

PLANNING COMMISSION

Meeting Agenda

Monday – July 11, 2016

7:00 PM

City Council Chambers – 155 NW 2nd Avenue

Commissioner John Savory (Chair)

Commissioner Shawn Hensley (Vice Chair)

Commissioner John Serlet

Commissioner Larry Boatright

Commissioner Kristene Rocha

Commissioner Derrick Mottern

Commissioner Tyler Smith

1. CALL TO ORDER

- Invocation and Pledge of Allegiance

2. CITIZEN INPUT ON NON-AGENDA ITEMS

3. MINUTES

- 05/09/2016

4. PUBLIC HEARING

- Consider a request for a Site & Design Review for a proposed multi-tenant Commercial Building. **(DR 16-03 Tom Scott)**
- Consider a request for a 6 lot Subdivision suitable for single family dwellings. **(SUB 16-02 Charlie Clark)**

5. NEW BUSINESS

- None

6. FINAL DECISIONS (Note: These are final, written findings of previous oral decisions. No public testimony.)

- DR 16-03 Tom Scott
- SUB 16-02 Charlie Clark

6. ITEMS OF INTEREST/REPORT FROM STAFF

- Next Regular Planning Commission meeting scheduled for Monday, July 25, 2016

7. 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.ci.canby.or.us City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503-263-6287.

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – May 9, 2016
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Commissioners John Savory, Shawn Hensley, John Serlet, and Derrick Mottern

ABSENT: Larry Boatright, Kris Rocha, and Tyler Smith

STAFF: Bryan Brown, Planning Director, and Laney Fouse, Planning Staff

OTHERS: George Dingeldein, Greg Blefgen, Colby Anderson, Kurt Nakashima, Carole Berggren, Daniel Webb, Bob Backstrom, Joe Shaddix, JoAnn & Lloyd Walch, Ethan & Stephanie Manuel, Bob Swelland, Jason Mattos, Keven Batridge, Eric & Josephine Recht, Ryan Oliver, and Gail Williams

1. CALL TO ORDER

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

- 2. CITIZEN INPUT** – Kevin Batridge and Gail Williams, Canby residents, said they had received in the mail a notice of a public hearing for a minor lot division across the street from their properties and they wanted to know how to go about voicing their opinions on the matter.

Bryan Brown, Planning Director, explained how they could submit written comments for the application to be put in the Commission packet. The full file was in the Planning office and they could review it anytime.

Bob Backstrom, Canby resident, voiced his concern regarding traffic coming through the north side of town. He asked the Commission to be looking ahead at traffic safety issues. The commuter traffic had been increasing at Territorial and 99E over to Birch and Knights Bridge Road to avoid the freeways. When Redwood was built out, the intersection at Redwood and Territorial would be busy. He thought development should pay for these types of improvements, such as realigning that intersection so a four way stop could be put in. He was the chair of the Riverside Neighborhood Association and he did not think any of the applicants there that night held a neighborhood meeting and he thought that was a requirement.

Commissioner Serlet was also concerned about traffic at that intersection. He agreed it would be beneficial to have a better connection between the freeway and 99E.

3. MINUTES

- a. March 14, 2016 Planning Commission Minutes

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve the March 14, 2016, Planning Commission minutes. Motion passed 4/0.

- b. March 28, 2016 Planning Commission Minutes

Motion: A motion was made by Commissioner Serlet and seconded by Commissioner Mottern to approve the March 28, 2016, Planning Commission minutes. Motion passed 4/0.

4. PUBLIC HEARING

- a.** Consider a request for a Site and Design Review of Sequoia Grove Industrial Park (**DR 16-02**).

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. Chair Savory had contact with the City Attorney to get clarification on some legislation that was recently passed on voter approved annexations.

Mr. Brown entered the staff report into the record. This was a request for site and design review for the Sequoia Grove Industrial Park. The site plan proposed three buildings built in two phases. Buildings B and C would be done in Phase 1, and Building A would be done in Phase 2. The buildings would accommodate warehousing and manufacturing uses with accompanying office spaces. They did not know the exact uses or tenants for the buildings. Storage bays would be put on the sides of the buildings and there would be parking areas for loading which could accommodate heavy truck traffic. There would be a six foot sidewalk on the frontage of Sequoia and they were sharing a driveway that would serve as an exit from the apartment complex and this site. There was an underground electric vault near the driveway that no one knew about until recently, and the applicant would have to research if the driveway or vault would have to be relocated. He explained the building elevations, loading bays, and aerial view of the property. Staff thought the application was in conformance with the Comprehensive Plan and Zoning Ordinance pending the recording of the plat of the two lot boundaries of the apartment development and this development. The application met the compatibility matrix scores for the Industrial Overlay Zone. The public services and utilities had all been agreed to and were satisfied. There might be consideration of tying some of the utilities over to the apartment complex as well. He then reviewed the conditions of approval. One letter had been received from Scott McCormick, adjacent property owner, who supported this application and the layout as proposed. Staff recommended approval of the application with the conditions.

There was discussion regarding having a 300 foot driveway separation in this area and resolution of the electric vault issue.

Applicant: Greg Blefgen, Architect/Engineer with VLMK Engineering, was representing Urban IDM for the Sequoia Grove Industrial Park. This was a phased development and they would be building both the apartments and Phase 1 at the same time. They had no exception to any of the conditions. The electrical vault was located north of the property line and on the inbound lane of the driveway. They were looking to shift the driveway east and would work with the City to confirm a reasonable off-set. They were not anticipating significant large truck traffic with the first phase. The more significant truck traffic would occur with the second phase. For inbound and outbound truck traffic, they would be pushing for a larger driveway width. He explained how both the apartment complex and this site would be served by the utilities and how stormwater would go to catch basins and then to dry wells. A traffic study was done and the majority of the traffic would come from the apartment complex. There was no

significant traffic from the industrial site and there would be some contribution to the Sequoia and 99E intersection. For the building elevations, there was good articulation and upscale design. The landscaping would complement the buildings.

Proponents: George Engledine (sp?), Shimadzu attorney, said Shimadzu supported development of this application. The traffic impact study identified points on Sequoia that were at failing levels of service. While the applicant was contributing to the costs of improving these intersections, the improvements had yet to occur. Shimadzu was planning to develop the remaining portion of their property and requested confirmation from the Commission that any such development would not be burdened with a disproportionate share of the costs and that they would not be asked to install the improvements as part of their approval.

Mr. Brown said the traffic impact study would evaluate what a fair proportion of the amount would be. Shimadzu would have to do a study to determine their contribution. If the issues were addressed before then, Shimadzu would only have to pay SDCs.

Neutral: None

Rebuttal: None

Chair Savory closed the public hearing at 7:48 pm.

Commissioner Discussion: None

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve DR 16-02 Sequoia Grove Industrial Park with the conditions as recommended in the staff report. Motion passed 4/0.

Chair Savory read the public hearing format once for the three annexation applications with agreement by the attendees. Commissioners had no conflict of interest nor any ex parte contact to declare.

b. ANN/ZC 16-01 Oliver/Walch Annexation

Mr. Brown read the City Attorney's statement on Senate Bill 1573 which became effective April 15, 2016. This was recent legislation that did not allow annexations to go to a vote of the people if certain criteria were met. He listed the criteria that had to be met. Mr. Brown entered the staff report into the record. This was a request to annex 1.85 acres consisting of two different tax lots with two different owners. There was an existing house on each lot, which did not conform to County codes. If they came into the City they would have the opportunity to decide if they would be a part of the future redevelopment of the area. This annexation application did have a neighborhood meeting, but the other two did not hold meetings. He reviewed the annexation standards and criteria that all three annexation applications had to follow in order to be approved. The North Redwood Development Concept Plan for

this area was adopted about five months ago. All eight parameters in the Concept Plan were met by this application. There was a concerned citizen who submitted a letter about those whose properties would be used for the park and how they would be reimbursed by the other property owners who would develop their properties in order to make them equal per the Concept Plan. The Council had discussed this issue and understood why staff did not deem these applications as incomplete. The Plan had not been changed since it was adopted and the Plan allowed these properties to make annexation applications. The applicants submitted an analysis of the need for additional property in the City limits including how many existing platted lots there were remaining in the City that were vacant and could be developed. The City had just under a three-year supply, but that was being developed currently. This was a good time for this annexation to provide more buildable platted lots. There was some additional land that could be platted and developed, but it would take a few years to get the infrastructure in place. Robert Bitter submitted comments regarding his support of the development of these properties, but was concerned about the additional traffic on N Redwood Street given it was rapidly deteriorating. There were areas outside of where the development would occur that also needed improvement. He had responded to Mr. Bitter that it was the responsibility of the City to figure out how to make the improvements in the future. If the Council approved these annexations, they were the final authority and they would not go to a vote of the people. The property had two houses on it, which was nonconforming to County's Code and if it was brought into the City, it would be a violation of the R-1 zone. The property could be grandfathered in, the applicants could partition the property and put each house on a separate lot, or the applicants could get a Conditional Use Permit for an accessory dwelling to remedy the issue. Staff recommended approval.

Applicant: Ryan Oliver, resident on N Redwood Street, said the annexation was not for development, but was what he had to do to relieve the situation with the County. He found out his property was nonconforming two years after he purchased it. He wanted to continue to live on the property. It did not make sense to partition the lot as when it was developed in the future, the master plan showed a road going through his yard and house.

Commissioner Serlet asked about the future roadway through his property. Mr. Ryan referred to the planned NE 18th Place and how it would go through his property unless it was offset to the south. Mr. Brown said streets needed to be aligned or have an adequate offset. He thought an offset might mess up the circulation in the Concept Plan due to the distance requirements.

Proponents: Daniel Webb, resident on N Redwood Street, attended the neighborhood meeting and supported the annexation application. He asked about grandfathering in and if it would set a precedent for later. He would prefer to see it handled another way so that it was in conformance with the code.

Carol Berkeran, resident on N Redwood Street, stated the situation of these homes would be easier if they were grandfathered in until future development took place. She did not agree with the Concept Plan for how these properties would be accessed in the future.

Opponents and Neutral: None

Rebuttal: Mr. Ryan referred back to the pre-app meeting with staff where he was told he would not have to do anything until he either sold or developed the property. His preferred choice was to have the property grandfathered in.

Chair Savory closed the public hearing at 8:36 pm.

Commissioner Discussion:

Commissioner Hensley didn't like the term grandfathered in. This meant the property was going to stay the way it was for now until it was sold or developed. Mr. Brown clarified through this annexation they would be creating a non-conforming lot. He did not know if it had to be addressed at this time.

Commissioner Mottern asked about the burden of partitioning the lot or getting a Conditional Use permit. Mr. Bryan explained the processes and requirements the property would have to meet.

There was discussion regarding the options and the costs of those options.

Commissioner Hensley was leaning towards leaving the property as non-conforming until something was done with it and removing Condition #1.

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Mottern to recommend approval of ANN/ZC 16-01 to the City Council, removing Condition #1 and leaving Condition #2. Motion passed 4/0.

c. ANN/ZC 16-02 ManDan, LLC

Mr. Brown entered the staff report into the record. This was a request to annex 4.57 acres comprising three tax lots. The property was currently zoned as RRF5 and would be rezoned to R-1.5 and R-2. All of the criteria had been met. The City had less than a three year supply of R-1.5 and R-2 platted lots in the City and there was a need for more. These lots were difficult to find in the City and it would provide a variety of housing types. No neighborhood meeting was held for this application because several neighborhood meetings were held during the year-long process to approve the Concept Plan and staff did not think another meeting was required. Annexations were not development proposals and there would be more neighborhood meetings when a development proposal was made. Staff recommended approval of the annexation.

Applicant: Ethan Manuel, representing his father Allen Manuel, addressed the neighborhood meeting issue. He was heavily involved in the Concept Plan process and there had been a lot of neighborhood participation. He thought it was somewhat redundant to go back to discuss it again. They had planned to meet with the neighborhood before the vote on this annexation, but that was before the new legislation went into effect. Since these annexations made up half of the area in the Concept Plan, the ownership group was a good sampling of the neighborhood that would be at the meeting anyway. Regarding transportation issues, such as the N Redwood St and Territorial connection, it was found to be

acceptable in the Concept Plan at full build out. Mr. Manuel had been waiting to annex this property for over 10 years. It met all the criteria and he encouraged approval.

Proponents: Daniel Webb, resident on N Redwood, was in favor of his neighbors' annexation in order for the City to maintain an inventory of buildable land. He still had a problem with not having a neighborhood meeting. Annexation was never a topic of discussion at the Concept Plan meetings and he did not think the requirement should have been waived. With the magnitude of this development, he thought citizens should have more involvement.

Opponents and Neutral: None

Rebuttal: None

Chair Savory closed the public hearing at 9:06 pm.

Commissioner Discussion:

Commissioner Hensley agreed about the neighborhood meetings. He had participated in the stakeholder meetings and they did not discuss annexations because it was up to the land owners when they would annex. The legislators had changed the voter approved annexation requirement, but the Commission still had to review the application to make sure it met the criteria.

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to recommend approval of ANN/ZC 16-02 with the conditions in the staff report. Motion passed 4/0.

d. ANN/ZC 16-03 Ethan Manual et al

Mr. Brown entered the staff report into the record. This was a request to annex 31.83 acres comprising 10 tax lots. The City needed an adequate three-year supply of buildable land which had been depleted since the staff report was written. The consumption rate was about 45 lots per year for R-1 and staff was convinced this annexation was needed for the buildable land supply. The Concept Plan described how these lots would be developed in the future and the more properties that were annexed, the easier it was to implement the Plan. Staff recommended approval with the condition that it came in under the R-1 zone.

Applicant:

Ethan Allen, representing the six ownership groups in the 31.83 acres, said these lots represented the source for the neighborhood park and Willow Creek path that had been discussed. While this group came together to do a joint annexation, there had not been any discussion about joint development going forward. They did not know when it would be developed if it was annexed.

Chair Savory asked about the bridge over Willow Creek. Mr. Allen said that was contemplated during the Concept Plan discussions, but it was not adopted due to it being cost prohibitive. The back portion of

the property would access Willow Creek from off of Teakwood. There would be a walkway that went the full distance of Willow Creek.

Chair Savory was concerned about the City not being able to maintain the park and asked if the neighbors had a plan for maintaining it. Mr. Allen said the Concept Plan asked the owners to dedicate the land for a park, but it was not their responsibility to maintain it.

Commissioner Serlet was not opposed to the development of this area, but questioned how they were going to maintain the park. He was in support of the annexation.

Proponents: None

Opponents: Daniel Webb, resident on N Redwood, was concerned about how an oversupply of lots could have a negative impact on property values. The only limit on City growth was annexations. Staff indicated how many available lots there were, but he thought the lots that were preliminarily approved or were currently under development should be taken into account. Currently Phase 3 and 4 of Northwoods Estates were being developed which was 43 lots, the Faist addition was 36 lots, a development on N Pine was 12 lots, the Mandan development would have 13 lots, and this application would bring about 186 lots in the 31 acres. These developments totaled 395 lots which gave the City an eight year supply. This did not take into account subdividing or partitioning of other lots already in the City limits. This would also make it difficult for other properties to be annexed because there would not be a need for the additional land. Regarding the park, most of the improvements would need to be done by the developers but the park was supposed to be funded by shared costs with the property owners. Did that mean the applicants or all of the property owners in the City had to pay for the park? He believed in parks as they benefitted all of the City and they should be funded by all of the City. He did not want the applicants to have to pay for the park that all the City would use. They needed to maintain the small town feel in Canby and growth needed to be controlled. If the lots were built and the economy went down again there would be a dead subdivision sitting there. There might also be an impact to fire protection and schools.

Commissioner Hensley said the Commission's job was not to tell property owners whether or not to annex, but to look at the applications to make sure they met the criteria. Property values were not up to the Commission. The park could be built through SDCs, but it was the maintenance that was the issue.

Mr. Brown said the way it was worded about the property owners paying for the park was misleading. What it meant to say was the landowners with the property that could not be developed because they were dedicating it as a park would be reimbursed from the SDCs of the property owners who could develop their land.

Commissioner Serlet thought these issues would be addressed in the development stage. He thought if it did not become a park, Willow Creek would become a dumping ground and a blackberry bramble mess. It needed to be protected and maintained.

Neutral: None

Rebuttal: Mr. Manuel said his job as a landowner was to dedicate the land for the park, but would not build the park or solve the maintenance issue. He did not think that should be a limitation on this annexation application. The Concept Plan for the entire area was a maximum density of 289 new lots and this 30 acres could not develop 180 lots as some of the land was lost to the creek swale and park. This would be developed in phases and the east side of the creek was independent from the west side as there was not access currently. The property with access on Redwood could be developed sooner, but the rest was a long way off from development. It met the criteria for annexation, especially as the land was needed for the buildable supply. The impact on property values was not an issue of annexation.

Chair Savory closed the public hearing at 9:42 pm.

Commissioner Mottern clarified for the Faist development, only six lots could be developed until a new pump station went in. Mr. Brown said if every one of the subdivisions were platted, it might be an issue, but many of them had not been planned for development yet and were two to three years out before platted lots would be available to sell.

Chair Savory agreed with Mr. Webb that if all this development went on at once it would stretch our infrastructure capabilities for fire, police, schools, etc. However, the decision had to be made on the criteria not whether or not they could maintain the park or if the schools were packed.

Commissioner Hensley thought development would help with funding to maintain the parks and better services as they put money back into the budget.

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve ANN/ZC 16-02 with the conditions in the staff report. Motion passed 4/0.

