were working. They would not be looking at getting building permits until the road was paved. They would like to construct three model homes near 13th Avenue. They could not sell lots until the pump station was operational.

Brian D'Ambrosio, Realtor, said legally they could not enter into a contract for purchase until the pump station was in and the plat was recorded.

Chair Savory clarified the changes to the conditions as proposed by staff. New conditions would include: There would be 98 lots that would be serviced by one point of access which would be temporary; Three model homes could be built as long as they conformed to current zoning and the tax lots existed before the plat was recorded; and Building permits could be obtained and the homes could be built to the point of occupancy before the pump station was completed. Included in the findings was the Planning Commission approval of the ten lots above the maximum lot size.

Motion: A motion was made by Commissioner Rocha and seconded by Commissioner Mottern to approve SUB 16-03 – Timber Park, LLC with the conditions as amended. Motion passed 5/0.

- c. Consider a request for the designation of Canby City Hall, at 182 N Holly St, as a local historic landmark. **(HD 16-01 Canby City Hall)**

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had a conflict of interest or ex parte contact to declare. Commissioner Serlet said he was a member of the Historic Review Board, but he planned to participate in the hearing. All the Commissioners had been in the old City Hall building.

Mr. Brown presented the staff report. This request was to add the former City Hall to the local register of historic landmarks. They would also be recommending to Council to apply the Historic Overlay Zone to the property. There was a public hearing for this by the Historic Review Board, there was this hearing before the Planning Commission, and there would be another hearing before the City Council and notices went out to the properties within a 500 foot radius of the site. The application was made by Carol Palmer, Historic Review Board Chair. The property followed the Secretary of State's parameters for designating properties. There was a lot of public support to preserve the exterior characteristics of the old City Hall. The intent was to sell the building to a developer, but to restrict exterior changes unless it was to enhance the structure while allowing interior remodeling to take place.

Applicant: Carol Palmer, Canby resident, said the application outlined the architectural significance of the building from a local and national perspective, and the historical significance from a local perspective. It was their intent to make the local landmark registry more visible in terms of community awareness. They had approval from the Canby Historical Society to put the Depot Museum on the list, which would give them a total of five properties on the registry. Brochures and

a website would be created to promote the properties and she planned to have a public event as well. The only ones to possibly object would be the future owner, but the City still owned the building and according to the laws once the original owner gave consent, then all future buyers had to abide by it. This designation did not include the old Council Chambers.

Opponents or Neutral Testimony: None.

Chair Savory closed the public hearing.

Motion: A motion was made by Commissioner Serlet and seconded by Commissioner Mottern to approve HD 16-01 Canby City Hall. Motion passed 5/0.

5. NEW BUSINESS – None

6. FINAL DECISIONS

a. SUB 16-03 – Timber Park, LLC

Motion: A motion was made by Commissioner Mottern and seconded by Commissioner Rocha to approve the final decisions for SUB 16-03 Timber Park, LLC. Motion passed 5/0.

b. HD 16-01 Canby City Hall Local Historic Landmark Designation

Motion: A motion was made by Commissioner Rocha and seconded by Commissioner Serlet to approve the final decisions for HD 16-01 Canby City Hall Local Historic Landmark Designation. Motion passed 5/0.

7. ITEMS OF INTEREST / REPORT FROM STAFF

a. Next regular Planning Commission meeting scheduled for Monday, December 12, 2016

Mr. Brown discussed what was scheduled for the December 12 meeting. The December 26 meeting was canceled.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

Chair Savory welcomed new Planning Commissioner Tyler Hall.

9. ADJOURNMENT

Motion: Commissioner Rocha moved for adjournment, Commissioner Serlet seconded. Motion passed 5/0. Meeting adjourned at 9 pm.

The undersigned certify the November 28, 2016 Planning Commission minutes were presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 12th day of December, 2016

Bryan Brown, Planning Director

Planning Commission

Laney Fouse, Meeting Recorder



City of Canby

ZONE CHANGE STAFF REPORT

FILE #: ZC 16-05

Prepared for the January 9, 2017 Planning Commission Meeting

LOCATION: 548 N. Locust Street

ZONING: R-1 Low Density Residential

Tax Lot: 31E33AC02900



548 N Locust St

PROPERTY SIZE: 11,761 Square Feet (.27 Acres)

COMPREHENSIVE PLAN DESIGNATION: High Density Residential (HDR)

CURRENT ZONING DESIGNATION: R-1 Low Density Residential

PROPOSED ZONING: High Density Residential (R-2)

OWNER: Linda Bristol

APPLICANT: Jason Bristol

APPLICATION TYPE: Amendment to Zoning Map (Zone Change) (Type IV)

CITY FILE NUMBER: ZC 16-05

I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

The property owner of a .27 acre parcel located at 548 N. Locust Street proposes a zone change application to change the current zoning from R-1, Low Density Residential Zone, to the R-2, High Density Residential Zone. The subject property contains an existing single-family residence that will remain on the parcel. The applicant states that additional development is not proposed at this time. The property is located within the Canby city limits, and is already designated High Density Residential in the Canby Comprehensive Plan. The R-2 zone boundary borders the subject parcel on the south property line, and surrounding properties are in a mixture of single-family and multi-family use. The existing City of Canby Comprehensive Plan has envisioned the ultimate urbanization of this area to the intended land use of this particular lot to a High Density Residential use.

II. **ATTACHMENTS**

- A. Application
- B. Written Narrative
- C. Maps
- D. Agency/Citizen Comments

III. **APPLICABLE REVIEW CRITERIA & FINDINGS**

Major approval criteria used in evaluating this application include the following Chapters from the *City of Canby's Municipal Code including the Land Development and Planning Ordinance* (Title 16):

- 16.08 General Provisions
- 16.20 R-2 High Density Residential Zone
- 16.54 Amendments to Zoning Map
- 16.89 Application and Review Procedures

City of Canby Comprehensive Plan Policies and Implementation Measures

Chapter 16.54 Amendments to the Zoning Map Analysis

16.54.010 & 0.20 & 0.30 Amendments to the Zoning Map

16.54.010 – Authorization to initiate amendments:

16.54.020 – Application and Fee:

16.54.030 – Public Hearing on Amendment:

Findings: The property owner has authorized initiation of the proposed map amendment by signing an application form. This criterion has been met.

The map amendment application and associated fee were received from the applicant. This criterion has been met.

Public Hearing criterion will be met when the Planning Commission holds a public hearing and makes a recommendation to the City Council and when the City Council conducts its own hearing and issues a decision.