5. FINAL DECISIONS

- a. DR 16-02 Sequoia Grove Industrial Park
- b. ANN/ZC 16-01 Oliver/Walch Annexation
- c. ANN/ZC 16-02 Man Dan, LLC Annexation
- d. ANN/ZC 16-03 Ethan Manuel et al Annexation

Motion: A motion was made by Commissioner Hensley and seconded by Commissioner Serlet? to approve the final decisions for DR 16-02 Sequoia Grove Industrial Park, ANN 16-01 Oliver/Walch

Annexation, ANN 16-02 Man Dan, LLC Annexation with the conditions, and ANN 16-03 Ethan Manuel et al Annexation. Motion passed 4/0.

6. NEW BUSINESS – None

7. ITEMS OF INTEREST / REPORT FROM STAFF

- a. Next regular Planning Commission meeting scheduled for Monday, May 23, 2016

Mr. Brown said there were two applications on the next agenda.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None

9. ADJOURNMENT

Motion: Commissioner Mottern moved for adjournment, Commissioner Serlet seconded. Motion passed 4/0. Meeting adjourned at ?? pm.

The undersigned certify the May 9, 2016 Planning Commission minutes were presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this day of , 2016

Bryan Brown, Planning Director

Laney Fouse, Meeting Recorder

Assisted with Preparation of Minutes – Susan Wood

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.



City of Canby

SITE AND DESIGN REVIEW STAFF REPORT

FILE #: DR 16-03

Prepared for the July 11, 2016 Planning Commission Meeting

LOCATION: 851 SW 1st Avenue

TAXLOT: 41E04BB 01000 & 01002 (Bordered in map below)



LOT SIZE: 0.85 total acres (37,026 square feet)

ZONING: C-M Heavy Commercial Manufacturing/DCO-Downtown Canby Overlay Zone/Subarea OHC-Outer Highway Commercial Overlay Zone

OWNER: Scott 2004 Family L.P.

APPLICANT: Scott 2004 Family L.P. – Tom Scott

APPLICATION TYPE: Site & Design Review (Type III)

CITY FILE NUMBER: DR 16-03

APPLICANT'S REQUEST:

The applicant is seeking site and design approval to construct a 6,109 square foot commercial building on a 0.85 acre property consisting of two tax lots. The proposal consists of 37,026 square feet of development area extending between Highway 99E and SW 4th Avenue. The existing building that occupied the site was demolished and removed from the property.

SECTION I STAFF RECOMMENDATION:

Based upon the findings in this Staff Report, Staff recommends **APPROVAL** of Site & Design Review DR16-03, subject to conditions presented in this Staff Report.

SECTION II APPLICABLE REVIEW CRITERIA:

City of Canby Land Development and Planning Ordinance Chapters:

- 16.08 General Provisions**
- 16.10 Off-Street Parking and Loading**
- 16.30 C-M Heavy Commercial Manufacturing Zone**
- 16.41 Downtown Canby Overlay Zone**
- 16.42 Signs**
- 16.43 Outdoor Lighting Standards**
- 16.46 Access Limitations**
- 16.49 Site and Design Review**
- 16.89 Application and Review Procedures**

SECTION III REVIEW FOR CONFORMANCE WITH APPLICABLE APPROVAL CRITERIA:

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: Surveys filed as early as 1976 indicate that the two subject tax lots were in the same configuration as currently. There is no evidence that the subject properties were divided or otherwise reconfigured. Based on available information, staff determined that the property consists of two legally created lots for land use purposes.

The applicant is advised that the separate lots must be combined into a single parcel by recorded deed with a perimeter description that describes the property as a single parcel. Building permits will not be issued if a building is placed across a property line.

16.08.090 Sidewalks Requirements

A. In all commercially zoned areas, the construction of sidewalks and curbs (with appropriate ramps for the handicapped on each corner lot) shall be required as a condition of the issuance of a building permit for new construction or substantial remodeling, where such work is estimated to exceed a valuation of twenty thousand dollars, as determined by the building code. Where multiple permits are issued for construction on the same site, this requirement shall be imposed when the total valuation exceeds twenty thousand dollars in any calendar year.

B. The Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. (Ord. 740 section 10.3.05(I), 1984)

Findings: The project is a redevelopment of a previously developed site. However, to accommodate the project design, the applicant intends to construct new sidewalks on the frontages of both SW 1st Avenue (Highway 99E) and SW 4th Avenue. All sidewalks within the development area shall meet required standards.

16.08.150 Traffic Impact Study (TIS)

A. Purpose. The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities: what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

B. Initial Scoping. During the pre-application conference, the city will review existing transportation data to determine whether a proposed development will have impacts on the transportation system. It is the responsibility of the applicant to provide enough detailed information for the city to make a determination. If the city cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. If a TIS is required, the city will provide the applicant with a "scoping checklist" to be used when preparing the TIS.

C. 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: Based on criteria listed in *16.08.150 (C)* above, staff determined that a TIS is required for this particular proposal. During the initial scoping, staff provided the applicant with a scoping checklist as required under this section and instructed the applicant as to the necessary elements to include in the TIS. The applicant submitted a TIS prepared by DKS and Associates, the engineering firm contracted by the City for technical traffic evaluation.

16.10 Off Street Parking

16.10.030 General requirements

A. Should the owner or occupant of a structure change the use to which the building is put, thereby increasing parking or loading requirements, the increased parking/loading area shall be provided prior to commencement of the new use.

C. In the event several uses occupy a single structure, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. If the applicant can demonstrate that the uses do not have overlapping parking needs (based on days and hours of operation) and can share parking, the total requirement for combined uses may be reduced by up to 60 percent.

Findings: The proposed 6,109 square foot retail building will contain multiple uses described by the applicant as: restaurant (with drive through), retail, and office space. The site plan delineates four separate business spaces of 1501, 1020, 1056, and 2463 square feet each.

In the submitted narrative, the applicant provided a table to calculate the square footage of proposed uses and the total number of parking spaces required for the site. The applicant chose to provide calculations based on the most intense of the proposed uses such as 5000 square feet of restaurant space and 1109 square feet of retail space. Based on these calculations, the applicant noted the total number of spaces necessary amounts to 42.22 parking spaces, and the total number shown on the site plan is 42 available spaces.

However, the applicant emailed updated information that sited specific future uses in the building as: Tenet #1 (1501 sf), drive through sandwich shop, Tenet #2 (1020 sf) retail, Tenet #3 (1056 sf), retail, Tenet #4 (2463 sf), pizza restaurant. These changes total

3964 square feet of restaurant space and 2076 square feet of retail space. The new numbers calculate to 32 spaces for restaurants and 4 spaces for retail for a total of 36 spaces. Oregon Department of Transportation (ODOT) asked the applicant to eliminate two parking spaces located in the northwest corner of the lot for safety reasons. This would leave the project with 40 spaces where 36 spaces are required. Based on the applicant's site plan and available information, staff determined that that proposal has more than enough parking spaces to meet the maximum ordinance standard and reduce 2 spaces near the driveway entrance to Highway 99E.

A portion of the parking area for the proposed uses is located on tax lot 1002 adjacent to an existing fast food restaurant that is currently using existing parking spaces on the subject property. The applicant states that the spaces will be used for the proposed uses on the subject property only and will be separated from the adjacent parcel by parking lot landscaping. The applicant agreed to allow the adjacent restaurant facility to encroach onto the subject parcel in the northwestern corner of the lot in order for the existing drive through to maintain a "grill wait stall." Staff made a determination that the existing adjacent restaurant will maintain its required number of spaces without using those on the subject parcel, and a parking conflict is not an issue as a result of this development.

16.10.030 H The number of vehicular spaces required in Table 16.10.050 may be reduced by up to 10% if one of the following is demonstrated to the satisfaction of the Planning Director or Planning Commission:

2. The proposed development is pedestrian-oriented by virtue of a location which is within convenient walking distance of existing or planned neighborhood activities (such as schools, parks, shopping, etc.) and the development provides additional pedestrian amenities not required by the code which, when taken together, significantly contribute to making walking convenient (e.g., wider sidewalks, pedestrian plazas, pedestrian scale lighting, benches, etc.). (Ord. 890 section 10, 1993; Ord. 854 section 2 [part], 1991; Ord. 848, Part V, section 16.10.030, 1990; Ord. 1043 section 3, 2000; Ord. 1338, 2010)

Findings: Although the required number of 36 parking spaces is delineated on the site plan, the applicant asserts that the project will include a pedestrian oriented design and is located near a school and other restaurants and shopping, and therefore, a 10% parking space reduction is allowed as noted above. Staff observed that the development site is located approximately 350 feet from Canby High School to the south, across SW 4th Avenue and is adjacent to existing fast food restaurants. Canby Square shopping plaza is situated approximately 500 feet to the southwest. The applicant proposes to design wide walkways at the building and fixed outdoor bench seating. In order to allow the reduction, the applicant shall clearly display, at the public hearing, where the walkways and benches are located for the project. However, they do not appear to be utilizing the allowed 10% reduction.

16.10.060 Off-street loading facilities

- A. The minimum number of off-street loading berths for commercial and industrial uses is as follows:

SQUARE FEET OF FLOOR AREA	NUMBER OF BERTHS
Less than 5,000	0
5000 – 25,000	1
25,000 – 60,000	2
60,000 and over	3

- G. The Planning Commission may exempt a building from the loading berth requirement, or delay the requirement, based on findings that loading berths are not needed for a particular building or business. (Ord. 854 section 2[part], 1991; Ord. 848, Part V, section 1, 16.10.060, 1990; Ord. 1237, 2007)

Findings: The proposed building is over 5000 square feet and requires (1) one loading space. However, due to the types of multiple uses intended for the building that require minor delivery activity, the applicant intends to request an exemption at the Planning Commission Hearing under provisions listed in *Section 16.10.060(G)*. The proposal is to provide a designated 13' by 35' off-hours loading stall in the southwest corner of the parking lot. This requirement will be addressed further by the applicant at the Planning Commission Hearing.

- 16.10.070 Parking lots and access
- 16.10.090 Drive-up Uses
- 16.10.100 Bicycle Parking

Findings: Staff finds that applicant's narrative substantially addresses this criterion. The submitted plans and narrative address the provisions for drive-up uses listed in *16.10.090*. Although bicycle parking in *16.10.100* is not shown on the site plan, there is no indication that it cannot be met. Minimum distance for parking and driveway along the parking area and driveway between double loaded parking with compact spaces and standard spaces is provided on the site plan. The project is serviced by the existing site accesses, but access modifications are planned for the project. The summited site plan indicates a depth and length of compact stalls and provides a correct depth and width for standard spaces. The applicant shall submit a revised site plan delineating parking for bicycles.

- 16.30.010 C-M Heavy Commercial Manufacturing

Findings: The underlying zoning of the property is C-M. The property is also located within the DCO (Downtown Canby Overlay Zone), and is situated in the (OHC) Outer Highway Commercial sub-area. The DOC (Chapter 16.41) is the superseding development chapter for this proposal. Section 16.41.030 states: *“Unless modified pursuant to the following Subsection, uses permitted outright in the underlying base zones are permitted outright in the DCO zone, subject to the respective zone district boundaries.... Uses permitted in the C-1 zone are permitted in the DCO zone...”* Section 16.30.010(A) of the C-M zone lists uses permitted outright in the C-2 zone as permitted outright in the C-M zone. Additionally, uses permitted outright in the C-2 zone, includes uses permitted outright in a C-1 zone. Subsequently, the uses proposed by the applicant are permitted uses in the C-M zone. All other development standards are contained in DCO (Chapter 16.41)

16.41.010 Downtown Canby Overlay Zone (DCO)/ Outer Highway Commercial Sub-Area (OHC)

Purpose:

The purpose of the DCO Sub-Area OHC is to provide an auto-oriented commercial area that maintains a visual connection with the street by establishing buildings and landscaping close to street frontage

16.41.050 Development standards (OHC)

(1) Street Setback: 10' min. 0' max.

(b) At least 40% of the length of each lot frontage shall be developed with a building(s) built at the minimum setback from the street lot line.

(c) Where feasible, building should be located at one or both street-facing corners of a lot.

(2) FAR (Floor Area Ratio): 0.25

16.41.060 B.2.c DCO Site and Design Review Guidelines

Findings: The project is located in the Outer Highway Commercial Sub-Area that was established to ensure an automobile-oriented area. The proposal is situated between an arterial and a local street and businesses that are similar to the proposed uses. The project is consistent with the intent of OHC which provides flexibility in design and presents alternative methods or materials to meet site and design standards of the DCO. However, in this particular case, 16.41.050(A)(1), (A)(1)(b) and (A)(2) are not met. The building will be constructed entirely outside the 10 foot minimum setback, at a distance of 21 feet six inches, and the building does not have the required 40% of developed lot frontage. The FAR was calculated by staff at 0.17% which does not meet the 0.25

minimum noted above. The applicant requests that the Planning Commission review this criterion and modify the provisions for this project. Staff suggests that the intent of the OHC is met as much as possible if the drive through is incorporated in the design. A drive through design is supported by the OHC, and would be difficult to construct along the highway frontage and still meet the minimum setback. In previous cases, the Planning Commission has determined that the above requests have been appropriate for other projects and these types of uses in the vicinity of the proposal along State Highway 99E. The Planning Commission may find that the design is appropriate under a Type III application.

14.41.070 DCO site and design review standards

Applicable design criteria: The following are the primary standards to be considered; these include:

- Visible transmittance.
- Primary Street facing façade- primary façade.
- Building entries and doors Orientation.
- Planning Comment: Satisfied by the proposal.
- Transparency.
- Additional architectural standards/elements: Bays, awnings etc.
- Rooftop structures.
- Parking
- Parking and Maneuvering Landscaping
- Overall Site Landscaping

Findings: As discussed above, based on Table 1, 2, and 3 of *Section 16.41.050*, the new building's setbacks, frontage and location could only meet development standards for the OHC unless modifications are approved by the Commission as allowed under a Type III application. The applicant's description of the project and submitted plans indicate that the proposal meets the purpose of the DCO stated in *16.41.010 A-E*. The design of the new structure, as indicated on the plans, will meet standards for footprint, height, parking, and screening. The applicant will construct a building with variable roofline elevations and a variety of building materials will be used, such as brick and concrete masonry materials, on the façade as stated in *16.41.060A* for design objectives. Section *16.41.060B (2) (c)* states the design focus for the OHC Sub-Area is oriented toward an automotive design. The applicant has accomplished the standards listed above through access, parking, building materials, and location. Based on the applicant's submitted material, and if modifications are approved by the Commission, standards listed in Sections *14.41.050*, *14.41.0060*, and *14.41.070* can be met.

16.42.040 Signs

Findings: The applicant is proposing a new pole sign as part of this application. A preliminary review of the submitted materials indicates that the sign could meet necessary criteria. However, the applicant must file a Sign Permit Application prior to construction of any signage. Review and approval for future wall signs will occur when individual businesses begin to occupy the building.

16.43 Outdoor Lighting Standards

Findings: The applicant provided detailed information from Lithonia Lighting and a site lighting layout performed by Canby Electric. Lighting shall be installed or shielded in a manner that prevents a direct line of sight between the light sources, or it's reflection at a point 3 feet or higher above the ground at the property line. Prohibited lighting is not included in the proposal. Statements and graphic material provided indicate that the project meets shielding, installation and lumens requirements for a lighting zone 2 listed in Section *16.43.070*. The submitted lighting plan indicates that provisions in Section *16.43* will be met.

16.46 Access Limitations on Project Density

Findings: Ingress and egress for the project is onto State Highway 99E and SW 4th Avenue. Information submitted to the file indicates that the property has a "Grant of Access" to access the state highway. The applicant shall comply with any ODOT requirements. The proposal can meet this criterion.

16.49.035 Application for Site and Design Review

- A. For projects in the Downtown Canby Overlay Zone, applicants may choose one of the following two processes:
1. Type II - If the applicant meets all applicable site and design review standards set forth in *Chapters 16.41* and *16.49*, applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in *16.49.040.A*; or
 2. Type III - If the applicant proposes the use of alternative methods or materials to meet the intent of the site and design review standards set forth in Section *16.41.070*, the applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in *16.49.040.B*. The applicant must still meet all applicable requirements of Chapter *16.49*.

Findings: The applicant filed a Type III application, and the process is described in the submitted narrative. The applicant indicates that modifications and design of the project meets the intent of criteria listed and ensures minimal impact to existing surrounding uses.

16.49.040 Site and Design Review - Criteria and Standards

- B. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:
 - 1. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - 2. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and
 - 3. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
 - 4. The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID storm water management facilities, and retaining native vegetation.
 - 5. The Board shall, in making its determination of compliance with this Ordinances, shall use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible with the standards of Table 16.49.040 if the following conditions are met:
 - a. The development accumulates a minimum of 60 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and
 - b. At least 10 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).
- D. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the design review standards set forth in this ordinance.

Findings: A site and design review is required for all new buildings. In this case the applicant’s proposal does not meet standards listed in Section 16.41.050 which states that buildings shall have a 10 foot minimum setback from the property line and at least 40% of the building be developed at the minimum setback along the length of each street lot frontage. According to the submitted plan, the building will be located at a 21 feet 8 inches setback from the property line adjacent to Highway 99E. Under provisions noted in 16.49.040(D) above, the Board can determine if the project meets the intent of design review standards under a Type III review.

The applicant provided a detailed response to Table 16.49.040 and demonstrated compliance with the total point menu and meets this criterion.

16.49.065 Bicycle and pedestrian facilities

Developments coming under design review shall meet standards listed in this section.

Findings: Staff concludes that the applicant adequately addressed this criterion. However, a bicycle parking rack must be shown on the final site plan.

16.49.070 Landscaping provisions, Authority and intent

The purpose of this section is to establish standards for landscaping within the City of Canby in order to enhance the environmental and aesthetic quality of the city

16.49.080 General provisions for landscaping

Findings: The applicant provided a scaled landscape plan and detailed comments to address planting and landscape provisions listed in this section. The information contained in the submitted material specifics on LID storm water management, controls during construction, and specification of tree and plant materials and other information required in this section. After a review of all information provided, staff concluded that the project meets these standards.