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 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;

Findings: The subject property is identified as being in Area “H” of an “Area of Special Concern” that is stated in Policy 6 of the Comprehensive Plan. Area “H” is delineated as an elongated configured area that extends from N. Grant Street along the north side of 5th Avenue and east to the fairgrounds. The narrative for Area “H” states that these particular lots are developed with single-family dwellings, and is planned for eventual redevelopment to multi-family or duplex residential use. The applicant’s proposal is within the long-range intent of the designated Area of Special Concern. Additionally, the proposed zone for the property is consistent with the zone designation on the Comprehensive Plan Map. The property is bordered by the existing R-2 zone boundary on its south property line. Subsequently, it is a logical transition to extend the R-2 zone boundary to include the subject property without creating a “leap frog” zone designation and fragment consistently zoned parcels. After a review of the Comprehensive Plan and the applicant’s narrative, staff concludes that the request meets provisions in Policy 6 and the applicable goals and policies listed in 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)

Findings: Problems or issues in the extension of utility services have not been raised by City service providers that would prevent services at the time of development. Any upgrades to services can be addressed during the required Site and Design Review Application process at the time of development. There is no evidence that future development of the property cannot meet standards for adequate public facilities. It should be noted that rezoning automatically extends to the center of the street.

Chapter 16.08 General Provisions

16.08.070. Illegally created lots

In no case shall a lot which has been created in violation of state statute or city ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied. (Ord. 740 section 10.3.05(G), 1984)

Findings: The subject property was created as Lot 11 and Lot 12, Canby Gardens Subdivision. The property is considered legally created for land use purposes. It appears that the two lots were combined into a single tax lot for tax purposes.

16.08.150. Traffic Impact Study (TIS)

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

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

Findings: The Transportation Planning Rule within State Statute (OAR 660-12-0060-9) requires that there be a record of traffic generation findings which are consistent with the City's Transportation System Plan with any Comprehensive Plan Map Amendment or Zoning Map Amendment. As previously mentioned, the applicant is not proposing any development of the property at this time. The Planning Director determined that it does not appear the zone change would have a significant effect on the surrounding transportation network, and no mitigation measures would be required to satisfy TPR requirements. The proposed zone and its resulting level of traffic when redeveloped were accounted for within the adopted TSP.

Chapter 16.20 R-2 High Density Residential Zone

The subject property shall be designated as the R-2 zone as indicated in the Comprehensive Plan.

Findings: After receiving zone change approval, the property shall meet all development criteria and standards of the R-2 zone including the density criteria listed in Section 16.20.030 that requires a minimum of 14 dwelling units per acre. Using the density calculation provided in the section, the .27 acre property would require the establishment of 4 dwelling units. In order to develop the parcel in the future, the applicant must file and receive approval of a Site and Design Application.

Chapter 16.89.060 Process Compliance

16.89.060 Type IV Decision

For certain applications, the City Council makes a final decision after a recommendation by the Planning Commission. These application types are referred to as Type IV decisions.

- A. Pre-application conference.** A pre-application conference may be required by the Planning Director for Type IV applications.
- B. Neighborhood meetings.** The applicant may be required to present their development proposal at a neighborhood meeting (see Section 16.89.070). Table 16.89.020 sets the minimum guidelines for neighborhood review but the Planning Director may require other applications to go through neighborhood review as well.
- C. Application requirements.** Type IV applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

D. Public notice and hearings. The public notice and hearings process for the Planning Commission's review of Type IV applications shall follow that for Type III applications, as provided in subsections 16.89.050.D and 16.89.050.E.

E. Decision process.

1. Approval or denial of a Type IV decision shall be based on the standards and criteria located in the code.
2. The hearings body shall issue a final written order containing findings and conclusions recommending that the City Council approve, approve with conditions, or deny the application.
3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

F. City Council proceedings:

1. Upon receipt of the record of the Planning Commission proceedings, and the recommendation of the Commission, the City Council shall conduct a review of that record and shall vote to approve, approve with conditions, or deny the recommendation of the Planning Commission.
2. The City Council may question those individuals who were a party to the public hearing conducted by the Planning Commission if the Commission's record appears to be lacking sufficient information to allow for a decision by the Council. The Council shall hear arguments based solely on the record of the Commission.
3. The City Council may choose to conduct public hearings on Comprehensive Plan amendments, amendments to the text of this title, zone map amendments, and annexations. If the Council elects to conduct such hearings, it may do so in joint session with the Planning Commission or after receiving the written record of the Commission. (Ord. 1080, 2001)

Findings: Amendments to the Zoning Map, or "Zone Changes", are processed as a Type IV "quasi-judicial" process which is considered through a public hearing at the Planning Commission that forwards a recommendation to the City Council. The City Council also holds a public hearing and issues a final decision. The decision for a Map Amendment is documented by the Council through approval of an Ordinance. The notice requirements are the same as for Type III applications.

Notice of this application and the Planning Commission and Council Hearing dates was made to surrounding property owners on December 9, 2016, at least 20-days prior to the hearing. Prior notification and neighborhood meetings were completed by the applicant. The site was posted with a Public Hearing Notice sign by December 29, 2016. A notice meeting ordinance requirements of the public hearings was published in the Canby Herald by December 28, 2016. Due to the fact that the applicant is not proposing any development at this time, a pre-application meeting was not required for this application. As previously mentioned, any future development of the property would require a Site and Design Review Application and a subsequent pre-application conference. These findings indicate that all processing requirements have been satisfied with this application to date.

Public Testimony Received

Notice of this application and opportunity to provide comment was mailed to owners of lots within 500 feet of the subject properties and to all applicable public agencies and City departments by December 20, 2016. Comments are summarized below while complete comments are documented in the file. As of the date of this Staff Report, the following comments were received by City of Canby from the following persons/agencies:

Persons/Agency/City Department Comments.

Comments were received from the following persons/agencies/city departments:

-

Conclusion Regarding Consistency with the Standards of the Canby Municipal Code

Staff concludes, as detailed in the submittal from the applicant and as indicated here in this staff report, including all attachments hereto, that:

1. The application and proposed use is in conformance with applicable sections of the City's Comprehensive Plan and Land Development and Planning Ordinance when the determinations contained in this staff report are applied.
2. The zoning of the property shall be R-2, High Density Residential, as indicated in the application and pursuant to the approval criteria set forth for map amendments in Section 16.54.040, CMC.
3. The application complies with all applicable Oregon Revised Statutes.
4. There are sufficient public and private agency utility and service capacity to serve the site at the anticipated development intensity.

16.89 Recommendation

Based on the application submitted and the facts, findings and conclusions of this report, but without benefit of a public hearing, staff recommends that the Planning Commission recommend to the City Council that:

1. ZC 16-05 be approved and,
2. The zoning of the subject property be designated as R-2 as indicated by the Canby Comprehensive Plan Map.

Application for Zone Map Change

Applicant	Jason Bristol 21733 S. Highway 99E Canby, OR 97013 (503) 803-2920
Location	548 N Locust Street
Legal Description	Tax Lot 2900, Sec. 33, T3S R1E NE (Assessor Map 31E33AC)
Comprehensive Plan Designation	High Density Residential
Zone	R-1 Low Density Residential
Site Size	0.27 Acre (11,853 square feet)
Proposal	Zone map change from current zoning R-1 low density residential to Comprehensive Plan designation high density residential. No proposed development or change in use at this time.

SITE & PROPOSAL DESCRIPTION

This application requests approval for a zone map change from current zoning R-1 low density residential (Exhibit 1) to Comprehensive Plan designation high density residential (HDR) (Exhibit 2). No proposed development or change in use at this time. The existing single-family residence will continue to reside on the site.

The site is located on N Locust Street. The site also has frontage on N Locust Street; no change in access is requested and will continue as is from N Locust Street (Exhibit 3).

The site is in an area of existing single-family residences and some redevelopment creating newer multi-family residences. Directly across the street a subdivision was completed redeveloping one lot into six lots containing two duplexes and two single family homes. Around the corner on NE 4th Avenue a subdivision was completed redeveloping two lots into 15 lots for construction of townhomes (Exhibit 4).

The site is presently occupied by an existing single-family residence. The site is very nearly flat, with no identified natural resources or physical hazards. A few trees are scattered around the site.

The following table lists adjacent uses:

Uses Adjacent to the Site

North	Single-family housing
East	Fairgrounds
West	Single-family and multi-family housing
South	Single-family housing

The following table identifies the existing public facilities and utilities:

Existing Public Facilities

Facility/Service	Existing Status	Comment
N Locust St	Sufficient/consistent right of way; partial sidewalk	Improvements will be proposed at time of future redevelopment
Sanitary sewer	Line in N Locust St	Future connections will be proposed at time of redevelopment
Domestic water	Line in N Locust St	Future connections will be proposed at time of redevelopment
Storm water	Catch basin located at corner of N Locust St and NE 4 th Ave	

Applicable Criteria and Standards

Identification of Applicable Criteria and Standards

The following sections of the City of Canby Comprehensive Plan and Land Development and Planning Ordinance (“LDPO”) apply to this application:

1. Comprehensive Plan:

Urban Growth Element

Land Use Element

Transportation Element

Housing Element

2. Land Development and Planning Ordinance:

Division III. Zoning

16.54 Amendments to Zoning Map

Discussion of Criteria and Standards

COMPREHENSIVE PLAN GOALS AND POLICIES

Urban Growth Element

Goal 1) To preserve and maintain designated agricultural and forest lands by protecting them from urbanization.

Goal 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.

Policy No. 3: Canby shall discourage the urban development of properties until they have been annexed to the city as provided with all necessary urban services.

Response: The subject site is within the City's Urban Growth Boundary and is part of the land intended to accommodate the City's projected population. The proposal supports the Urbanization Element of the Comprehensive Plan.

Wise use of land within an urban growth boundary reduces the need for expanding the boundary, and impacting farmland. Higher densities, where appropriate, further this goal.

Public facilities and services are generally available to the site.

Public sewer and water are available in N Locust Street. The applicant has been advised that the City has adequate capacity to serve the site. Storm water management will continue to be managed on-site.

The following schools would serve the site: Knight Elementary, Baker Prairie Middle School, and Canby High School.

The subject site is close to commercial areas (downtown and Highway 99E).

The proposal supports the City's Urban Growth Goals and Policies.

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 No. 1: Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses while grouping compatible uses.

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

Policy No. 3: Canby shall discourage any development which will result in overburdening any of the community's public facilities or services.

Policy No. 4: Canby shall limit development in areas identified as having an unacceptable level of risk because of natural hazards.

Policy No. 6: Canby shall recognize the unique character of certain areas and will utilize the following special requirements in conjunction with the requirements of the Land Development and Planning Ordinance, in guiding the use and development of these unique areas.

Response: The City's Comprehensive Plan designation for the site calls for high density residential development. The site is the first of three on the East side of N Locust Street with current zoning of R-1 (Exhibit 1) and a Comprehensive Plan designation of high density residential (Exhibit 2). Changing the zoning of the site is in progression with existing zoning and will not create an island of different zoning. The proposal is an opportunity for a needed housing opportunity within the context of the residential areas of the community. While a change in use isn't proposed at this time, redevelopment in the area has taken place across the street and around the corner and is consistent with high density residential zoning.

Public facilities are available to the site. Sanitary sewer is provided by the City and is available from a line in N Locust Street. Public water is provided by Canby Utility and is available from a line in N Locust Street. Storm water is not provided as a public facility, but will continue to be managed on-site. Public schools generally have capacity throughout Canby. Other public facilities and services, such as police, fire, telephone, electricity, etc., are generally available to the site.

There are no natural hazards associated with the site, and no wetland or other environmental concern.

The site is not designated as an "Area of Special Concern" in Policy No. 6.

Based on this review of relevant policies, the proposal has been shown to support the Land Use Element of the Comprehensive Plan.

Transportation Element

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

Policy 1. Canby shall provide the necessary improvement of City streets, and will encourage the County to make the same commitment to local County roads, in an effort to keep pace with growth.

Policy 2. Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the City's growth needs.

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.

Response: N Locust Street is maintains a consistent 40 feet of right of way. No new driveway approaches are proposed with this application. Curb and a new sidewalk are not proposed with this application.

Based on this review of relevant policies, the proposal has been shown to support the Transportation Element of the Comprehensive Plan.

Housing Element

Goal: To provide for the housing needs of the citizens of Canby.

Policy No. 2: Canby shall encourage a gradual increase in housing density as a response to the increase in housing costs and the need for more rental housing.

Response: The site has been designated as appropriate for higher density development and the proposal is consistent with that designation.

The site is well located for higher density development, reasonably close to major streets, with connections to the established area of Canby, including downtown and the shopping area along Highway 99E.