16.89 Application and Review Procedures

16.89.020 Description and Summary of Processes

All land use and development applications shall be decided by using the procedures contained in this Chapter. Specific procedures for each type of permit are contained in Sections 16.89.030 through 16.89.060. The procedure type assigned to each permit governs the decision-making process for that permit. Additional requirements may be found in the individual chapters governing each permit type. The four types of procedure are described below. Table 16.89.020 lists the City's land use and development applications and their required procedures.

C. Type III Procedure (Quasi-Judicial/Legislative). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III procedures generally use discretionary approval criteria.

Finding: The proposed project is subject to a Type III Site and Design Review procedure. A Type III decision is triggered because the proposed site layout does not meet the minimum building setback, percentage of developed frontage provision, and the minimum FAR established under the DCO overlay zone. Therefore, this proposal is subject to Planning Commission review and decision.

16.89.050 Type III Decision

Findings: Requirements under this section are included in the application materials. The Pre-application was held on March 29, 2016, a neighborhood meeting was conducted on May 24, 2016, and all application requirements were met.

Comments: Comments were solicited from the public, City departments, and applicable reviewing agencies. Summary of comments are included in the staff report, and complete agency and public comments are part of the file. All comments from citizens and agencies received to date are attached to the file and will be presented to the Planning Commission.

Public Comments:

No public comments were received at the time this staff report was written.

Agency Comments:

Canby Fire District and Canby Utility stated that adequate public services are available or will become available for the project.

The City Engineers comments are part of the file and included as conditions of approval.

SECTION IV CONCLUSION/RECOMMENDATION

Staff concludes that the use is in conformance with the City's Comprehensive Plan and the Zoning Ordinance. Additionally, the relevant site and design standards are met or can be adjusted by the Planning Commission. Minimum acceptable compatibility scores are met, and the site can accommodate the proposed use. Public service and utility services to the site are available or can be made available through future improvements.

Staff recommends approval of the proposal subject to meeting the following conditions of approval.

SECTION V CONDITIONS OF APPROVAL

Approval of this application is based on submitted application materials. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file DR16-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.

Commission Findings and Approval for Modifications of Standards

1. Prior to any approval, the applicant shall meet the 10 foot minimum setback from the property line and at least 40% of the building shall be developed at the minimum setback along the length of each street lot frontage unless the Commission specifically approves the proposed modifications with findings to support a deviation from the standards.
2. The applicant shall construct the building to meet the FAR of 0.25 unless the proposed modifications are approved by the board with findings.
3. The applicant shall designate a permanent loading space on the site plan, or the Planning Commission shall modify the provision in 16.10.060 to provide a designated 13' by 35' off-hours loading stall in the southwest corner of the parking lot.

Conditions Unique to this Proposal

4. The proposed pole sign and wall signs for any future businesses at the site shall receive required sign permit approval.
5. **Prior to issuance of any building permits, the applicant shall record a deed, with the Clackamas County Recorder, which includes a perimeter description that describes the existing two tax lots as a single parcel. A copy of the deed shall be provided to the City of Canby Planning Department.**
6. The applicant shall submit a revised site plan delineating parking for bicycles.

Procedural Conditions

Prior to Issuance of building permits, the following must be completed:

7. The design engineer shall submit to the City of Canby for review and approval at the time of final construction plan approval a storm drainage analysis and report applicable to the defined development area detailing how storm water disposal from both the building and the parking areas is being handled – including a pre and post development analysis. Any drainage plan shall conform to the Clean Water Services storm drainage design standards as indicated in the Public Works design standards.
8. A sediment and Erosion Control Permits will be required from the City prior to commencing site work.
9. The applicant shall meet the following City Engineer requirements:
 - A. Access to the site from Hwy 99E shall conform to ODOT access control plan for this area. Concurrence from ODOT will be needed. Driveway must meet the current ADA guidelines.
 - B. Sidewalk and street lights shall be constructed along the entire site frontage with

Hwy 99 E. Sidewalk shall match the existing width. Construction plans shall be reviewed and approved by ODOT. A copy of the approval letter or stamped set of plans shall be submitted to the City.

- C. The existing driveway on SW 4th Avenue that lies outside the proposed driveway shall be removed and replaced with a new curb and sidewalk shall be constructed.
 - D. The new access onto SW 4th Avenue shall have a commercial driveway approach with 6" minimum concrete thickness and reinforcements.
 - E. The existing sanitary sewer on SW 4th Avenue is 4" in size, it needs to be capped and replaced with a new 6" diameter service lateral.
 - F. An erosion control permit will be required from the City of Canby prior to any on-site disturbance.
 - G. A storm drainage analysis shall be submitted to the City for review and approval during the final design phase. The analysis shall meet Chapter 4 of the City of Canby Public Works Design Standards dated June 2012.
 - H. The proposed UIC structures location shall meet at least one of the two conditions: (1) the vertical separation distance between the UIC and seasonal high groundwater is more than 2.5 feet or (2) the horizontal separation distance between the UIC and any water well is a minimum of 267 feet in accordance of the City of Canby Stormwater Master Plan, Appendix "C", Groundwater Protectiveness Demonstration and Risk Prioritization for Underground Injection Control (UIC) Devices.
 - I. All on-site drywells shall be ruled authorized by the Department of Environmental Quality (DEQ). A copy of the registration shall be submitted to the City prior to any storm drainage construction.
10. Prior to the issuance of a building permit, the installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. A Pre-Construction Conference with sign-off on all final construction plans is required. The applicant may submit the civil construction drawings separate from the building permit submittal package for final preconstruction conference sign-off approval. The design, location, and planned installation of all roadway improvements and utilities including but not limited to water, electric, sanitary sewer, natural gas, telephone, storm water, cable television, and emergency service provisions is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed.
 11. Construction plans shall be designed and stamped by a Professional Engineer registered in the State of Oregon.
 12. Clackamas County will provide structural, mechanical, grading, and review of Fire &

Life Safety, Plumbing, and Electrical permits for this project. Fire & Life Safety approval must be obtained from Canby Fire District prior to issuance of a City building permit.

Section VI Attachments/Exhibits:

1. Applicant narrative
2. Proposed Site Plan
3. Agency Comments
4. Neighborhood Meeting Comments or Notes
5. Pre-application Conference Summary



City of Canby
 Planning Department
 111 NW 2nd Avenue
 PO Box 930
 Canby, OR 97013
 (503) 266-7001

LAND USE APPLICATION

SITE AND DESIGN REVIEW

Downtown Canby Overlay - Type III

APPLICANT INFORMATION: (Check ONE box below for designated contact person regarding this application)

Applicant Name: _____ Phone: _____
 Address: _____ Email: _____
 City/State: _____ Zip: _____

Representative Name: _____ Phone: _____
 Address: _____ Email: _____
 City/State: _____ Zip: _____

Property Owner Name: _____ Phone: _____
 Signature: _____
 Address: _____ Email: _____
 City/State: _____ Zip: _____

Property Owner Name: _____ Phone: _____
 Signature: _____
 Address: _____ Email: _____
 City/State: _____ Zip: _____

NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

PROPERTY & PROJECT INFORMATION:

Street Address or Location of Subject Property	Total Size of Property	Assessor Tax Lot Numbers
Existing Use, Structures, Other Improvements on Site	Zoning	Comp Plan Designation

Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE

SITE AND DESIGN REVIEW APPLICATION – TYPE III–INSTRUCTIONS

All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email. Required application submittals include the following:

Applicant City
Check Check

- One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.
- Payment of appropriate fees – cash or check only. Refer to the city’s Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.
- Mailing labels (1" x 2-5/8") for all property owners and all residents within 500 feet of the subject property. **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.
- One (1) copy of a written, narrative statement describing the proposed development and detailing how it conforms with the Municipal Code and to the approval criteria, including the applicable Design Review Matrix, and availability and adequacy of public facilities and services. **Ask staff for applicable Municipal Code chapters and approval criteria.**
Applicable Code Criteria for this application includes:

- Three (3) copies of a Traffic Impact Study (TIS), conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (payment must be received by the City before the traffic engineer will conduct or review a traffic impact study.)
Ask staff to determine if a TIS is required.
- One (1) copy in written format of the minutes of the neighborhood meeting as required by Municipal Code 16.89.020 and 16.89.070. The minutes shall include the date of the meeting and a list of attendees.
- One (1) copy in written format of the minutes of the pre-application meeting
- One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the Clackamas County Surveyor’s office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.
- If the development is located in a Hazard (“H”) Overlay Zone, submit one (1) copy of an affidavit signed by a licensed professional engineer that the proposed development will not result in significant impacts to fish, wildlife and open space resources of the community. If major site

grading is proposed, or removal of any trees having trunks greater than six inches in diameter is proposed, then submit one (1) copy of a grading plan and/or tree-cutting plan.

Applicant City
Check Check

- Ten (10) paper copies of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:
 - Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
 - Site Plan-the following general information shall be included on the site plan:
 - Date, north arrow, and scale of drawing;
 - Name and address of the developer, engineer, architect, or other individual(s) who prepared the site plan;
 - Property lines (legal lot of record boundaries);
 - Location, width, and names of all existing or planned streets, other public ways, and easements within or adjacent to the property, and other important features;
 - Location of all jurisdictional wetlands or watercourses on or abutting the property;
 - Finished grading contour lines of site and abutting public ways;
 - Location of all existing structures, and whether or not they are to be retained with the proposed development;
 - Layout of all proposed structures, such as buildings, fences, signs, solid waste collection containers, mailboxes, exterior storage areas, and exterior mechanical and utility equipment;
 - Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
 - Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
 - Location of vision clearance areas at all proposed driveways and streets.
 - Landscape Plan
The following general information shall be included on the landscape plan:
 - Layout and dimensions of all proposed areas of landscaping;
 - Proposed irrigation system;
 - Types, sizes, and location of all plants to be used in the landscaping (can be a "palette" of possible plants to be used in specific areas for landscaping);
 - Identification of any non-vegetative ground cover proposed, and dimensions of non-vegetative landscaped areas;
 - Location and description of all existing trees on-site, and identification of each tree proposed for preservation and each tree proposed for removal;
 - Location and description of all existing street trees in the street right-of-way abutting the property, and identification of each street tree proposed for preservation and each tree proposed for removal.
 - Elevations Plan
The following general information shall be included on the elevations plan:
 - Profile elevations of all buildings and other proposed structures;
 - Profile of proposed screening for garbage containers and exterior storage areas;
 - Profile of proposed fencing.
 - Sign Plan.
 - Location and profile drawings of all proposed exterior signage.
 - Color and Materials Plan.
 - Colors and materials proposed for all buildings and other significant structures.

Applicant City
 Check Check

- One (1) copy of a completed landscaping calculation form (see page 5)
- One (1) copy of a completed Design Review Matrix (see page 6)

SITE AND DESIGN REVIEW APPLICATION: LANDSCAPING CALCULATION FORM

Site Areas

1. Building area		- Square footage of building footprints
2. Parking/hardscape		- Square footage of all sidewalks, parking, & maneuvering areas
3. Landscaped area		- Square footage of all landscaped areas
4. Total developed area		- Add lines 1, 2 and 3
5. Undeveloped area		- Square footage of any part of the site to be left undeveloped.
6. Total site area		- Total square footage of site

Required Site Landscaping (Code 16.49.080)

7. Percent of landscaping required in Zoning District		- Fill in the Appropriate Percentage: R-1, R-1.5, R-2 Zones: 30%; C-2, C-M, C-R, M-1, M-2 Zones: 15%; C-1 Zone: 7.5%
8. Required minimum square footage of landscaping		- Multiply line 4 and line 7
9. Proposed square footage of landscaping		- Fill in value from line 3

Required Landscaping within a Parking Lot (Code 16.49.120)

Note: This section and the next apply only to projects with more than 10 parking spaces or 3,500 square feet of parking area

10. Zone		- Fill in the Appropriate Zone and Percentage: C-1 Zone: 5%; Core Commercial sub-area of the Downtown Canby Overlay: 10%, except for parking lots with 10 or more spaces and two or more drive aisles: 50 square feet per parking space; All other zones: 15%.
11. Percent of required landscaping		
12. Area of parking lot & hardscape		- Fill in area of parking and maneuvering areas plus all paved surface within ten (10) feet of those areas.
13. Number of vehicle parking spaces		- For Core Commercial sub-area in the Downtown Canby Overlay only, fill in the total # of parking spaces on-site.
14. Required square footage of landscaping within 10 feet of parking lot		- Multiply area of parking lot (line 12) by percent of required landscaping (line 11) -OR- for the CC sub-area in the Downtown Canby Overlay multiply line 13 by 50 square feet.
15. Proposed square footage of Landscaping within 10 feet of parking lot		- Calculate the amount of landscaping proposed within 10 feet of all parking and maneuvering areas.

Parking Lot Tree Calculation

16. Number of parking spaces		- Total number of vehicle parking spaces
17. Area of parking lot & hardscape		- Area from line 12
18. Number of parking spaces (line 16) divided by 8		- Round up to the nearest whole number
19. Area of parking lot area (line 17) divided by 2,800		- Round up to the nearest whole number

20. Number of required trees in parking lot		- Fill in the larger of row 18 and row 19
21. Number of trees provided within 10 feet of parking lot		- Fill in the number of proposed trees within 10 feet of parking and maneuvering areas.

SITE AND DESIGN REVIEW APPLICATION: DESIGN REVIEW MATRIX

Applicants: Please circle the applicable point column for your project and compute the total and percentages at the end of the table.

Table 16.49.040 Site Design Review Menu

As part of Site and Design Review, the following menu shall be used as part of the review. In order to “pass” this table 60% of total possible points shall be earned, 10% of the total possible points must be from LID elements

Design Criteria	Possible Points					
	0	1	2	3	4	
Parking						
Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-	2 pts.
Parking lot lighting provided	No	Yes	-	-	-	1 pt.
Parking location (behind building is best)	Front	Side	Behind	-	-	1 pts.
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	-	-	2 pts.
Screening of Storage Areas and Utility Boxes	0	1	2	3	4	
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-	1 pt.
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-	0
Utility equipment, including rooftop equipment, is screened from view.	Not screened	Partially screened	Fully screened	-	-	2 pts.
Access	0	1	2	3	4	
Distance of access to nearest intersection.	≤70 feet	71 - 100 feet	>100 feet	-	-	2 pts.

sub-total this page = 11 pts

Pedestrian walkways from public street/sidewalks to building entrances.	One entrance connected.	-	Walkways connecting all public streets/sidewalks to building entrances.	-	-	2 pts.
Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building only	Walkways connecting all parking areas to building entrances	-	-	1 pt.
N.A. -1 from possible pts.						

Design Criteria	Possible Points					
Tree Retention	0	1	2	3	4	
Percentage of trees retained	<10%	10-50%	51-75%	>75%	-	0
Replacement of trees removed	<50%	≥50%	-	-	-	1 pt.
Signs	0	1	2	3	4	
Dimensional size of sign (% of maximum permitted)	>75%	50-75%	<50%	-	-	0
Similarity of sign color to building color	Not similar	Somewhat similar	Similar	-	-	2 pts.
Pole sign used	Yes	No	-	-	-	0
Building Appearance	0	1	2	3	4	
Style (similar to surroundings)	Not similar	Somewhat similar (1 or 2 points possible depending on level of similarity)		-	-	2 pts.
Color (subdued and similar to surroundings is better)	Neither	Similar or subdued	Both	-	-	2 pts.
Material (concrete, wood and brick are best)	Either 1 or 2 points may assigned at the discretion of the Site and Design Review Board					2 pts.
Size of building (smaller is better)	>20,000 square feet	≤20,000 square feet	-	-	-	1 pt.
Provision of public art (i.e. murals, statues, fountains, decorative bike racks, etc.)	No	-	-	-	Yes	4 pts.
sub total this page = 17 pts.						

Landscaping	0	1	2	3	4
Number of non-required trees provided	-	At least one tree per 500 square feet of landscaping.	-	-	-
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	-	-
Low Impact Development (LID)	0	1	2	3	4
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%
Provision of park or open space area	None	-	Open space (Generally not for public use)	-	Park (public or privately owned for public use)

1 pt.

2 pts.

0

2 pts.

N.A. -2 pts. from possible

benches and possible outdoor tables for customers visiting site

Design Criteria	Possible Points				
Use of drought tolerant species in landscaping (% of total plants)	<25% drought tolerant	-	25-50% drought tolerant	51-75% drought tolerant	>75% drought tolerant
Provision of additional interior parking lot landscaping (% of minimum required)	100%	101-110%	111-120%	>120%	-
Provision of an eco-roof or rooftop garden (% of total roof area)	<10%	-	-	10-50%	>50%
Parking integrated within building footprint (below-grade, structured parking, or tuck-under parking) (% of total on-site parking)	<10%	-	-	10-50%	>50%
Disconnecting downspouts from city stormwater facilities	None	Some downspouts disconnected	All downspouts disconnected	-	-
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-

4 pts.

3 pts.

0

0

2 pts.

0

sub total this page = 14 pts.

Provision of rain gardens/bioretention areas for stormwater runoff (% of total landscaped area)	None	-	10-50%	51-75%	>75%	0
Total Possible Points = 71, 60%=42.6 points, 10%=7.1 points						

Total Points Earned: _____ (42.6 required for 60%)

-3 pts N.A., = 68 pts. possible
60% = 41 pts. min. req'd.

Total LID Points Earned: _____ (7.1 required for 10%)

42 points total provided,
therefore project passes.

Total Low Impact Design Points = 11 total provided, therefore project passes.