Based on this review of relevant policies, the proposal has been shown to support the Housing Element of the Comprehensive Plan.

Division III. Zoning

Chapter 16.54 Amendments to Zoning Map

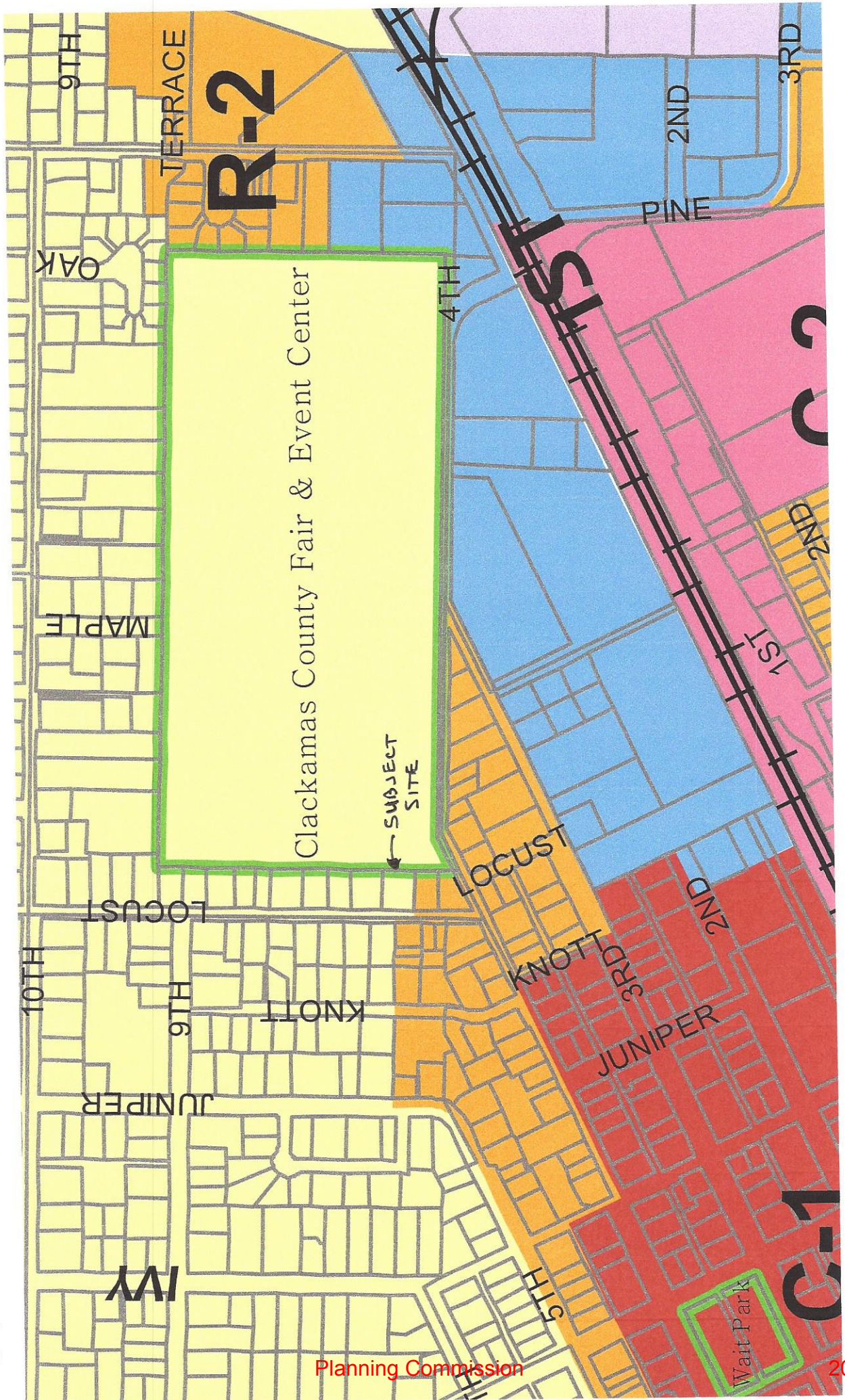
Sec. 16.54.060.A allows improvement conditions to be imposed as part of the zone change approval. The East side of N. Locust Street is mostly unimproved with minimal curbs and sidewalks. Applicant requests that improvement conditions be waived per Sec. 16.54.060.B due to the impact of the costs on needed housing. Improvements will be proposed at time of future redevelopment.

CONCLUSION

The foregoing narrative and accompanying documents, together demonstrate the proposed zone map change generally complies with applicable criteria and identified standards and complies with purposes and requirements of the City's code.

Therefore, the applicant requests that the Planning Commission approve the proposal.

CITY OF CANBY ZONING MAP
JANUARY 2014



Clackamas County Fair & Event Center

← SUBJECT SITE

CITY OF CANBY COMPREHENSIVE PLAN MAP

MAY 2014

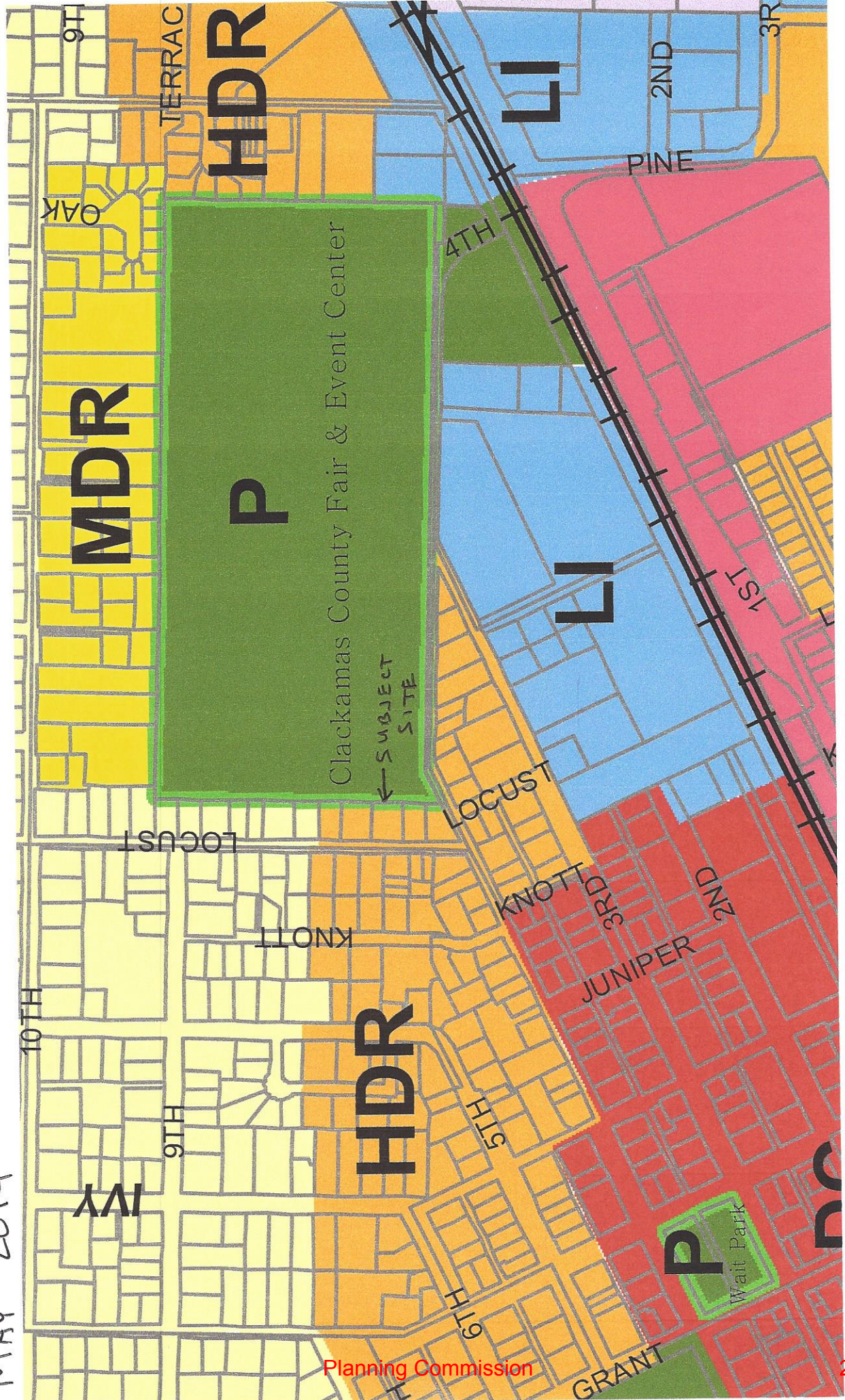


EXHIBIT 3

CLACKAMAS COUNTY SURVEY

TAX LOT MAP

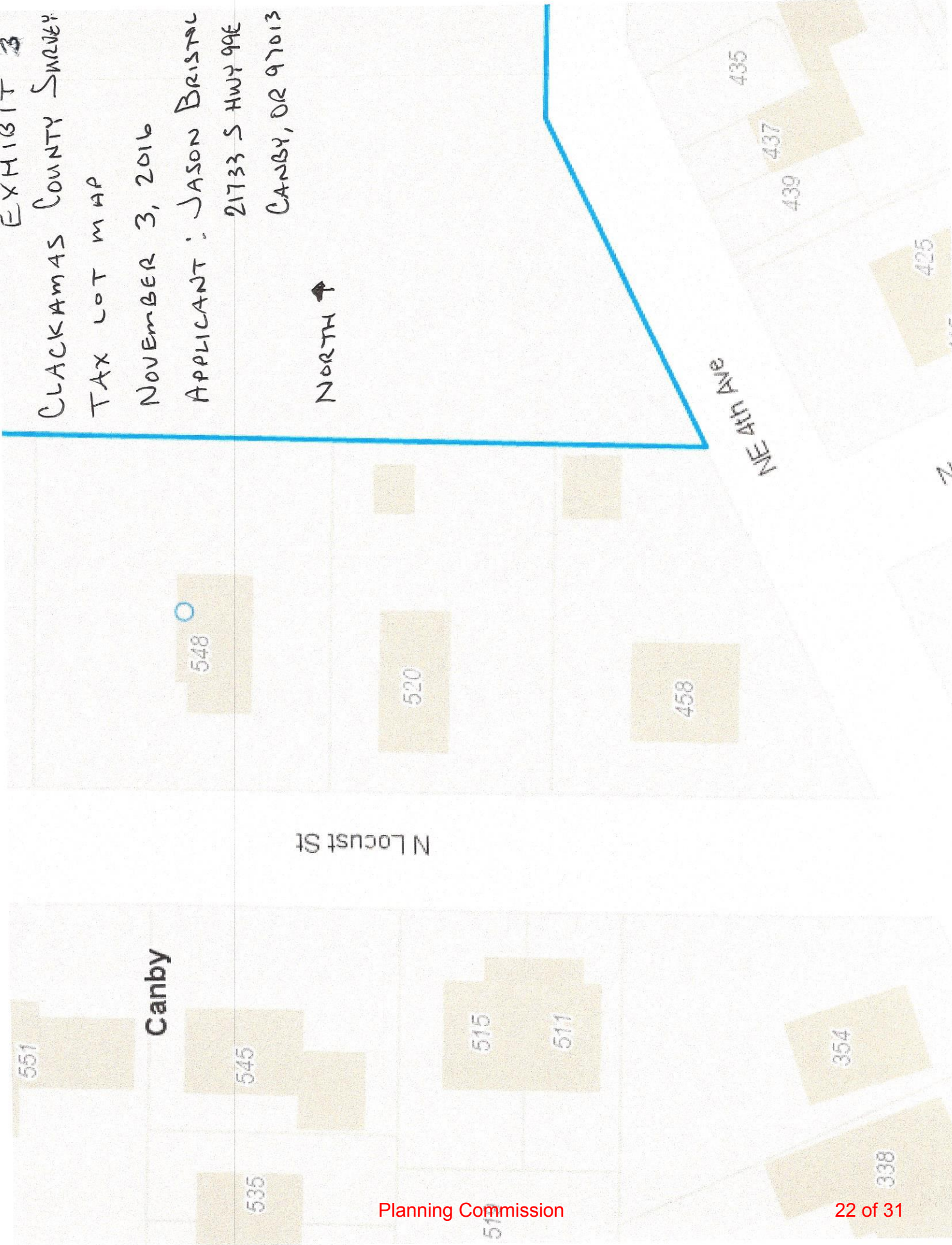
NOVEMBER 3, 2016

APPLICANT: JASON BRISTOL

21733 S HWY 99E

CANBY, OR 97013

NORTH ↑



CLACKAMAS COUNTY SURVEYOR

TAX LOT MAP - AERIAL

NOVEMBER 3, 2016

APPLICANT: JASON BRISTOL

21733 S HWY 99E

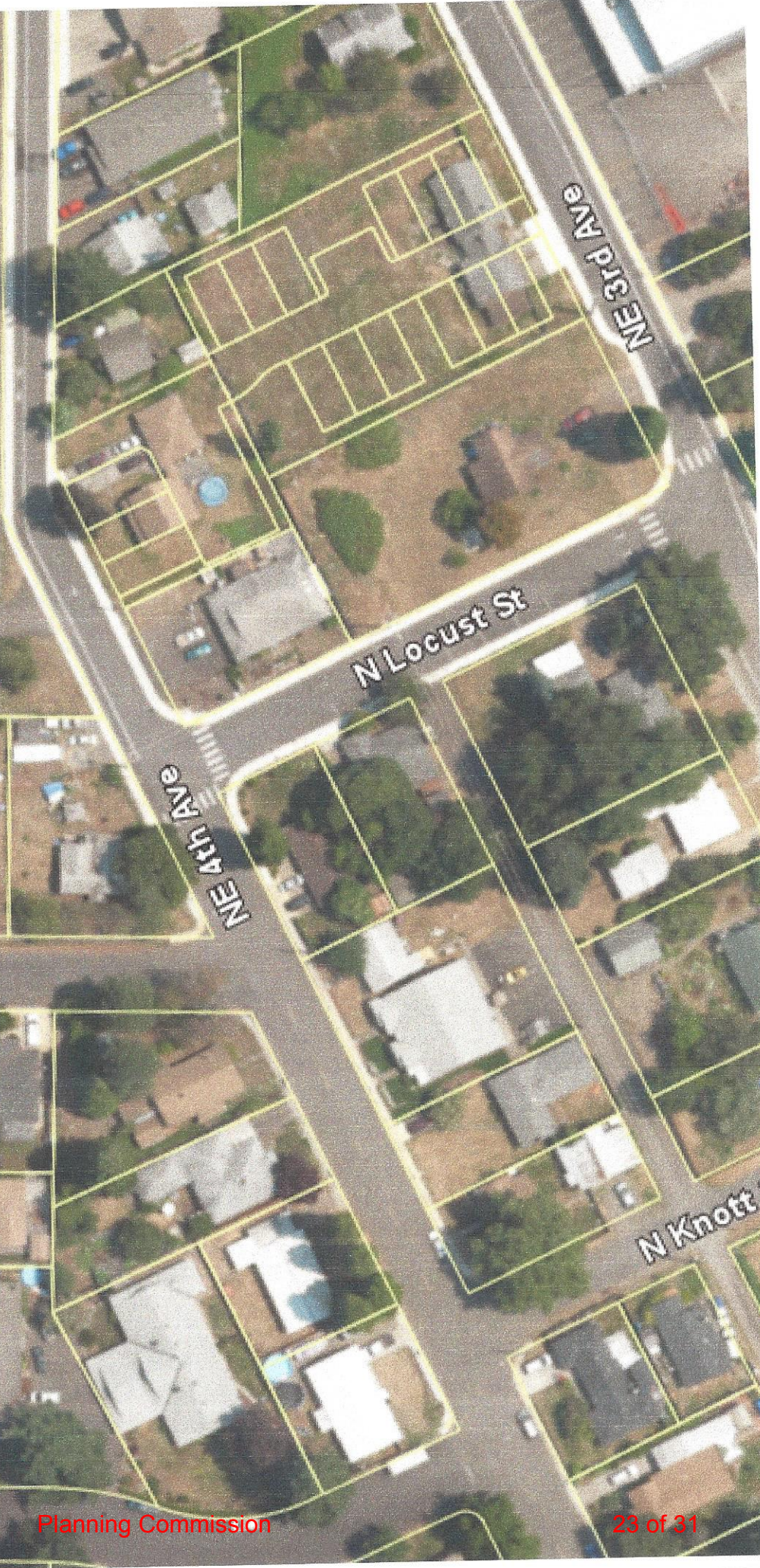
CANBY, OR 97013

NORTH ↑



N Locust St

N Knott St



David Epling

From: Gary, Todd <TGary@canbyfire.org>
Sent: Thursday, December 15, 2016 7:50 AM
To: Laney Fouse; Bret Smith (PD); Bryan Brown; 'Canby Disposal (customerservice@canbydisposal.com)'; 'Curt McLeod (cjm@curran-mcleod.com)'; Dan Murphy (DMurphy@canbyutility.org); Daryll Hughes; Dave Conner; David Epling; 'Dinh Vu'; 'Douglas Quan'; 'Gary Stockwell'; Greg Parker; 'Hassan Ibrahim (hai@curran-mcleod.com)'; Jeff Snyder; Jerry Nelzen; Joseph Lindsay; Julie Wehling; Kevin Batridge (burlbatman@canby.com); 'Kizer, Daniel'; Matilda Deas; Michael Hemelstrand; mindymonte@gmail.com; Paul Belz-Templeman; Renate Mengelberg; Rick Robinson; Sharon Trimble; Tim Gettel; Amanda Zeiber
Subject: RE: Zone Change Application

Canby Fire is Ok with Zone change

Todd

From: Laney Fouse [<mailto:FouseL@canbyoregon.gov>]
Sent: Thursday, December 15, 2016 7:11 AM