SITE AND DESIGN REVIEW – TYPE III: APPLICATION PROCESS

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City -or- the Planning Director may determine that a pre-application meeting is required prior to submitting an application. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and set of preliminary plans to the City Planner, and after receiving the Planner's initials, must then make and take (3) copies of the pre-application materials to the Canby Public Works Department to schedule the pre-application meeting. The amount of the fee for a pre-application meeting is based on whether the application involves a public hearing or not.
2. Prior to submitting an application, applicants may be required to hold a neighborhood meeting with surrounding property owners and any recognized neighborhood association representative, pursuant to the procedures described in Canby Municipal Code Section 16.89.070. In certain situations, the Planning Director may waive the neighborhood meeting requirement.
3. At the time an application is submitted to the City, payment of all required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
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. 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 application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
6. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. This material must be posted **by the applicant** at least ten (10) days before the public hearing.
7. The staff report will be available to all interested parties seven (7) days prior to the hearing.
8. The Planning Commission holds a public hearing. The staff report is presented to the Commission. Testimony is presented by the applicant, proponents and opponents, followed by rebuttal from the applicant.
9. The Commission then issues findings of fact which support approval, modification, or denial of the application. A decision may be appealed to the City Council.
10. If an approval or a denial is appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). Unless the City Council decides to hear the appeal de novo, 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.
11. Prior to construction of the project, a preconstruction meeting is held with the City and all applicable utility and service providers. If required, this meeting must be held and approval of Plan set by all agencies, and payment of Canby System Development Charge (SDC) and construction excise tax to the City before issuance of any building permits for the project(s) by Clackamas County.

SITE AND DESIGN REVIEW – DCO TYPE III: STANDARDS AND CRITERIA

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the intent of the following DCO site and design review standards:
 - 16.41.070.A.1.
Design standards in this section are intended to help create an active, inviting street and sidewalk-facing storefronts and entryways that are friendly and easily accessible to passersby. They also will help ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm; and
 - 16.41.070.B.1.
Build upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades; and
 - 16.41.070.C.1.
Build upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between; and
 - 16.41.070.D.1.
Create a strong architectural statement at street corners to create a strong identity. Establish visual landmarks and enhance visual variety; and
 - 16.41.070.E.1.
Use building materials that evoke a sense of permanence and are compatible with Canby's business areas and the surrounding built environment; and
 - 16.41.070.F.1.
Use colors and buildings that are generally compatible with Canby's business areas and the surrounding built environment.
2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.
3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.
4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.

851 S.W. First Ave. New Commercial Building

Applicant & Owner:

Scott 2004 Family L.P.
130 S.W. 2ND Ave., Suite 103
Canby, OR 97013
Phone 503-266-5400

Property Address:

851 S.W. First Avenue, Canby Oregon 97013

Legal & Assessor's Map:

Located in the SW ¼ of Section 34, T4S, R1E, Willamette Meridian
City of Canby, Clackamas County, Oregon
Assessor Map: 4 1EO 44BB, Tax Lot 1002

Lot Area:

0.75 Acres

Zoning:

C-M, Commercial Manufacturing, &
Located in the Outer Highway Commercial portion of the Downtown Overlay Zone.

Architectural Consultant:

Scott Beck Architect
361 N.E. Third Avenue
Canby, OR 97013
(503) 266-9270

Civil Engineering Consultant:

Sisul Engineering, Pat Sisul P.E.
375 Portland Avenue
Gladstone, OR 97027
(503) 657-0188

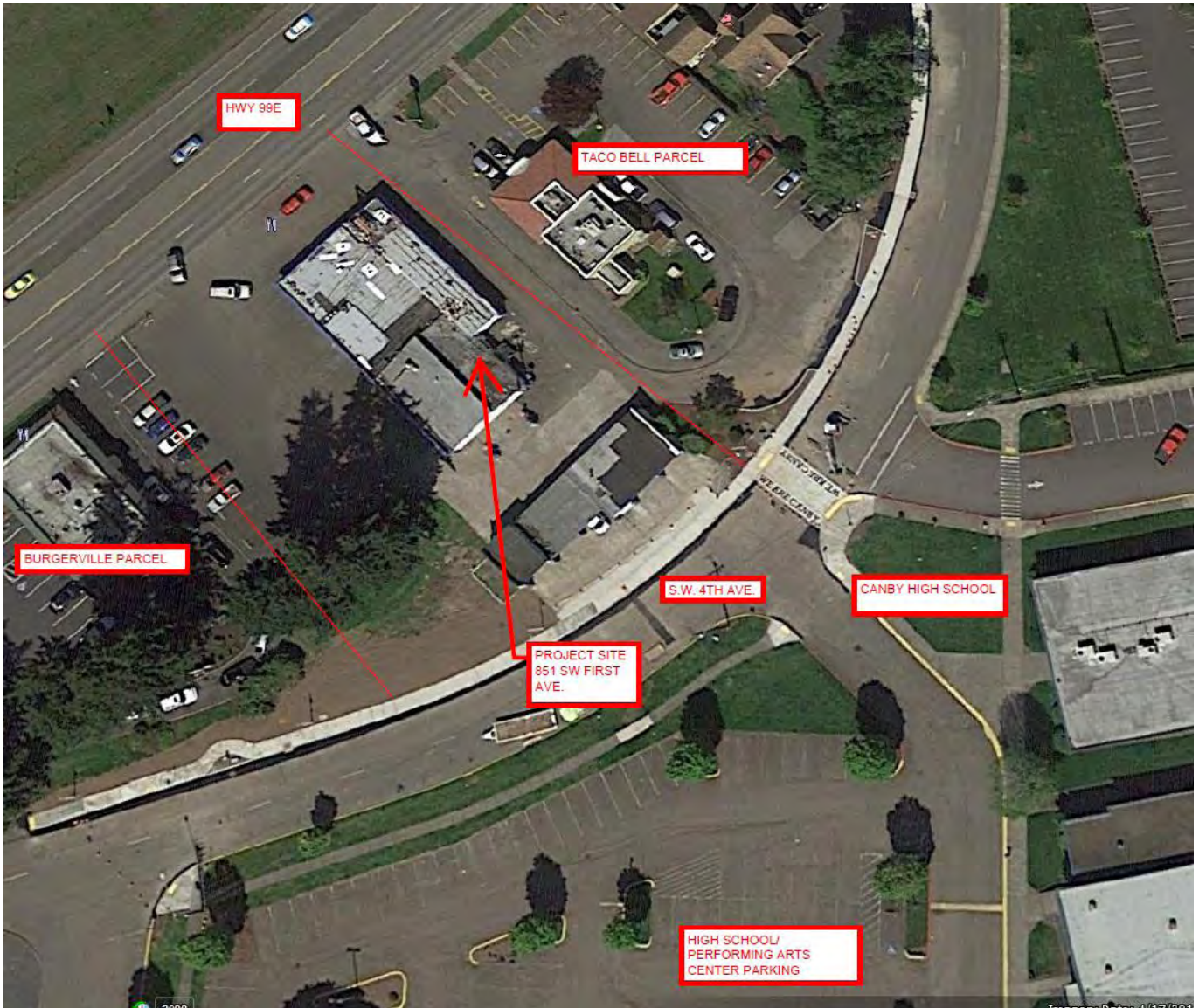
Landscape Consultant:

Aurora Landscape, Zander Prideaux
22333 Boones Ferry Rd. NE
Aurora, OR 97002
(503) 678-1234

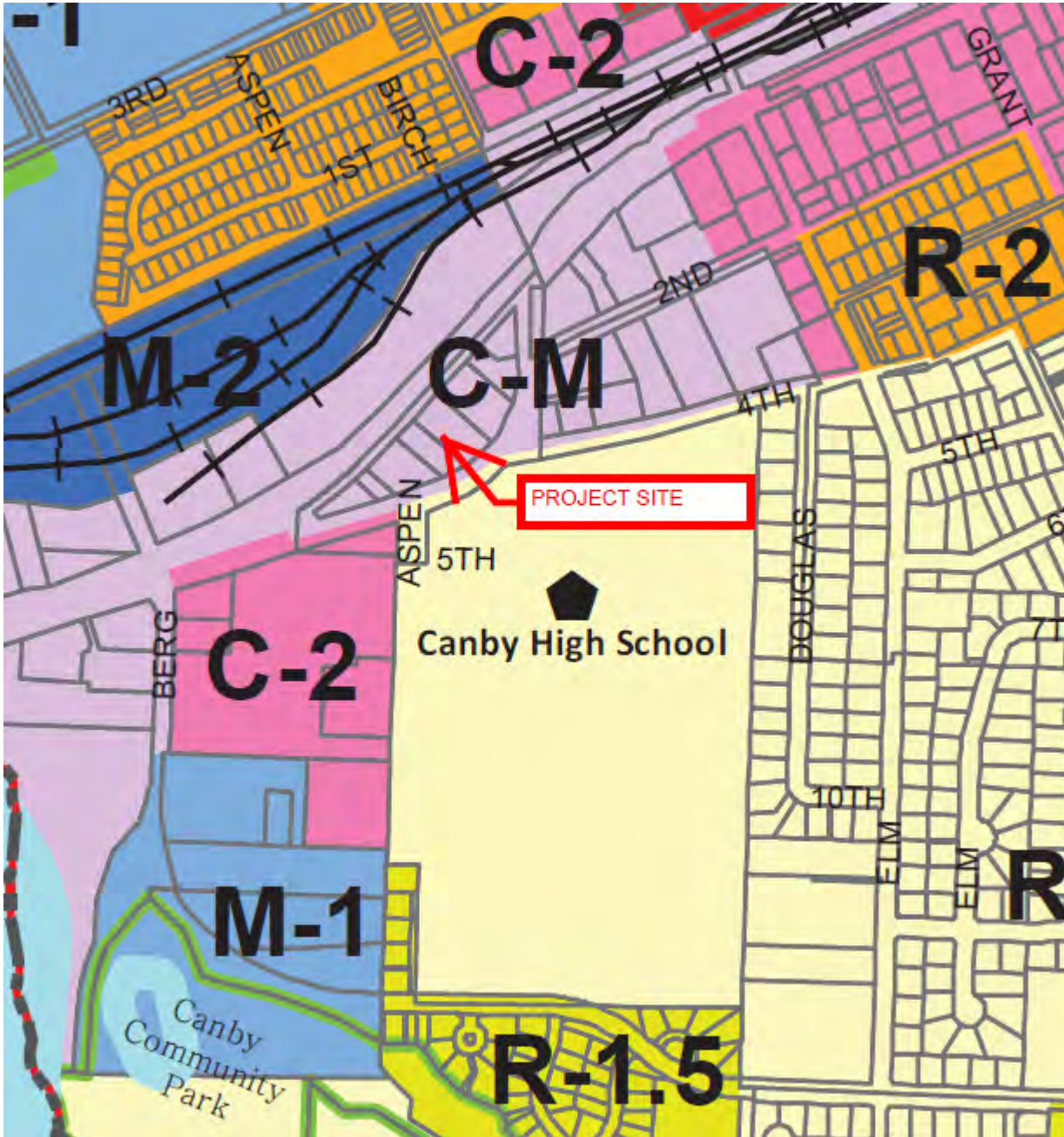
Property Description:

The proposed new Commercial Building is located on a 0.75 Acre site formerly occupied by a Self-serve Laundromat and Car wash facility. The site is situated between the existing Burgerville and Taco Bell restaurants on Highway 99E. (S.W. First Avenue). The site is on the Northside of S.W. 4th Avenue and the Canby High School and Canby Performing Arts Center. Access to the Site is available from both Highway 99E and S.W. 4th Avenue.

Aerial Photo



The site is zoned C-M, Commercial Manufacturing and is located in the Outer Highway Commercial portion of the Downtown Commercial Overlay Zone. Adjoining properties to the North East and West are zoned C-M and parcels to the South is zoned Residential with a Conditional Use being the Canby High School. The property is generally square shaped having nearly parallel boundaries with the exception of the south boundary which follows a large arc. The site is gentle sloping from North to South and is covered by gravel and grass with no trees.



Proposed Development:

The applicant proposes to develop a single Commercial Building which is expected to be leased to Restaurant, Retail and Office use Tenants. The proposed building has a total floor area of 6,109 square feet. The site improvements include paved parking, a drive-up window/ lane, screened trash/ recycling area and pedestrian connections to adjacent streets. Site amenities will include fixed benches, space for seasonal outdoor tables and a decorative bicycle rack.

The building will be constructed of integral color concrete masonry, brick veneer, and painted fiber cement wall panels. Commercial storefront framing will be installed for public windows and doors. Hollow metal doors and frames will be installed at service doors. Wall copings, flashings and awnings will be constructed of pre-finished sheet metal trim and roofing panels.



Utility and Service Requirements:

Water service: A single water meter will supply domestic water to the building for food services, restrooms and janitorial. An irrigation service will be provided for landscaping.

Fire Suppression: Several fire hydrants are located near the site to provide fire suppression water to the proposed building. The building will also be constructed with a commercial fire sprinkler system.

Sanitary sewer: Wastewater will be typical of commercial food service, retail and office space. One private sewer lateral will be provided to plumb each tenant space. The sewer lateral will drain into an existing stub to the South end of the site. Individual tenants will provide separate grease traps or interceptors per plumbing code.

Electrical: A single electrical disconnect will be installed on the South end of the building and will include individual metering for each separate tenant.

Natural Gas: individual gas meters will be installed for each separate tenant.

Phone / cable: Telephone and cable will be needed for internet, phone, t.v. & security of each tenant space.

Storm drainage: Storm water from the new buildings and new pavement surfaces will be managed through construction of water quality manholes and drywells.

Garbage: A masonry trash enclosure with a painted steel gate is proposed for garbage and recycling. Dumpsters or containers will be utilized in association with the Commercial Tenants including food services and Restroom facilities

US Mail: A new mail box unit if requested will be constructed along the private driveway either side of the South Site Entrance as directed by the U.S. Postal Service.

Municipal Code Conformity Title 16

The following text includes all applicable sections of the current City of Canby Title 16 Planning and Zoning Code, followed by a written statement in *highlighted italic text* explaining how the proposed project conforms to the given requirement.

16.10 OFF-STREET PARKING AND LOADING

16.10.050 Parking standards designated

Off-street Parking Provisions – The parking standards identified in Table 16.10.050 are the minimum standards for off-street vehicle parking in the City of Canby. The standards below apply to this development.

<i>Commercial</i>	
a. Retail shops (under 100,000 sq. ft.	2.00 spaces per 1,000 square feet of floor area

b. Retail store handling exclusively bulky merchandise such as furniture, automobile and service repair shops	1.00 space per 1,000 square feet of sales floor area
c. Shopping center (over 100,000 square feet of gross leasable area)	3.00 spaces per 1,000 square feet of gross leasable area
d. Banks/savings and loans	2.00 spaces per 1,000 gross square feet of floor area
e. Medical/dental offices	3.00 spaces per 1,000 gross square feet of floor area
f. General offices	2.00 spaces per 1,000 gross square feet of floor area
g. Real estate offices	2.00 spaces per 1,000 gross square feet of floor area
h. Government offices	3.50 spaces per 1,000 gross square feet of floor area
i. Restaurant	8.00 spaces per 1,000 gross square feet of floor area
j. Take-out restaurant	8.00 spaces per 1,000 gross square feet of floor area

The proposed development may have a variety of commercial tenants. Restaurant and Take-out restaurant represent the most demanding use regarding parking required.

Parking Design is based upon the following scenario:

5,000 s.f. Restaurant or Take-Out x (8) spaces per 1,000 s.f.

=40 stalls required.

1,109 s.f. Retail x (2) spaces per 1,000 s.f.

= 2.22 stalls required

Total Parking Required:

=42.22 stalls

16.10.030 General requirements.

H. The number of vehicular spaces required in Table 16.10.050 may be reduced by up to 10% if one of the following is demonstrated to the satisfaction of the Planning Director or Planning Commission:

2. The proposed development is pedestrian-oriented by virtue of a location which is within convenient walking distance of existing or planned neighborhood activities (such as schools, parks, shopping, etc.) and the development provides additional pedestrian amenities not required by the code which, when taken together, significantly contribute to making walking convenient (e.g., wider sidewalks, pedestrian plazas, pedestrian scale lighting, benches, etc.

The proposed Development will include a pedestrian oriented design and is located near school and other shopping and restaurants. The site improvements will include wide walkways at the building, fixed bench seating the potential for seasonal outdoor seating. Based upon these attributes, the project is allowed a maximum 10% reduction in required parking.

42.22 stalls required x .10 = (-4.22 stalls) = 42.22 – 4.22 = 38 stalls required minimum.

42 stalls are proposed, meeting the minimum parking requirement.

16.10.060 Off-Street loading facilities

A. The minimum number of off-street loading berth for commercial and industrial uses is as follows:

SQUARE FEET OF FLOOR AREA	NUMBER OF BERTHS
Less than 5,000	0
5000 – 25,000	1
25,000 – 60,000	2

The proposed building area at 6,109 s.f. requiring 1 loading commercial loading stall per the above table.

It is difficult to anticipate the potential tenant requirements for Loading, however delivery of bulky freight is not expected. The occasional Fed-Ex truck is common for any commercial business. Food services uses typically receive delivery at off- hours relative to general business and parking peak hours. It is for these reasons that the proposed site design indicates a 13'x35' off-hours loading stall with a minimum 12 foot wide passing lane in the west drive aisle.

This proposal requests that the Planning Commission review and approve the non-dedicated 13'x35 off-hours loading stall in lieu of a fixed dedicated loading berth based upon required size specifications:

1. Commercial Uses – 13' x 35'
3. Berths shall have an unobstructed minimum height of 14 feet.

The proposed loading stall meets the minimum size for a commercial use loading berth and has unobstructed height. The requirements of this section are met.