To: Bret Smith (PD) <SmithB@canbypolice.com>; Bryan Brown <BrownB@canbyoregon.gov>; 'Canby Disposal (customerservice@canbydisposal.com)' <customerservice@canbydisposal.com>; 'Curt McLeod (cjm@curran-mcleod.com)' <cjm@curran-mcleod.com>; Dan Murphy (DMurphy@canbyutility.org) <DMurphy@canbyutility.org>; Daryll Hughes <HughesD@canbyoregon.gov>; Dave Conner <ConnerD@canbyoregon.gov>; David Epling <EplingD@canbyoregon.gov>; 'Dinh Vu' <dinhvu@canbytel.com>; 'Douglas Quan' <dquan@canbyutility.org>; 'Gary Stockwell' <gstockwell@canbyutility.org>; Greg Parker <ParkerG@canbyoregon.gov>; 'Hassan Ibrahim (hai@curran-mcleod.com)' <hai@curran-mcleod.com>; Jeff Snyder <SnyderJ@canbyoregon.gov>; Jerry Nelzen <nelzenj@canbyoregon.gov>; Joseph Lindsay <LindsayJ@canbyoregon.gov>; Julie Wehling <Wehlingj@canbyoregon.gov>; Kevin Batridge (burlbatman@canby.com) <burlbatman@canby.com>; 'Kizer, Daniel' <Daniel.Kizer@nwnatural.com>; Matilda Deas <DeasM@canbyoregon.gov>; Michael Hemelstrand <mike.hemelstrand@gmail.com>; mindymonte@gmail.com; Paul Belz-Templeman <belz_templeman@yahoo.com>; Renate Mengelberg <mengelbergr@canbyoregon.gov>; Rick Robinson <RobinsonR@canbyoregon.gov>; Sharon Trimble <strimble@canby.com>; Tim Gettel <tgettel@wavebroadband.com>; Gary, Todd <TGary@canbyfire.org>; Amanda Zeiber <ZeiberA@canbyoregon.gov>
Subject: Zone Change Application

Hello,

Please find attached a Zone Change application, narrative and site plan for 548 N Locust St for your review. This application will be on the Jan. 9' 2017 Planning Commission meeting agenda.

Happy Holidays,
Laney

Laney Fouse
Development Services
222 NE 2nd Avenue, 2nd Floor
Canby, OR 97013
fousel@canbyoregon.gov
Direct Line: 503-266-0685
Planning Dept.: 503-266-7001

David Epling

From: Hassan Ibrahim <hai@curran-mcleod.com>
Sent: Thursday, December 15, 2016 10:38 AM
To: Laney Fouse; Bret Smith (PD); Bryan Brown; 'Canby Disposal'; 'Curt McLeod'; 'Dan Murphy'; Daryll Hughes; Dave Conner; David Epling; 'Dinh Vu'; 'Douglas Quan'; 'Gary Stockwell'; Greg Parker; Jeff Snyder; Jerry Nelzen; Joseph Lindsay; Julie Wehling; 'Kevin Batridge'; 'Kizer, Daniel'; Matilda Deas; 'Michael Hemelstrand'; mindymonte@gmail.com; 'Paul Belz-Templeman'; Renate Mengelberg; Rick Robinson; 'Sharon Trimble'; 'Tim Gettel'; 'Todd Gary'; Amanda Zeiber
Subject: RE: Zone Change Application

Hello everyone,

Curran-Mcleod has no concerns with the Zone change.

Regards,

Hassan Ibrahim, P.E.
CURRAN-McLEOD, INC.
6655 SW Hampton St, Ste. 210
Portland, OR 97223
Tel: 503-684-3478
Fax: 503-624-8247
Cell: 503-807-2737
email: hai@curran-mcleod.com

From: Laney Fouse [<mailto:FouseL@canbyoregon.gov>]
Sent: Thursday, December 15, 2016 7:11 AM
To: Bret Smith (PD); Bryan Brown; 'Canby Disposal (customerservice@canbydisposal.com)'; 'Curt McLeod (cjm@curran-mcleod.com)'; Dan Murphy (DMurphy@canbyutility.org); Daryll Hughes; Dave Conner; David Epling; 'Dinh Vu'; 'Douglas Quan'; 'Gary Stockwell'; Greg Parker; 'Hassan Ibrahim (hai@curran-mcleod.com)'; Jeff Snyder; Jerry Nelzen; Joseph Lindsay; Julie Wehling; Kevin Batridge (burlbatman@canby.com); 'Kizer, Daniel'; Matilda Deas; Michael Hemelstrand; mindymonte@gmail.com; Paul Belz-Templeman; Renate Mengelberg; Rick Robinson; Sharon Trimble; Tim Gettel; 'Todd Gary'; Amanda Zeiber
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David Epling

From: Gary Stockwell <gstockwell@CANBYUTILITY.ORG>
Sent: Thursday, December 15, 2016 1:21 PM
To: Laney Fouse; Bret Smith (PD); Bryan Brown; 'Canby Disposal (customerservice@canbydisposal.com)'; 'Curt McLeod (cjm@curran-mcleod.com)'; Dan Murphy; Daryll Hughes; Dave Conner; David Epling; 'Dinh Vu'; Douglas R. Quan; Greg Parker; 'Hassan Ibrahim (hai@curran-mcleod.com)'; Jeff Snyder; Jerry Nelzen; Joseph Lindsay; Julie Wehling; Kevin Batridge (burlbatman@canby.com); 'Kizer, Daniel'; Matilda Deas; Michael Hemelstrand; mindymonte@gmail.com; Paul Belz-Templeman; Renate Mengelberg; Rick Robinson; Sharon Trimble; Tim Gettel; 'Todd Gary'; Amanda Zeiber
Subject: RE: Zone Change Application

Canby Utility is ok with the zone change

Gary Stockwell
Line Foreman



PO Box1070
Canby, OR. 97013
Direct: 503 263 4307
Cell: 971 563 6307
Email:gstockwell@canbyutility.org

From: Laney Fouse [<mailto:FouseL@canbyoregon.gov>]
Sent: Thursday, December 15, 2016 7:11 AM
To: Bret Smith (PD); Bryan Brown; 'Canby Disposal (customerservice@canbydisposal.com)'; 'Curt McLeod (cjm@curran-mcleod.com)'; Dan Murphy; Daryll Hughes; Dave Conner; David Epling; 'Dinh Vu'; Douglas R. Quan; Gary Stockwell; Greg Parker; 'Hassan Ibrahim (hai@curran-mcleod.com)'; Jeff Snyder; Jerry Nelzen; Joseph Lindsay; Julie Wehling; Kevin Batridge (burlbatman@canby.com); 'Kizer, Daniel'; Matilda Deas; Michael Hemelstrand; mindymonte@gmail.com; Paul Belz-Templeman; Renate Mengelberg; Rick Robinson; Sharon Trimble; Tim Gettel; 'Todd Gary'; Amanda Zeiber
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Regards,

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6655 SW Hampton St, Ste. 210
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Tel: 503-684-3478
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Canby, OR 97013
fousel@canbyoregon.gov
Direct Line: 503-266-0685
Planning Dept.: 503-266-7001

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

A REQUEST FOR A CONDITIONAL USE)	FINDINGS, CONCLUSION & FINAL ORDER
PERMIT AND MAJOR VARIANCE TO)	CUP 16-02/VAR 16-02
ESTABLISH A HOME OCCUPATION TO)	SCOTT & TERESA SASSE (PUDDING RIVER
MANUFACTURE CANDY & BAKED)	CHOCOLATES)
GOODS AT 1440 S IVY STREET		

NATURE OF APPLICATION

The applicant is requesting permission to construct an 1800 square foot detached accessory building to establish a candy and baked goods manufacturing business as a home occupation at their place of residence at 1440 S Ivy Street and be granted a variance of several of the review criteria which are standard to outright permitted home based business operations within a residential zone. The variance request pertains to the size of the detached accessory building (limitation to a 600 sf accessory building rather than the 1800 sf proposed when being used for a home occupation), number of employees (not more than one non-resident employee being engaged on the premises); and the determination that the business activity may be conducted in such a manner as to not give an outward appearance or manifest characteristics of a business operation in the ordinary meaning of the term which could infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes).