C. Required loading areas shall be screened from public view, from public streets, and adjacent properties by means of sight-site obscuring landscaping, walls or other means, as approved through the site and design review process.

The proposed loading space is indicated to occur within the parking lot drive aisle. Landscape screening is provided along all parking and site boundaries, however it is not possible to totally screen the space due to driveways open to the streets. This proposal requests that the Planning Commission allow such modified landscape screening at their discretion.

16.10.070 Parking lots and access.

A. Parking Lots. A parking lot, whether as accessory or principal use, intended for the parking of automobiles or trucks, shall comply with the following:

1. Parking lot design shall comply with the dimensional standards set forth in Figure 1 of this section.
2. Parking stalls of eight (8) feet in width and sixteen (16) feet in length for compact vehicles may comprise up to a maximum of thirty (30) percent of the total number of parking stalls. Such parking stalls shall be marked "Compact Parking only" either on the parking surface or on a sign in front of the parking stalls.

Proposed parking stalls are 8'-6" x 18'-0" or 9'-0" x 18'-0" for standard 90 degree stalls and 8'-6" x 16'-0" for compact 90 degree stalls. 24'-0" side back-up aisles are proposed at all parking. The requirements of this section is met.

3. Areas used for standing or maneuvering of vehicles shall have paved asphalt, concrete, solid concrete paver surfaces, or paved “tire track” strips maintained adequately for all weather use and so drained as to avoid the flow of water across sidewalks or into public streets, with the following exception:

a. The Planning Commission may approve the use of an engineered aggregate system for outdoor storage and/or non-required parking areas as part of a Conditional Use Permit provided that the applicant can demonstrate that City Standards related to:

- i.** minimizing dust generation,
- ii.** minimizing transportation of aggregate to city streets, and
- iii.** minimizing infiltration of environmental contaminants including, but not limited to, motor oils, fuels, volatile organic compounds (e.g. benzene, toluene, ethylbenzene, xylene), and ethylene glycol are met.

The Planning Commission may impose conditions as necessary to meet City Standards.

b. Use of permeable surfacing materials for parking lots and driveways is encouraged whenever site and soil conditions make permeable surfacing feasible. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards and the manufacturer's recommendations.

The project proposes to use asphaltic concrete paving. Parking areas and roofs will drain into drywells that will provide stormwater infiltration. Although pervious pavements, pervious concrete and paving stones all work, all of these system are prone to clogging over time. These systems serve a purpose when there are no other options available for stormwater disposal, but they are expensive and they are high maintenance systems. LID paving systems are not a preferred method of stormwater disposal when other low cost alternatives are available. This proposal asks for approval of non-permeable pavement for the stated reasons.

4. The full width of driveways must be paved in accordance with (3) above:

a. For a minimum of 20 feet from the right-of-way line back into the private property to prevent debris from entering public streets, and

b. To within 150 feet of all portions of the exterior wall of the first story of any structure(s) served by the driveway to ensure fire and emergency service provision.

The driveway will be fully and completely paved, therefore meeting this requirement.

6. Groups of more than four (4) parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

The project does not require backing into any street right of way. Therefore, this requirement is met.

7. Off-street parking areas, and the accesses to them, shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrian and vehicular traffic on the site and in adjacent roadways.

The Planning Director or Planning Commission may require engineering analysis and/or truck turning diagrams to ensure safe and efficient traffic flow based on the number and type of vehicles using the site, the classification of the public roadway, and the design of the parking lot and access drives.

The proposed parking and maneuvering layout of the site meet this requirement.

8. Parking bumpers or wheel stops shall be provided to prevent cars from encroaching on the street right-of-way, adjacent landscaped areas, or adjacent pedestrian walkways.

Parking bumpers and curbs are proposed to prevent cars from encroaching into adjacent landscape areas and pedestrian walkways. The provisions of this section are met.

9. Accessible parking shall be provided, constructed, striped, signed and maintained as required by ORS 447.233 and all Oregon Structural Specialty Code requirements.

Two accessible parking stalls are proposed. All will be striped and signed as required.

B. Access.

1. The provision and maintenance of vehicular and pedestrian ingress and egress from private property to the public streets as stipulated in this ordinance are continuing requirements for the use of any structure or parcel of real property in the City of Canby. No building permit or other permits shall be issued until scale plans are presented that show how the ingress and egress requirement is to be fulfilled. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing ingress and egress requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until the required increase in ingress and egress is provided.

Two access points to the site are proposed. One access is to SW First Avenue (Highway 99E.) to the north and a second access is to SW Fourth Ave. to the south. Both access drives will include a pedestrian sidewalk connection between the public right of way and the building entrances. The criteria of this section are met.

2. The City of Canby encourages joint/shared access. Owners of two (2) or more uses, structures, or parcels of land may agree to, or may be required by the City to, utilized jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designed in this ordinance, provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts shall be placed on permanent files with the city recorder.

The Existing dedicated separate access drive to S.W. First Avenue was permitted per ODOT. With this submittal this project is pursuing a slight relocation of the drive to the west under the ODOT "indenturement" process. Shared access in this case is not recommended due to existing and proposed traffic patterns on this and the adjacent developments.

3. All ingress and egress shall connect directly with public streets.

The proposed ingress and egress will be via a curb cut to public streets. The requirement of this section is met.

5. Required sidewalks shall extend from the ground floor entrances or the ground floor landing of a stairs, ramps or elevators to the sidewalk or curb of the public street or streets that provide the required access and egress.

New sidewalks are proposed to connect the Building to the public sidewalks along both frontages. The proposed sidewalks satisfy the requirement of this section.

6. To afford safe pedestrian access and egress for properties within the city, a sidewalk shall be constructed along all street frontages, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to city standards except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design, and in a manner approved by the Site and Design Review Board. Sidewalks approved by Board may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grade and alignment established by the Site & Design Review Board.

New sidewalks are proposed along both of the site's street frontages. This requirement is met.

7. The standards set forth in this ordinance are minimum standards for access and egress, and may be increased through the site and design review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety and general welfare.

16.10.070(B)(9): Minimum access requirements for commercial or institutional uses - ingress and egress for commercial uses shall not be less than the following:

<i>Parking spaces required</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks & curbs (in addition to driveways)</i>
5-99	1	20 feet	Curbs required; sidewalk on one side minimum

8. One-Way Ingress or Egress – Way Ingress or Egress – When approved through the site and design review process, one-way ingress or egress may be used to satisfy the requirements of subsection (H), (I) and (J). However, the hard surfaced pavement of one-way drives shall not be less than twelve (12) feet for multi-family residential, commercial or industrial uses.

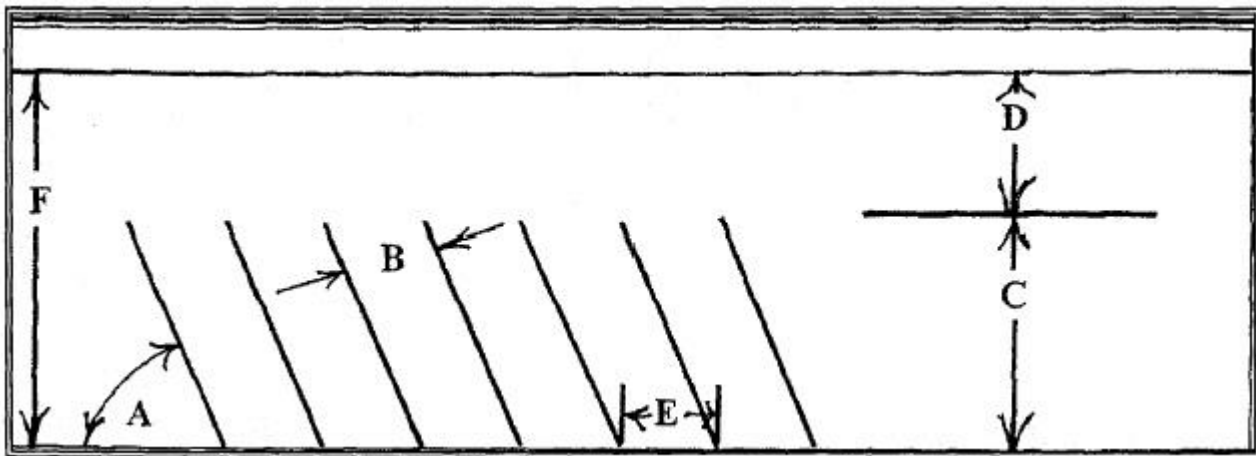
9. Maximum driveway widths and other requirements except for single-family dwellings [see subsection (d) below]:

- a. Unless otherwise herein provided, maximum driveway widths shall not exceed forty (40) feet.

- b. No driveways shall be constructed within five (5) feet of an adjacent property line, except when two (2) adjacent property owners elect to provide joint access to their respective properties as provided by subsection 2.

The project will utilize a new paved drive ways, measuring 32 feet wide to the north and 25 feet wide to the south. The access driveways will be curbed on both sides. Internal driveways will have a minimum access width of 24 feet, one way drive aisles will be 12 feet wide, both meeting the minimum access width requirements. Sidewalks will be constructed adjacent to the proposed building and extend to the north and south public sidewalks. The requirements of these sections have been met.

TABLE 16.10.070 Minimum dimensional Standard for Parking					
This table and Figure 16.10.070 provide the minimum dimensional standards for parking areas and spaces. A = Parking angle in degrees D = Minimum clear aisle width B = Minimum stall width E = Minimum clear stall distance at bay side C = Minimum stall depth F = Minimum clear bay width					
A	B	C	D	E	F
0 (parallel)	8'0"	-	12'0"	22'0"	20'0"
30	8'6"	16'4"	12'0"	17'0"	28'4"
45	8'6"	18'9"	12'6"	12'0"	31'3"
60	8'6"	19'10"	18'0"	9'10"	37'10"
90	8'6"	18'0"	24'0"	8'6"	42'0"



All proposed parking stalls are 0 or 90 degrees. All proposed parking stalls meet or exceed the minimum requirements of this section.

16.10.090 Drive-up uses.

- A. Drive-up uses shall provide a minimum stacking area clear of the public right-of- way or parking lot aisle from the window service to the vehicles as follows:

1. All drive-up uses. – Each lane shall provide a minimum capacity for two (2) to eight (8) automobiles, as determined by the Site and Design Review Board.

2. For purposes of this section, an automobile shall be considered no less than twenty (20) feet in length. The width and turning radius of drive-up aisles shall be approved by the City Public Works Director.

The proposed drive up lane is designed to accommodate (8) automobiles of 20 feet in length. This requirement is met.

B. The stacking area shall not interfere with safe and efficient access to other parking areas on the property. Traffic aisles shall be wide enough to accommodate backing movements where adjacent to parking stalls. Parking maneuvers shall not occur in the stacking area. (Ord. 848, Part VII, section 16.10.090, 1990)

The proposed drive up lane is designed to accommodate (8) automobiles without interfering with parking or pedestrian cross walks elsewhere on the property . This requirement is met.

16.10.100 Bicycle Parking.

Bicycle parking shall be provided for all multi-family residential, institutional, commercial, and industrial uses.

A. Dimensions and characteristics: Bicycle parking spaces shall be a minimum of six (6) feet long and two (2) feet wide, and overhead clearance in covered spaces shall be a minimum of seven (7) feet. A minimum five (5) foot aisle for bicycle maneuvering shall be provided and maintained beside or between each row of bicycle parking. Bicycle racks located on a sidewalk shall provide a minimum of two (2) feet between the rack and a wall or other obstacle, and between the rack and curb face. Bicycle racks or lockers shall be securely anchored to the surface or a structure. Bicycle racks located in the Downtown Commercial Zone shall be of the inverted U style (a.k.a. staple racks). See Figure 20 of the Canby Downtown Plan for correct rack placement.

B. Location: Bicycle parking shall be located in well-lit, secure locations within fifty (50) feet of the main entrance to a building, but not further from the entrance than the closest automobile parking space, and in no case further than 50 feet from an entrance when several entrances are involved.

C. Number of spaces: The bicycle parking standards set out in Table 16.10.100 shall be observed.

TABLE 16.10.100 BICYCLE PARKING STANDARD	
LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES
Restaurants	1 space per 1000 ft ²
Retail	0.33 stalls per 1000 ft ²

Per the uses listed above in Table 16.10.100, the restaurant and retail portions of building are calculated separately. A minimum of 5 bicycle spaces will be required.

Restaurant space: 1 stall per 1,000 s.f. x 5,000 s.f. = (5) bike stalls.

Retail space: 0.33 stalls per 1,000 s.f. x 1,109 s.f. = (.36) bike

Rounding to (5) bike stalls required.

The Site Plan indicates a bike rack, at the NW corner of the proposed building adjacent to the tenant entrances accommodating 5 bicycles. The rack will be less than 50 feet from a building entrance and will be lit to the level the adjacent parking lot. The requirements of this section have been met.

16.30 C-M HEAVY COMMERCIAL MANUF. ZONE

16.30.010 Uses permitted outright.

Uses permitted outright in the C-M zone shall be as follows:

- A. A use permitted outright in a C-2 zone, other than dwelling units;

Restaurant, Retail and Office uses are allowed per the C-2 zone.

16.30.030 Development standards.

The following subsections indicate the required development standards of the C-M zone:

- A. Minimum lot area: none.

This requirement is met.

- B. Minimum width and frontage: none.

This requirement is met.

- C. Minimum yard requirements:

- 1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line.

Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

The proposed Street yard setback from Highway 99E is 21'-7". This requirement is met.

- 2. Interior yard: none, except ten feet where abutting a residential zone.

These requirements are met.

- D. Maximum building height:

- 1. Freestanding signs: thirty feet;

The proposed Pole Sign is 18' maximum in height. This requirement is met.

- 2. All other structures: forty-five feet

The proposed Building is 23 ft tall. This requirement is met.

E. Maximum lot coverage: sixty %.

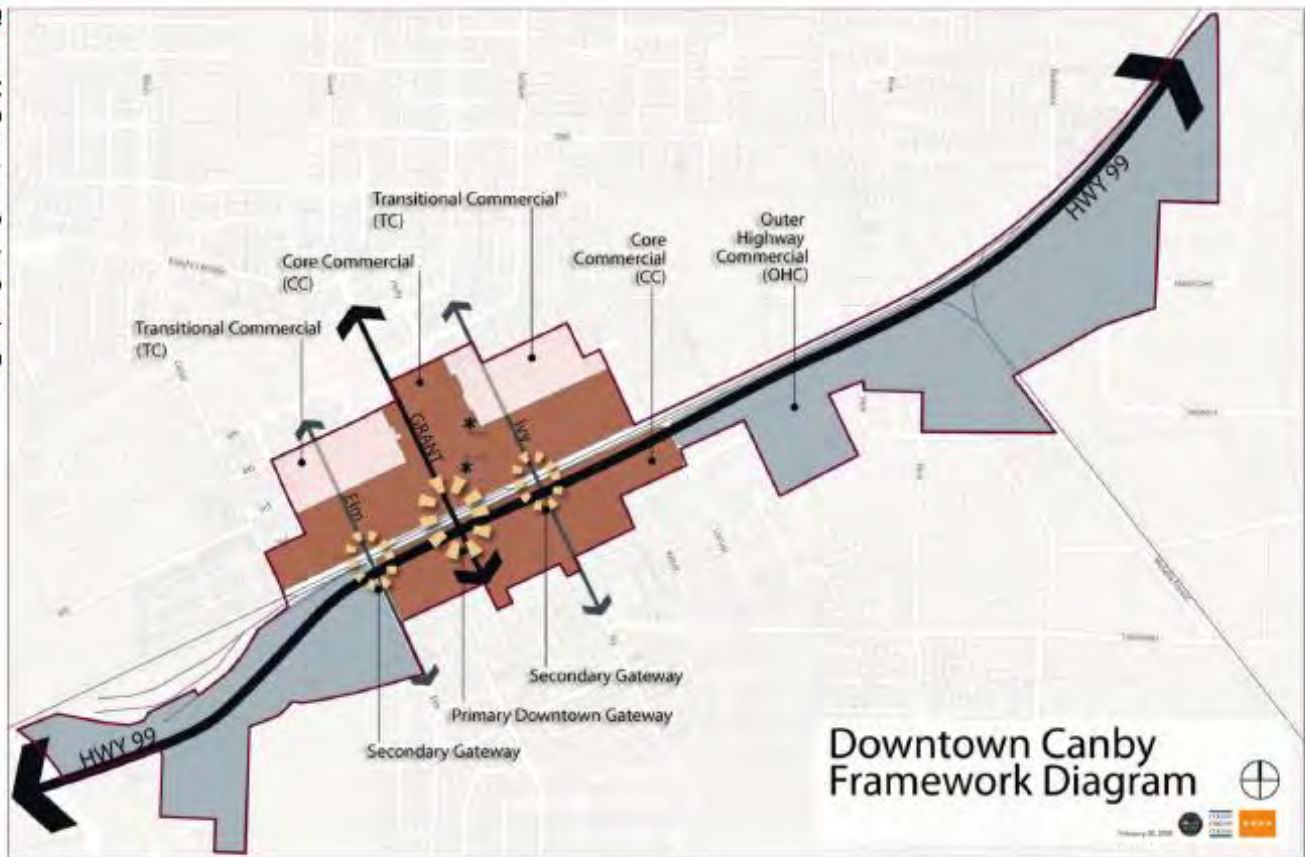
The proposed lot coverage is 19% building to site. This requirement is met.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.
2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:
 - a. In those locations where angle parking is permitted abutting the curb, and
 - b. For property frontage along Highway 99-E.

The proposed development proposes an 8 foot sidewalk along Hwy. 99E. and proper vision clearances. The proposed development meets all of the C-M zone requirements, however more stringent requirements may apply under the Downtown Commercial Overlay Zone , Outer Highway Commercial (OHC).

Figure 11 Downtown Canby Overlay Zone



16.41 Downtown Overlay Zone, Outer Highway Commercial (OHC)

16.41.020 Applicability.

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

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

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

3. Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of Locust Street. This area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.

B. The DCO zone has the following effect with regard to other chapters of this ordinance:

1. Permits land uses which are permitted by the underlying zone districts, with some exceptions, as set forth in Sections 16.41.030 and 16.41.040.

2. Replaces selected development standards in the underlying zone districts, as set forth in Section 16.41.050.

Figure 6

Example of high-quality screening design

Figure 7

Example of well-planned landscaping

Figure 8

These buildings in the commercial core illustrate desired design features in that area

3. Sets forth alternative design review standards and criteria tailored to implement the goals of the overlay zone, as set forth in Section 16.41.060. (Ord. 1296, 2008)

C. The DCO does not apply to approved Public Art Murals as defined in CMC Chapter 2.80.020. (Ord. 1341, 2011)

16.41.030 Uses permitted outright.

Unless modified pursuant to the following Subsection, uses permitted outright in the underlying base zones are permitted outright in the DCO zone, subject to the respective zone district boundaries.

A. Uses permitted in the C-1 zone are permitted in the DCO zone, except in the Transitional Commercial (TC) sub-area, the following residential uses are also permitted, provided they meet all R-2 development standards in Chapter 16.20:

1. Single-family dwelling having common wall construction;
2. Two-family dwelling;
3. Multi-family dwelling;
4. Accessory dwelling attached to a primary dwelling (sharing a common wall);
5. Boarding, lodging or rooming house;
6. Nursing home, convalescent home, home for the aged, board and care home, foster care home, etc.;
7. Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks;

Figure 9

Examples of less intensive development in the Transitional Commercial area

Figure 10

Examples of development in the Outer Highway Commercial area

The proposed development occurs within the Outer Highway Commercial Area (OHC) The Uses are permitted outright per the C-1 and C-2 zones. The OHC Overlay the Replaces the C-M zone requirements.

16.41.050 Development standards.

The following subsections indicate development standards required in the DCO zone. These standards supplement, and in some cases replace, the development standards in the underlying base zones. Where the standards set forth in the following subsections conflict with standards in the underlying base zone, the DCO development standards set forth below supersede the base zone standards.

A. Setbacks, Floor Area Ratio, Building Footprint and Height Requirements.

1. Setbacks. Minimum and maximum setbacks for each DCO subarea are described in Table 1 and must meet the following requirements:

- a. Mechanical units used for the heating/cooling of dwelling units are exempt from interior yard and rear yard setback requirements.
- b. At least x% of the length of each lot frontage shall be developed with a building(s) built at the minimum setback from the street lot line (see Table 2 and Figure 12).
- c. Where feasible, buildings should be located at one or both street-facing corners of a lot.
- d. At the street intersections identified as gateways in Figure 11 (Downtown Canby Overlay Zone Map), any new building shall be located at the corner of the lot facing the intersection.

Table 1. Setback Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum setback	0 feet	0 feet	10 feet
Maximum setback from street lot lines	10 feet	15 feet	--

This proposal requests that the Planning Commission review and approve a setback greater than the required 10 feet. Allowing for the proposed 21'-8". Justification for this request will be listed at the end of this Narrative.

Table 2. Street Lot Minimum Setback Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum percentage (x)	60%	60%	40%

This proposal requests that the Planning Commission review and approve a setback greater than the required 10 feet. Allowing for up to 35 feet at which point the frontage can be measured. The existing Highway 99E frontage is 155 feet; the proposed north façade is 68 feet wide. This represents 43.8% of the frontage. Justification for this request will be listed at the end of this Narrative.

2. Floor area ratio, building footprint, and building height. Minimum floor area ratio, maximum building footprint, and maximum building height requirements for each DCO subarea are described in Table 3 and illustrated in Figures 13, 14, and 15. Footprints are exclusive of exterior displays or merchandise (e.g., garden centers).

Table 3. Floor Area Ratio Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum floor area ratio	0.8, C-1 zone only	0.4	0.25
Maximum building footprint (square feet)	30,000 total	20,000 total	80,000 per use 100,000 all uses within footprint if more than 1 use (see Figure 13)
Maximum building height (see Figure 14)	60 feet	45 feet	45 feet

1. This proposal requests that the Planning Commission review and approve a F.A.R. ratio of 18.5% in lieu of the required 25%. Justification for this request will be listed at the end of this Narrative.

2. With a total floor area of 6,190 s.f. and a maximum building height of 23' the proposed design meet the maximum building area and building height requirements.

3. Screening. All exterior garbage collection areas, recycling collection areas and mechanical equipment shall be screened with a site obscuring fence, landscaping on all sides, wall, other enclosure, or architectural element per the requirements below (see Figure 16 for examples of good screening design).

a. Location. Wherever possible, locate screened areas away from the street.

b. Materials. Materials used to construct screening structures shall be consistent and compatible with the exterior materials on adjacent buildings located on the same lot as the screened area or located on a contiguously- owned abutting lot, and shall be consistent with the material requirements of Section 16.41.070.E and 16.41.070.F.

This proposal includes a Masonry trash and recycling enclosure with a painted steel gate. This Trash enclosure will be 6' minimum in height to properly screen any dumpster. The masonry on the trash enclosure will match the building masonry. These requirements are met.

c. Buffering. Screening structures shall be buffered from surrounding areas on all sides with landscaping or other buffering elements.

The trash enclosure has landscape buffering on all sides except for the driveway. This requirement is met.

d. Rooftop structures. Rooftop mechanical structures shall be screened and not visible from any visible public right-of-way at the same elevation as, or lower than, the

base of the building. Screening structures should be compatible with the overall building design and may include the following elements or approaches:

The rooftop hvac units will be screened from public view by the building perimeter parapet walls. This requirement is met.

4. Parking. Parking areas shall meet the following standards in addition to all other applicable requirements.

b. Side of building parking areas. In the CC, TC, and OHC subareas, parking shall be permitted between a building and an interior lot line that is not a rear lot line, provided the following standards are met:

(1) Parking and maneuvering areas shall be set back a minimum of 15 feet from the front lot line;

This proposal requests that the Planning Commission review and approve a setback less than the require 15 feet.. Approving the proposed 5'-6" setback to the face of the proposed drive-up egress aisle north of the building and abutting Hwy 99E. Justification for this request will be listed at the end of this Narrative.

(2) A minimum 5 foot wide landscaped strip shall surround and abut the perimeter of the parking and maneuvering area, except where vehicular driveways and pedestrian access ways are permitted to interrupt the landscaped strip, and except where the parking and maneuvering area is part of a larger parking area in which case a perimeter landscaping strip is not required between the side of building parking area and the remainder of the parking area;

All parking and maneuvering areas are surrounded by a 5 foot minimum perimeter landscape Buffer. This requirement is met.

(3) Parking and maneuvering areas, including access ways and driveways, must not exceed 40 percent of a lot frontage in the TC and CC subareas, or 60 percent of a lot frontage in the OHC subarea;

The proposed parking and maneuvering on the side of the building represents 57% of the frontage. This requirement is met.

16.41.060 DCO site and design review guidelines.

B. Applicability.

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



Figure 27
Examples of development in the Outer Highway Commercial sub-area

Transitional Commercial zone allow for this flexibility, while ensuring appropriate transitions between this area and the Core Commercial sub-area, as well as between buildings within the Transitional Commercial sub-area (see Figures 25 and 26).

c. Outer Highway Commercial Sub-Area (OHC). The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible. While this goal will be largely accomplished through the development standards (i.e., locating parking lots next to and behind building and the street, requiring high quality landscaping, particularly in front setbacks and around parking areas, and requiring that buildings orient to walkways), architectural design standards will also aid in this effort. The result will be automobile-oriented highway uses that demonstrate high-quality design and that evoke a sense of permanence (see Figure 27).

The proposed site and building design for this Project conforms to the core standards of the OHC Sub-Area in the following manner:

1. The site design is Automobile oriented with easy access to Hwy. 99E and with the inclusion of a drive-up service lane and window.
2. The pedestrian experience to and from the site are enhanced with wide concrete walkways with landscaped edges connecting to S.W. 4th Street and across the site to Hwy. 99E. The walkways at the building are between 9 feet and 12 feet wide. This width will allow opportunities for fixed bench seating and seasonal outdoor tables.
3. The parking is located to the side and rear of the building relative to the primary Hwy 99E frontage.
4. High quality and draught resistant landscape materials are proposed in all landscape planters and buffers.
5. The proposed Architecture of the building has a visual interest to the design due to variations in massing, wall planes, and shadow lines created by columns piers roof overhangs and awnings.

16.41.070 DCO site and design review standards.

The following design standards provide a framework for how a building should look, function, and feel. The standards are organized by topic and consist of the following elements:

- Intent Statement - the big idea or the goal to be accomplished (ex. “protect pedestrians from sun, wind, and rain”). In addition to providing context for specific standards, these statements are used to evaluate applications as part of an alternative review process administered by the City’s Design Review Board (see Section 16.49.035).
- Standards which provide clear, objective guidance related to specific design elements, in many cases providing options for how to meet a specific goal, and varying by sub-area.
- Illustrative graphics, including photos and diagrams, with an emphasis on examples of good design found in Canby and other communities.

A. Pedestrian oriented ground floor design standards.

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

2. Design standards and applicability.

Standards	Applicability
1. Ground floor windows	
a. Visible transmittance. All commercial ground floor windows must have a Visible Transmittance (VT) of 0.6 or higher, with the exception of medical and dental offices which may have tinted windows.	CC, TC, OHC
The Proposed storefront doors and windows will have a Visual Transmittance of 0.6 or higher. This requirement is met.	
b. Primary Street facing façade – primary façade coverage. Transparent windows shall be used along a minimum of x% of the length of the ground-level primary street-facing façade, and along x% ground-level primary street-facing wall area (See Figure 34). Ground level walls include all exterior wall areas up to 10 feet above the finished grade. Primary and secondary street facing facades are defined in section 16.41.060. 55% is provided including wall openings. Req. is met.	CC: x=60% TC: x=50% OHC: x=50% for buildings with less than 6,000 square feet of floor area and 25% for buildings with more than 6,000 square feet of floor area or located more than 75 feet from a lot line.

<p>c. Secondary Street facing façade – secondary façade coverage. Transparent windows shall be used along a minimum of x% of the length of the ground-level secondary street-facing façade, and along x% of the overall secondary street-facing wall area (See Figure 35). Ground level walls include all exterior wall areas up to 10 feet above the finished grade.</p> <p>35% is provided. This requirement is met.</p>	<p>CC: x=50% TC: x=45% OHC: x=40% for buildings with less than 6,000 square feet of floor area; 25% for buildings with more than 6,000 square feet of floor area or located more than 75 feet from a lot line.</p>
<p>d. Alley facing façade coverage. Facades facing alleys shall provide windows along x% of the length of the alley-facing façade and along y% of the overall wall area of the alley-facing façade. Wall area shall be measured to a height of 10'-0" above the finished grade. Not applicable.</p>	<p>CC, TC: x=50%; y=25% OHC: x=30%; y=20%</p>

Standards	Applicability
<p>2. Building entries and doors</p>	
<p>a. Orientation. All buildings shall have a prominent entry oriented to and directly connected to the sidewalk. When buildings are set back from the sidewalk, a direct, perpendicular connection between the building and the sidewalk is required. Additional entries may be provided and serve as principal entries (e.g., oriented to parking areas to the side or rear of buildings). (See Figure 36)</p>	<p>CC, TC</p>
<p>b. Transparency. The street-facing building entry door on all buildings should be comprised of at least 40% transparent glass. The entry door includes any flanking or transom windows. (See Figure 37)</p>	<p>CC, TC, OHC</p>
<p>The entry door and flanking and transom windows are 80% transparent glass. This requirement is met.</p>	
<p>c. Flanking or transom windows. Commercial and mixed-use building doors shall include flanking glass windows on either side of the principal door and/or clerestory/transom windows. (See Figure 38).</p>	<p>CC, TC, OHC</p>
<p>Flanking and transoms windows are included in the design. This requirement is met.</p>	
<p>d. Design features. Commercial and mixed-use building entries must comply with at least x of the following:</p> <ul style="list-style-type: none"> (1) Recessed entries. If recessed, principal entries shall be recessed a minimum of 3 feet into the building façade (see Figure 39). (2) Awnings or canopies. These may be used to provide weather protection and a visual element and meet standards (see Figure 40). (3) Architectural features. Principal entries may be reinforced with prominent architectural features such as towers, turrets, increased heights, articulated parapets, large storefront windows and doors, or entry awnings (see Figure 41). (4) Decorative features. Entries may be reinforced through the use of decorative exterior light fixtures (i.e., wall sconces) or decorative features (see Figure 42). (5) Engaged columns or piers may be used to reinforce and highlight entries (see Figure 43). 	<p>CC: x=3; TC: x=2; OHC: x=2</p> <p>Three Design Features have been included in the proposed building design. This requirement is met.</p>

Standards	Applicability
<p>3. Transition areas. One of the following design elements (a or b) is required for buildings that span more than 75% of a city block or 350 feet. The City encourages smaller property owners to work together to collaboratively provide similar features in other areas.</p>	<p>CC only; Encouraged but not required in the TC or OHC</p> <p>Not Applicable to OHC</p>
<p>a. Arcades as defined in section 16.41.060 and that meet all of the following standards:</p> <ul style="list-style-type: none"> (1) Front entries must be set back a minimum of 6' (clear) behind an arcade that is located at the front property line or the adjusted property line. (2) Spacing between columns and/or posts along building be a minimum of 10' (clear) and a maximum of 25' (clear). (See Figure 44) <p>b. Courtyards or plazas that meet all of the following standards (see Figure 45):</p> <ul style="list-style-type: none"> (1) Courtyards or plazas shall be located along the sidewalk-facing façade of the building within the front setback. Internal courtyards may be provided but will not satisfy these requirements. (2) Courtyard-facing facades shall include windows along a minimum of 50% of the length of the ground level courtyard-facing façade, and along 25% of the overall courtyard-facing wall area. (3) Courtyards/ plazas shall incorporate special paving (see Figure 46) and/or landscaping. (4) Courtyards/plazas shall provide seating, including but not limited to benches, tables, planter boxes, and other design elements. 	

B. Cohesive architectural elements standards.

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

Standards	Applicability
1. Architectural bays	
a. Bay divisions. Ground floors of commercial and mixed-use buildings shall be divided into distinct street-facing architectural bays that are no more than x feet on center. (See Figure 48). For the purpose of this	CC, TC: x=30; OHC: x=50
The proposed design has distinct street facing bays no more than 35 feet wide. This requirement is met.	

Standards	Applicability
standard, an architectural bay is defined as the zone between the centerlines of two columns. Applicants are encouraged (but not required) to divide the ground floor into an odd (rather than even) number of architectural bays.	
b. Height of bays. For large single-story buildings (greater than 6,000 square feet), taller than 16 feet, design and decorative elements required in sections 3, 4 and 5 will extend to the top of the ground floor (i.e., just below the roof, cornice or parapet).	OHC
c. Design elements. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (see Figure 49): <ul style="list-style-type: none"> (1) Engaged columns or piers. (2) Transom windows over doorways. (3) Storefront cornice or beltcourse (4) Canopies, awnings, or overhangs provided along a minimum of 50 percent of the overall street-facing building length. (5) Storefront frieze or sign band. (6) Bulkheads. 	CC: x=3; TC: x=2; OHC: x=2 Four Design Features have been included in the proposed building design. This requirement is met.

<p>d. Decorative accents. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (See Figure 50):</p> <ul style="list-style-type: none"> (1) Projecting window sills (12 to 24 feet above grade). (2) Horizontal and vertical window mullions. (3) Building lighting (minimum of 2 lights), including wall sconces, pendants, gooseneck fixtures, or lighting recessed into awnings. Wall-mounted fluorescent lights and internally lit awnings are not permitted. (4) Medallions (minimum of 2). (5) Projecting or blade signs (8 to 12 foot clearance from bottom of sidewalk). 	<p>CC: x=3; TC: x=2; OHC: x=2</p> <p>Two Design Features have been included in the proposed building design. This requirement is met.</p>
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C. Integrated building façade standards.

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

Standards	Applicability
<p>1. Distinct base, middle, and top of building</p> <p>a. All buildings (regardless of height or number of stories) shall have a clear and distinct base, middle and top to break up vertical mass. (See Figure 51). Buildings must utilize horizontal bands and/or changes in color, material, form and/or pattern to differentiate the base, middle, and top of the building subject to the following requirements. These elements are required on all street facing facades and the side of the building on which the primary entrance is located if it does not face a street.</p>	<p>CC, TC, OHC</p> <p>The Building Architectural design includes a clear base, middle and top to break-up the vertical mass. This requirement is met.</p>

4. Top of building design elements.	
a. Roof forms may be flat or sloped. Requirements for chosen roof forms are as follows:	CC, TC, OHC
b. Flat roofs. All flat roofs shall employ a detailed, projecting cornice or projecting parapet to visually “cap” the building and meet all of the following requirements: (1) Cornices shall project horizontally a maximum of 3 feet (see Figure 58). (2) Parapets must be a minimum of 24 inches in height. Parapets must include a cornice, molding, trim, or variations in brick coursing (see Figure 59). (3) Cornices and parapets shall wrap around all sides of the building visible from any adjacent street or parking area.	CC; TC; OHC The proposed Building design meets all three of these parameters. This requirement is met.
c. Sloped roofs must meet all of the following requirements: (1) All sloped roofs shall provide a minimum 1-foot overhang. (2) All sloped roofs must have a minimum slope of 4:12 (see Figures 14 and 60).	CC; TC; OHC The proposed Building design meets both of these parameters. This requirement is met.