HEARINGS

The Planning Commission held an initial duly advertised public hearing to consider applications CUP/VAR 16-02 after required notice on November 28, 2016 where testimony was allowed but no staff presentation, deliberation, or decision occurred based on mutual agreement between the applicant and City for a postponement and continuation of the public hearing to a date certain on December 12, 2016 which the Planning Commission honored to offer the applicant time to resolve potential issues related to their application. At the postponed public hearing on December 12, 2016, these findings are entered to document the specifics of the Planning Commission’s findings with regard to the applications.

CRITERIA AND STANDARDS

CMC SECTION 16.50.010 CONDITIONAL USES: Authorization to grant or deny conditional uses

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

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed

development.

- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.

CMC SECTION 16.53.020 (A) & (B) MAJOR VARIANCE: Authorization & Standards and Criteria

These provisions are intended to prescribe procedures which allow variations from the strict application of the regulations of this title, by reason of exceptional circumstances and other specified conditions:

A. Authorization. The commission may authorize variances from the requirements of this title, other than Division VII, where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the regulations would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this title.

B. Standards and Criteria. A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances; and
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and
3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance; and
4. Granting of this variance will not be materially detrimental to other property within the same vicinity; and
5. The variance requested is the minimum variance which will alleviate the hardship; and
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

Other Applicable Criteria:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.16 R-1.5 Medium Density Residential Zone

- 16.46 Access Standards
- 16.89 Application & Review Procedures

In judging whether or not a Conditional Use Permit/Major Variance application shall be approved, the Planning Commission determines whether the above applicable criteria from the City of Canby Land Development and Planning Ordinance are met, or can be met by observance of conditions.

FINDINGS AND REASONS

The Staff Report dated December 12, 2016 was presented at the December 12, 2016 meeting of the Canby Planning Commission where written and oral testimony was received. Staff did not provide a specific recommendation but offered that if approved several conditions for consideration be evaluated in order to ensure that the opposed development and use will meet all *City of Canby Land Development and Planning Ordinance* approval criteria and standards indicated above. This included adding a condition of approval to make the written recommendations received in a letter dated December 5, 2016 from Clackamas County Department of Transportation and Development, who have jurisdiction over access to S Ivy Street, a part of any approval of this request.

After accepting public testimony, the Planning Commission closed the public hearing and made the following additional findings beyond those contained in the staff report to arrive at their decision and support their recommended Conditions of Approval and the exact wording thereof:

- Upon hearing from the applicant that they were willing to comply with the conditions of approval recommended by the County, they were added to all but #6 which was removed of those listed and suggested in the staff report as appropriate with an approval.
- The Planning Commission accepted the applicant's statement indicating they do not anticipate tying the accessory building to the existing septic system serving the home but most likely choosing a connection to the City's sanitary sewer either through a gravity lateral connection to S Ivy Street or a less expensive option to install a private pump and force lateral to an available City wastewater system connection at the rear of the property. Any connection to the City system will result in payment of the applicable wastewater system development charge. Use of the existing septic system would require County approval.
- The Planning Commission supported allowing the size of the accessory building proposed to exceed the usual size limit in recognition that it was the minimum considered needed to successfully run the home occupation, the placement was adjacent a lot with C-R zoning, and was well buffered with a great distance from the new low density single-family development to the east and rear of the property.
- Upon deliberation on the applicant's request to allow one additional non-resident full-time employee in addition to the part-time seasonal non-resident employee previously indicated to be needed and allowed within the standard home occupation definition the Planning Commission voiced strong support finding that parking would be made available with additional paved parking at least 20 feet back from S Ivy Street and additional width if necessary to facilitate turning around for exiting forward out of the site.
- It was decided through the motion for approval made and seconded that the home occupation approval granted would not be limited to the current business operation and current owners and that staff would catch any possible new business operation for evaluation with the Conditional Use conditions with a new business license.

CONCLUSION

CUP/VAR 16-02 Sasse – Pudding River Chocolate's Home Occupation Findings, Conclusion & Final Order
Page 3 of 4

In summary, the Planning Commission utilized the findings and suggested conditions for consideration contained in the Staff Report along with the additional findings concluded at the public hearing and noted herein to conclude that the Condition Use and Major Variance applications meet the applicable approval criteria and recommends that File #CUP/VAR 16-02 be approved with the Conditions of Approval reflected in the written Order below.

The Planning Commission concludes that:

1. That the conditional use is in conformance with the City's Comprehensive Plan and Land Development and Planning Ordinance subject to meeting Public Works and Building Code Standards
2. That the site can easily accommodate the proposed use.
3. That public service and utility provision to the site is available or can be made available through future extensions from the existing home or to City services at the street or an option for sewer at the rear of the property.
4. That the conditional use will not alter the character of the surrounding area in a manner which substantially limits or precludes the use of surrounding properties as they exist today or for uses permitted in the zone.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that CUP/VAR 16-02 is APPROVED with the following conditions:

1. Necessary utility lateral or service extensions shall be installed at the applicant's expense. The location of the sewer and water lateral extensions shall be approved by Public Works and Canby Utility prior to issuance of building permits.
2. The applicant shall pave the designated parking spaces for the business use.
3. No signs are permitted, except for a single unilluminated nameplate not to exceed two (2) square feet in area
4. The business shall employ no more than one (1) non-resident full-time employee and one (1) non-resident seasonal employee.
5. Business visitors to the premises, other than employee trips, shall not exceed eight (8) per day and delivery trucks shall not exceed one (1) per day.
6. No retail sales are permitted at the site that would approach the limits indicated in #5 above.
7. The City will apply the applicable SDC fee is a connection is made to the City's wastewater system, and any connection to City water or electrical service shall comply with Canby Utility requirements for service.
8. Compliance with the conditions of approval recommended in a letter dated December 5, 2016 from Clackamas County Department of Transportation and Development by the Engineering Department shall be made a condition of approval of this Conditional Use Permit.