Standards	Applicability
d. Roof top gardens are encouraged on flat roofs, as they help to manage stormwater run-off that would otherwise go into storm sewers, and eventually rivers and streams. Roof gardens with plant materials that are visible from the sidewalk and the street are particularly encouraged. (See Figure 61).	CC; TC; OHC None provided as not mandatory.

E. Materials standards.

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

2. Design standards and applicability. Materials allowed in the CC, TC and OHC sub-areas are summarized in the following table in terms of primary, secondary and accent materials. Other materials may be permitted through the design review process described in Chapter 16.49.

Standards	CC	TC	OHC
Primary materials – 70% or more of building façade, excluding windows and transparent doors.	Brick Stone Stucco/EIFS	Brick Stone Stucco/EIFS Wood siding Hardy Plank	Brick Stone Stucco/EIFS Wood siding Hardy Plank Split-face CMU Tilt-up concrete Spandrel glass curtain walls
Secondary materials – up to 25% of building façade, excluding windows and transparent doors.	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls
			The above Primary and Secondary materials conform to these area parameters. This requirement is met.

Standards	CC	TC	OHC
Accent materials – up to 10% of building façade, excluding windows and transparent doors.	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim
			The above accent materials conform to the area parameters. This requirement is met.

F. Color palette

1. Intent. Use colors on buildings that are generally compatible with Canby’s business areas and the surrounding built environment.
2. Design standards and applicability. Applicants are strongly encouraged to use colors from, or consistent with, the Sherwin-Williams Arts and Crafts color palette (i.e. with the same paint color codes).

The proposed building exterior color scheme is consistent with these subtle and rich colors of the Sherwin Williams Color family mentioned. This requirement is met.


16.42 SIGNS

16.42.040 Design standards for signs.

The following standards apply to signs in all zone districts. Signs are required to meet the setback requirements of the applicable zone district, except however the street yard setback for signs may be reduced to fifty (50) percent of that required for other structures in the zone. Signs shall not obstruct a vision clearance area required in the applicable zone district.


16.42.050 Size, type, and location of signs permitted by zoning district and use.

In addition to the design standards for signs in Section 16.42.040, Table 16.42.050 sets forth standards for type, size, and location of permanent signs that are allowed in specific zoning districts. The table is arranged by section as follows:

<u>Pole Sign</u>		
A. Use on site: church, school, or public facility.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign may be located adjacent each street frontage.
B. Use on site: Minor business complex.		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 20 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
C. Use on site: Major business complex.		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 26 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
D. Use on site: All other uses.		

Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage.
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The proposed pole sign will meet the listed requirements of 100 s.f max. per face and 18 ft. maximum height. Final sign design will be submitted with sign permit application.

Wall Sign	
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A. Use on site: All uses.

Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)

<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Except as allowed below, each sign is limited to a maximum of 120 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Except as allowed below, each sign is limited to a maximum of 60 square feet.</p> <p>If the building elevation area of a primary or secondary building frontage exceeds 5,000 square feet, the maximum sign face area of each sign allowed on that frontage is 190 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location except that one major tenant per location may up to two signs. For the purposes of the standard, a “major tenant” shall have more than 20,000 square feet of gross floor area.</p>
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Walls signs are to be determined by future tenants, but will conform to the OHC signage requirements.

16.43 OUTDOOR LIGHTING STANDARDS

16.43.040 Lighting Zones.

A. Zoning districts designated for residential uses (R-1, R-1.5 and R-2) are designated Lighting Zone One (LZ 1). All other zoning districts are designated Lighting Zone Two (LZ 2).

B. The designated Lighting Zone of a parcel or project shall determine the limitations for lighting as specified in this ordinance.

Table 16.43.040 Lighting Zone descriptions

Zone	Ambient Illumination	Representative Locations
LZ 1	Low	Rural areas, low-density urban neighborhoods and districts, residential historic districts. This zone is intended to be the default for residential areas.
LZ 2	Medium	High-density urban neighborhoods, shopping and commercial districts, industrial parks and districts. This zone is intended to be the default condition for commercial and industrial districts in urban areas.

This commercial usage will be in the LZ (Lighting Zone) 2.

16.43.060 Prohibited Light and Lighting.

A. All outdoor light sources, except street lights, shall be shielded or installed so that there is no direct line of sight between the light source or its reflection at a point 3 feet or higher above the ground at the property line of the source. Light that does not meet this requirement constitutes light trespass. Streetlights shall be fully shielded.

Lighting will be installed to meet the requirements of this section. Cut sheets for proposed Phillips wall luminaires are submitted with the application.

B. The following lighting systems are prohibited from being installed or used except by special use permit:

1. Aerial Lasers.
2. "Searchlight" style lights.
3. Other very intense lighting, defined as having a light source exceeding 300 watts.

None of the above lighting systems are proposed, the provisions of this section are met.

16.43.070 Luminaire Lamp Wattage, Shielding, and Installation Requirements.

A. All outdoor lighting shall comply with the limits to lamp wattage and the shielding requirements in Table 16.43.070 per the applicable Lighting Zone. These limits are the upper limits. Good lighting design will usually result in lower limits.

B. The city may accept a photometric test report, demonstration or sample, or other satisfactory confirmation that the luminaire meets the requirements of the shielding classification.

C. Such shielded fixtures must be constructed and installed in such a manner that all light emitted by the fixture complies with the specification given. This includes all the light emitted by the fixture, either directly from the lamp or by a diffusing element, or indirectly by reflection or refraction from any part of the fixture. Any structural part of the fixture providing this shielding must be permanently affixed.

D. All canopy lighting must be fully shielded. However, indirect upward light is permitted under an opaque canopy provided that no lamp or vertical element of a lens or diffuser is visible from beyond the canopy and such that no direct upward light is emitted beyond the opaque canopy. Landscape features shall be used to block vehicle headlight trespass while vehicles are at an external point of service (i.e. drive-thru aisle).

E. All facade lighting must be restricted to the facade surface. The margins of the facade shall not be illuminated. Light trespass is prohibited. The sides of commercial buildings without a customer entrance shall not be lit.

Table 16.43.070 - Luminaire Maximum Lumens and Required Shielding

Lighting Zone	Fully Shielded	Shielded	Partly Shielded	Unshielded (Shielding is highly encouraged. Light trespass is prohibited.)
LZ 2	7800 lumens or less	1600 lumens or less	800 lumens Or less	Landscape and facade lighting 1600 lumens or less; ornamental lights of 800 lumens or less.

Cut sheets for proposed lighting fixtures are included with the application. The applicant will install lighting to meet the requirements of this Code.

16.43.080 Height Limits.

Pole and surface-mounted luminaires under this section must conform with Section 16.43.070.

A. Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed a mounting height of 40% of the horizontal distance of the light pole from the property line, nor a maximum height according to Table 16.43.080, whichever is lower. The following exceptions apply:

2. Lights specifically for driveways, and then only at the intersection of the road providing access to the site, may be mounted at any distance relative to the property line, but may not exceed the mounting height listed in Table 16.43.080.

3. Mounting heights greater than 40% of the horizontal distance to the property line but no greater than permitted by Table 16.43.080 may be used provided that the luminaire is side-shielded toward the property line.

B. Lighting mounted onto buildings or other structures shall not exceed a mounting height greater than 4 feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 40% of the horizontal distance of the light from the property line, whichever is less. The following exceptions apply:

1. Lighting attached to single family residences shall not exceed the height of the eave. Lighting for driveways shall conform to Table 16.43.080.

2. Lighting for facades may be mounted at any height equal to or less than the total height of the structure being illuminated regardless of horizontal distance to property line.

3. For buildings less than 40 feet to the property line, including canopies or overhangs onto the sidewalk or public right of way, luminaires may be mounted to the vertical facade or the underside of canopies at 16 feet or less.

Table 16.43.080 - Maximum Lighting Mounting Height in Feet

Lighting Zone	Lighting for Driveways, Parking and Transit	Lighting for Walkways, Plazas and other Pedestrian Areas	All Other Lighting
LZ 2	37.5	18.0	15.0

Exterior light fixtures will be mounted at the elevations shown on the Architectural Elevations. The applicant will install the outdoor lighting as required to meet the provisions of this section.

16.43.110 Lighting Plan Required

A lighting plan shall be submitted with the development or building permit application and shall include:

A. A site plan showing the location of all buildings and building heights, parking, and pedestrian areas.

B. The location and height (above grade) of all proposed and existing luminaires on the subject property.

C. Luminaire details including type and wattage of each lamp, shielding and cutoff information, and a copy of the manufacturer's specification sheet for each luminaire.

D. Control descriptions including type of control (time, motion sensor, etc.), the luminaire to be controlled by each control type, and the control schedule when applicable.

E. Any additional information necessary to demonstrate compliance with the standards in this section.

A Site Lighting Plan, is submitted with the development application, meeting the requirements of this section.

16.49 SITE AND DESIGN REVIEW

16.49.035 Application for Site and Design Review

A. For projects in the Downtown Canby Overlay Zone, applicants may choose one of the following two processes:

1. Type II - If the applicant meets all applicable site and design review standards set forth in Chapters 16.41 and 16.49, applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in 16.49.040.5; or

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

*The project is located outside the Downtown Canby Overlay Zone, but is located within the **Outer Highway Commercial Overlay Zone (OHC)** The project is subject to a Type III approval process and the design review standards in applicant is requesting a waiver from the applicable site and design review standards in Chapters 16.35. The application shall be a Type III process.*

16.49.040 Criteria and standards.

B. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

1. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and

2. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and

3. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.

4. The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include,

but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.

5. The Board shall, in making its determination of compliance with this Ordinance, shall use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible with the standards of Table 16.49.040 if the following conditions are met:

a. The development accumulates a minimum of 60 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and

b. At least 10 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).

*The project is located within the **Outer Highway Commercial Overlay Zone (OHC)***

See the Type III application per 16.49.040 Site Design Review Menu , Matrix

The proposed Site and building design yield an excess of points including those for LID. The requirements of the matrix are therefore met.

D. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the design review standards set forth in this ordinance.

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

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

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

16.49.065 Bicycle and pedestrian facilities.

Developments coming under design review shall meet the following standards:

A. The internal walkway system shall be extended to the boundaries of the property to adjoining properties developed or zoned for commercial, public, or multi-family uses. The walkway shall connect to an existing walkway system on adjoining property or be located so as to provide for development of a logical connection in the future when the adjoining property is developed or redeveloped.

The internal walkway system is being provided only to connect this development to the public street. Adjacent developments also have connections to public walkways so no additional internal connections are proposed to adjacent sites. The provisions of this section are met.

B. On-site facilities shall be provided to accommodate safe and convenient pedestrian and bicycle access within new subdivisions, multi-family developments, planned development, shopping centers, and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers. Residential developments shall include streets with sidewalks and access ways.

The provisions of this section have been met to the extent practical with new walkways being provided within the development.

C. For new office parks and commercial development:

1. At least one sidewalk connection between the proposed development and each abutting commercial or office property shall be provided. One connection shall also be provided to each neighborhood.

2. Walkways shall be provided to the street for every 300 feet of developed frontage.

3. Walkways shall be direct with minimal driveway crossings.

4. Walkways shall be linked to the internal circulation of the building.

5. Walkways shall be at least five feet wide and shall be raised, or have different paving materials when crossing driveways or other vehicle maneuvering areas.

All sidewalks are proposed to be at least 5 feet wide with some walkways as wide as 12 feet., and link the commercial building to the public sidewalk on S.W. First Avenue AND S.W Fourth Street. The public sidewalk will provide a pedestrian connection to the neighborhood. Onsite sidewalks will generally be located raised 6" above pavement grade to the building and will contrast in color to the roadway paving. The provisions of this section are met.

D. Use of permeable surfacing materials for walkways is encouraged whenever site and soil conditions make it feasible. Permeable surfacing includes, but is not limited to, paving blocks, turf blocks, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards.

All walkways are proposed to be concrete. The sidewalks will drain to water quality manholes and drywells, similar to on site driveways and nearby city roadways and sidewalks.

E. Developments that abut the Molalla Forest Road multi-use path shall provide a pedestrian/bicycle access to the path. The city may determine the development to be exempt from this standard if there is an existing or planned access to the path within 300 feet of the development. (Ord.1340, 2011)

This site does not abut Molalla Forest Road.

16.49.080 General provisions for landscaping.

A. The standards set forth in this section are minimum standards for landscaping.

B. The purpose of these landscaping standards is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution. These standards are also intended to facilitate Low Impact Development (LID) techniques through the retention of existing native vegetation and mature, healthy trees, to the extent feasible. Additional LID related goals of this chapter are to: reduce erosion and storm water runoff; preserve and promote urban wildlife habitats; reduce the amount of carbon dioxide in the air; shade and reduce the temperature of adjacent waterways; and enhance the streetscapes along the city's public rights-of-way with an emphasis on trees and LID stormwater facilities.

C. The minimum area requirement for landscaping for developments coming under design review shall be the percentage of the total land area to be developed as follows. Parking lot landscaping area is included in calculating the following landscape areas:

1. Fifteen (15) percent for all industrial and commercial zones (except the Downtown-Commercial zone, but including the Commercial-Residential zone).
2. Seven and one-half (7.5) percent for the Downtown-Commercial zone.
3. Thirty (30) percent for all residential zones.

The minimum landscaping requirement of fifteen (15) percent of the site area has been met.

D. LID stormwater management facilities, such as rain gardens and bioretention areas, may be counted toward the minimum landscaping requirement when they are located on private property. LID facilities in the public right-of-way cannot be counted toward the minimum landscaping requirement. The integration of LID stormwater management facilities within required landscaping must be approved by the city and shall comply with the design and construction standards set forth in the Canby Public Works Design Standards.

Landscape areas of the site will be subject to stormwater drainage movement, but no bioretention areas are proposed with landscaped areas included in the landscape area calculation.

E. Trees and other plant materials to be retained shall be identified on the landscape plan. The Site and Design Review Board encourages the retention, to the extent practicable, of existing healthy trees and vegetation.

No trees are located on the site. The remaining vegetation onsite consists of grass and brush and it will also be removed.

F. During the construction process:

1. The owner or the owner's agent shall provide above and below ground protection for existing trees and plant materials identified to remain.

2. Trees and plant materials identified for preservation shall be protected by chain link fencing placed around the tree, at the drip line.

3. If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist, nurseryman or landscape architect.

4. Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.

5. Where site conditions make necessary grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip line area, such grading, paving, trenching, boring, digging or similar encroachment shall only be permitted under the direction of a qualified arborist, nurseryman or landscape architect. Such direction must assure that the health needs of trees within the preserved area can be met.

6. Tree root ends shall not remain exposed.

No existing trees are proposed to be preserved. The provisions of this section do not apply.

G. Landscaping under preserved trees shall be compatible with the retention and health of said trees.

No existing trees are proposed to be preserved. The provisions of this section do not apply.

H. When it is necessary for a preserved tree to be moved in accordance with the Tree Ordinance, the landscaped area surrounding said tree or trees shall be maintained and replanted with trees which relate to the present landscape plan, or if there is no landscaping plan, then trees which are complimentary with existing, nearby landscape materials.

No existing trees are proposed to be preserved and moved. The provisions of this section do not apply.

I. Any required landscaped area shall be designed, constructed, installed and maintained so that within three (3) years, the ground shall be covered by living grass or other plant material. (The foliage crown of trees shall not be used to meet this requirement.) A maximum of five percent of the landscaped area may be covered with bark chips, mulch, or other similar materials. A maximum of five percent of the landscaped area may be covered with rock, stones, walkways, or other similar material acceptable to the Board. Required sidewalks shall not be used to meet the landscaping requirements.

A Landscaping Plan, meeting the requirements of this section, has been submitted with the application.

J. All trees and plant materials shall be healthy, disease-free, damage-free, well branched stock, characteristic of the species. The use of tree and plant species native to the Pacific Northwest is encouraged. Any new street tree planted must be included on the city's list of approved tree species.

A Landscaping Plan, meeting the requirements of this section, has been prepared by Aurora Landscape and submitted with the application.

K. Landscaping methods should be guided by the provisions of the most recent edition of the Sunset Western Garden Book or similar publication.

A Landscaping Plan, meeting the requirements of this section, has been prepared by Aurora Landscape and submitted with the application.

L. The following guidelines are suggested to insure the longevity and continued vigor of plant materials:

1. Select and site permanent landscape materials in such a manner as to produce a hardy and drought-resistant landscaped area.

2. Consider soil type and depth, spacing, exposure to sun and wind, slope and contours of the site, building walls and overhangs, and compatibility with existing native vegetation preserved on the site or in the vicinity.

A Landscaping Plan, meeting the requirements of this section, has been prepared by Aurora Landscape and submitted with the application.

M. All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise, so that:

1. It will not interfere with designated pedestrian or vehicular access; and

2. It will not constitute a traffic hazard because of reduced visibility.
3. It will not hinder solar access considerations.

Site landscaping will be professionally maintained.

N. After completion of site grading, topsoil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.

Once grading is complete, a sufficient amount of topsoil will be placed on landscaping areas to provide for a suitable base for landscaping.

- O. All planting areas shall be graded to provide positive drainage.

Planting areas will be graded away from the building to provide suitable drainage.

P. Neither soil, water, plant materials nor mulching materials shall be allowed to wash across roadways or walkways.

Landscape areas adjacent to walkways and driveways are generally curbed to prevent the material from washing.

16.49.120 Parking lot landscaping standards.

- C. Landscaping Within a Parking Lot.

1. Area within a parking lot shall include the paved parking and maneuvering area, as well as any paved area within ten (10) feet of any exterior face of curb surrounding the paved parking and maneuvering area.

The landscaped area within 10 feet of any exterior face of curb or paving/maneuvering area, is proposed to be landscaped.

2. Each interior landscaped area shall be a minimum of six (6) feet wide, unless the area is added to the required perimeter landscaping.

All landscape Islands proposed conform to this parameter. The design meets this requirement.

3. The use of LID best management practices in parking lots is encouraged whenever site and soil conditions make it feasible. Such practices include, but are not limited to, permeable surfacing materials, and integrating LID stormwater management facilities into the required landscaping areas.

LID stormwater management facilities are not integrated into the landscaping areas as landscaping areas are generally at the high end of the site or are too steeply sloped..

D. Computing Minimum Area Required to be Landscaped Within a Parking Lot. Minimum area required to be landscaped within a parking lot shall be as follows:

1. Fifteen (15) percent for all residential, industrial, and commercial zones.

More than fifteen percent (15%) of the parking area will be landscaped, all in the area surrounding the parking lot. The provisions of this section have been met.

E. All parking areas with more than 16 spaces shall include landscape islands to break up the parking area into rows of not more than 8 contiguous parking spaces.

1. Landscape islands shall have a minimum area of 48 square feet and a minimum width of six (6) feet.

2. Landscape islands shall contain at least one tree that meets the standards in subsection (6) below.

3. Landscape islands may be counted toward the minimum parking lot landscaping requirements.

The parking areas landscaping includes landscape islands and rows of parking only exceed 8 contiguous stalls where handicap access aisle is required. This requirement is met..

F. Criteria for Trees in Parking Lots. Deciduous, evergreen and/or shade trees shall meet the following criteria:

1. Reach a mature height of forty (40) feet. Trees must be at least three-inch (3") caliper at the time of planting..

2. Cast moderate to dense shade in summer.

3. Be long lived, i.e., over sixty (60) years.

4. Do well in an urban environment:

- a. Be pollution tolerant; and

- b. Be tolerant of direct and reflected heat.

5. Require little maintenance:

- a. Be mechanically strong;

- b. Be insect and disease resistant; and

- c. Require little pruning.

6. Be resistant to drought conditions.

7. Be barren of fruit production.

The trees proposed on the Landscaping Plan meet the requirements of this section.

G. Perimeter of Parking and Loading Areas:

1. Screening of parking and loading areas is required. Within three (3) years of planting, screening shall be of such height and density as to shield vehicle headlights from head-on visibility.

2. In addition, one (1) deciduous, evergreen and/or shade tree shall be planted every forty (40) feet, minimum, along the required setback of the vehicular use area.

Screening of the parking and loading areas is proposed, including the use of shade trees located within the setbacks surrounding the vehicular use area. The requirements of this section have been met.

H. Irrigation System or Available Water Supply Required. Landscaped areas shall be provided with automatic irrigation systems or a readily available water supply with at least one (1) outlet located within 150 feet of all plant materials to be maintained.

Irrigation will be provided meeting the requirements of this section.

Chapter 16.89 APPLICATION AND REVIEW PROCEDURES

16.89.020 Description and Summary of Processes.

All land use and development applications shall be decided by using the procedures contained in this Chapter. Specific procedures for each type of permit are contained in Sections 16.89.030 through 16.89.060. The procedure type assigned to each permit governs the decision-making process for that permit. Additional requirements may be found in the individual chapters governing each permit type. The four types of procedure are described below. Table 16.89.020 lists the City’s land use and development applications and their required procedures.

C. Type III Procedure (Quasi-Judicial/Legislative). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III procedures generally use discretionary approval criteria.

The applicant intends to have the application processed as a Type III Procedure.

**TABLE 16.89.020
Land Use and Development Application Procedures**

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Site and Design Review – Type III	III	500	Yes

16.89.050 Type III Decision.

- A. Pre-application conference. A pre-application conference may be required by the Planning Director for Type III applications.

Pre-application conferences for this project were held on March 29, 2016. The requirements of this section have been met.

- B. Neighborhood meetings. As directed in Table 16.89.020, the applicant may be required to present their development proposal at a neighborhood meeting before the City accepts the application as complete. See Section 16.89.070.

A neighborhood meeting will be held asap and minutes will be submitted to the Planning Director.

- C. Application requirements. Type III applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

An application form has been provided for this project. The application form, the required fees and accompanying information were submitted to City of Canby Planning and Building. The requirements of this section have been met.

Chapter 16.120 PARKS, OPEN SPACE, AND RECREATION LAND

16.120.010 Purpose

The availability of park, open space, and recreation land is an important element in determining the character of a developing neighboring city to the metropolitan area, such as City of Canby. Land which substitutes trees, grass, and vegetation for structures, paving, and other urban features provides not only an aesthetically pleasing landscape with striking views of Mt. Hood, but also buffers incompatible uses, and preserves sensitive environmental features and important resources. Parks, open space, natural parks and trail recreation lands, together with support facilities, also help to meet the active and passive recreational needs of the population of Canby; therefore, concurrent development of support facilities is equally important. This chapter implements policies of Goal 8 of the Comprehensive Plan, the Park and Recreation Master Plan, and Park and Open Space Acquisition Plan by outlining provisions for parks, open space and recreational facilities in the City of Canby.

- 2. The City shall require land dedication or payment of the system development charge (SDC) in lieu of land dedication (Section 4.20.170). In addition, the City may credit private on-site park, open space and recreation area(s) and facilities (Section 16.120.060). The City may approve any combination of these elements. Prior to parkland dedication, a Level I Environmental Assessment of the lands proposed for dedication shall be performed by the applicant as part of the site plan approval for the project.

6.120.040 Cash in lieu of dedication of land
B. Options for Meeting System Development Charge Requirements

If no parkland dedication is required or requested by the city, the full amount of the park system development charge will be assessed and is due and payable at the time the first building permit(s) is/are issued.

a. Cash charged in lieu of land dedication shall be based on the City's System Development Charge for parkland, as provided by the Systems Development Charge ordinance.

This site will is subject to SDC parks fees in-lieu of dedication. The fees will be paid at issuance of the first building permit..

Justification for flexibility in the Site Design approval

There are four Site Design elements Illustrated in this Type III application that do not meet the letter of the Canby Municipal Code Chapter 16, Planning and Zoning. This application requests approval of these items by the Planning Commission. Justification for approval of each is as follows:

A. Maximum Building Front Setback greater than 10' allowed/ 40% building frontage @ 10':

This submittal requests approval of a 21'-8" front yard setback to the building face.

1. All buildings on either side of Highway 99E both adjacent to this site and within the neighboring area are setback further than 10 feet.
2. All recent development along highway 99E in this portion of Canby have involved restaurant uses including food or coffee tenants each of which has included a drive up lane and window. The highway frontage drives the demand for this type of business use.
3. ODOT places limitations on highway access generally restricting it to one access per site. Because of this the drive up lane must wrap around a building in some manner to exit the site. This requires that the drive through lane on this site occur between the building and the Highway frontage. The minimum drive aisle width allowed is 12 feet.
4. A minimum landscape strip of 5 feet is required between the property line and the drive up lane. Add the required exit walkways, curbs and the drive aisle width and you need the proposed 21'-8" to the front of the building. This type of setback is common on all adjacent similar sites. Burgerville is closer, but they were only able to be closer by virtue of a second Highway access where their drive-up lane exits directly onto 99E.
5. This design conforms to the 40% building frontage requirement at the proposed setback.

B. Floor Area Ratio less than the required 25%:

This submittal requests approval of a Floor Area Ratio equaling 18.5%.

1. Highway Commercial sites like this site attract restaurant tenants. Restaurants require lots of parking and prefer single story building to accommodate roof top hvac and cooking exhaust equipment. A building on this site would need to be two stories tall to meet the 25% FAR requirement and provide adequate parking. As mentioned a second story is undesirable on this site from a functional and economic standpoint.

C. Minimum Landscape Strip between Property Line parking less than 15' required:

This submittal requests approval of a 5'-6" setback to parking and maneuvering.

1. With the necessity for a drive up lane and the requirement to limit the setback from the front yard, it is essential that the drive up lane occur closer than 15'. This design has a balance of landscape width, drive aisle width and building setback that works and meets with the overall spirit and intent of the Outer Highway Commercial Overlay.

D. Non-dedicated Loading Stall:

This submittal requests approval of a non-fixed loading stall occurring in the parking area drive aisle.

1. The future tenants that will occupy this building will not receive bulky deliveries.

2. Economic feasibility of this site re-development requires maximizing leasable building area while providing adequate parking and landscaping. Dedicating a fixed loading berth requires too much site area and impacts parking yield, traffic flow and building area.

3. All scheduled deliveries will occur at off- business hours to minimize disruptions to commerce and traffic congestion.

4. The proposed 13'x35' non-fixed/ non-striped loading stall area leaves a minimum 12' traffic aisle to allow for one-way passing of any parked vehicle.

5. This design allows for flexibility in the site layout improving economic feasibility while provided a practical means for truck deliveries that is efficient and doesn't block the drive aisle.

CONCLUSION

Through the preparation of this narrative and the other documents included with the Site and Design Review Application, the applicant has demonstrated compliance with the “spirit and intent” of the applicable Chapters of the City of Canby Land Development and Planning Ordinance. Therefore, the project should be approved.

Feel free to contact the following members of the Design Team if you have questions regarding the submittal

<i>Applicant</i>	<i>Tom Scott, Scott 2004 Family L.P.</i>	<i>(503) 266-5400 tomscott@scottinvestments.com</i>
<i>Civil Engineer</i>	<i>Pat Sisul, Sisul Engineering</i>	<i>(503) 657-0188 patsisul@sisulengineering.com</i>
<i>Architect</i>	<i>Scott Beck Scott Beck, Architect</i>	<i>(503) 266-9270 beck-arch@web-ster.com</i>
<i>Landscaper</i>	<i>Zander Prideaux Aurora Landscape NW</i>	<i>(503) 678-1234 zander@auroralandscapenw.com</i>

Scott 2004 Family L.P
130 SW 2nd Avenue – Suite 103
Canby, Oregon 97013
503-266-5488

May 9, 2016

RE: Neighborhood Meeting
Proposed commercial development

Dear Property Owner:

Scott 2004 Family L.P is proposing to re-develop the property located at 851 SW 1st Avenue in Canby, Oregon. This is the site of the old carwash

The purpose of this meeting is for the applicant and neighboring property owners to review the proposal and discuss any issues before the Land Use hearings with the City of Canby. We will present a brief overview of the proposal and answer any questions.

You are invited to attend the neighborhood meeting at the time and location described below.

May 24, 2016 at 3pm

Scott Investment Companies
130 SW 2nd Ave – Suite 103
Canby, Oregon 97013

We look forward to discussing the proposal with you in more detail. If you are unable to attend the meeting, but would like to discuss the project, please feel free to contact us at 503-266-5488 or tomscott@scott-investments.com. Thank you for your time.

Sincerely,

Thomas AW Scott
Partner

Meeting Notes:

A neighborhood property owner meeting was held at 3pm on May 24, 2016 at 130 SW 2nd Avenue in Canby. All property owners within 500 ft of our subject property were notified and invited to attend the meeting.

The following property owners or property owner representative attended the meeting.

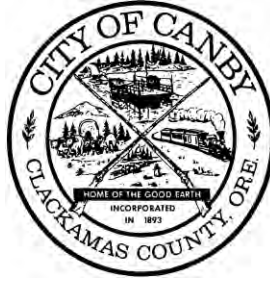
1. Bill Reif – property owner to the southwest of our site – Dave’s Prescription building.
2. John Heidema – Burgerville USA representative.

We reviewed the overall project details with the attendees and answered questions. The two attendees were most concerned about adequate parking for our site, parking lot lighting and pedestrian access.

The attendees seemed satisfied with our design and overall project. They seemed pleased that the site was being developed in a quality manner. No major issues were raised.

Sincerely,

Thomas AW Scott
Partner



Pre-Application Meeting

**851 SW 1st Avenue
March 29, 2016
10:30 am**

Attended by:

Tom Scott, Owner/Developer, 503-266-5488
Scott Beck, Beck Architect, 503-266-9270
Dan Mickelsen, Erosion Control, 503-266-0698
Martin Jensvold, ODOT, 503-731-8219
Hassan Ibrahim, Curran-McLeod Engineering, 503-684-3478
Bryan Brown, Planning Dept., 503-266-0702

Pat Sisul, Sisul Engineering, 503-657-0188
Gary Stockwell, Canby Utility, Electric, 503-263-4307
Doug Quan, Canby Utility, Water, 971-253-9173
Mark Gunter, Public Works, 541-231-8674
Larry Hepler, Canby Utility, 503-263-4322

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

ARCHITECT, Scott Beck

- What we are proposing is a single story 6,284 sq ft commercial building with a drive through and stacking capabilities. Hassan asked what type of commercial use and Scott said it would be mixed use, probably an office, commercial and/or restaurants, something of that nature and I do not know if there are any tenants signed up yet.
- There is currently an isle where the Burgerville customers wait for their food and they have an 8 ft wide x 40 ft long easement and Tom said we are in discussions with them if they want to pull out of the easement or be able to pull through our parking lot. It is up for discussion.
- The curb cut on 99E is roughly in the same location and I think it narrows slightly towards the west. The Burgerville facility is currently parking on this property and I do not think there is any landscaping between the two properties and Tom said there is no landscaping. The parking now is partially on their property and partially on this parcel. We are proposing to restructure the parking and add a landscape strip along the property line.
- We are proposing a connective walkway off Highway 99E and would come along the edge of the building and would tie into the crosswalk with the high school.
- We are proposing to fire sprinkle the building based upon the expectant occupancy, it will simplify the separation of occupancy groups and the building code.
- The trash enclosure will be located on the south east side of the property.
- We are far enough away from property lines where we do not need any fire walls.

- We are proposing landscaping around most of the property.
- We are anticipating a fire sprinkler vault.
- We have in mind using some of this corner along the sides for the transformer, it is fairly tight.
- Food service usage for this property are realistic and makes it a fairly high parking requirement count and we needed to tighten things up and gather as much parking as possible. We are also looking at taking advantage of a 10% parking reduction in a section of the zoning code, if you are within so many feet of a high school or certain other uses and you meet other parameters you can get a reduction.

SISUL ENGINEERING, Pat Sisul

- We plan on using the existing water meter located on SW 4th Avenue.
- Storm drainage we would prefer to put in private drywells on site and I am assuming we are not going to have to do anything for drainage on SW 4th Avenue, but you can confirm it.
- We plan to put one public fire hydrant off of SW 4th Avenue next to the entrance.
- The sanitary sewer is connected to an oil/water separator and looks to be in the public right-of-way. We plan on using the sewer lateral that leaves the device and just hook the building into it. Dan said if you are going to have a restaurant you will need the oil/water separator and Pat said we would need a grease trap. Jerry said we strongly prefer you remove the oil/water separator and we can decide if the sewer lateral is viable for use. We may need to put in a new sewer lateral, but we will have to look at it. The sewer main runs right under the sidewalk in our right-of-way and Jerry said we will confirm exactly where it is and once you pull out the oil/water separator we can video scope the line to see if it is viable for use.

OWNER/DEVELOPER, Tom Scott

- We are obviously going to put in some landscaping and the city's right-of-way on SW 4th Avenue is probably 20 ft behind the back of sidewalk. Is there some type of an agreement we can come up with to do some improvements and maintain the area in exchange for something. It would be nice to have it look good and maybe we can come up with some type of an agreement. Discussion ensued. No conclusion at this time.

PUBLIC WORKS DEPARTMENT, Jerry Nelzen

- My main concern as we discussed was the oil/water interceptor, the sewer main and lateral. If the sewer lateral is not useable where would your sewer lateral be coming from and Pat said off the edge towards this area. Hassan asked if the lateral was a 4 or a 6 inch and Jerry said that was his concern and I think going into the interceptor it is 4 inch and we would like to go 6 inch and if I remember correctly the sewer main is an 8 inch concrete line. Dan concurred. Jerry said the new lateral will be a 6

inch just back of the right-of-way with a 6 inch cleanout “Y” sweep to the main. Tom said we plan on putting 4 inch lines inside the building and Jerry said fine. Dan said what about the outside and Pat said we will look at it depending on the use.

- Jerry said the right-of-way for SE 4th Avenue is 80 ft and Hassan said yes.

CURRAN-MCLEOD ENGINEERING, Hassan Ibrahim

- Are you doing away with the existing driveway (SW 4th Avenue) and putting in a new curb and sidewalk and Pat said yes, the existing driveway is over here and on our plan we would have to rebuild most of it and put in curb and sidewalk. Jerry said it will not affect the trees we just put there and Pat said there might be one and do you want to transplant it. Jerry said we will have to look at it. Hassan stated the existing driveway approach is flat and we need worry about the storm water staying on site.
- I drove by the site off of 99E and noticed there were two driveways on and near the site and there was a gap and no concrete across one. I could be off here, but half of the driveway is concrete and the other half is asphalt and towards the west there is no concrete driveway and neither one of them are ADA complaint.
- I just wanted to mention on the private drywells they need to be rule authorized by DEQ. Martin said you are not planning on connecting drainage and Pat said everything will stay on site and the only thing would be the sidewalk runoff.

ODOT, Martin Jensvold

- We have access control in this area and we have to find locations where the property owners can apply for access and it appears your main access, as far as I can tell is one of the access reservations. Did you want to shift the driveway to line up with your drive isle? You have to go through an indenture process, which is changing the location and the deed that specifies where the access is. Tom said there is a 40 ft deeded access and we are within that and Martin said he thought so. Tom said we are not anticipating on using the full 40 ft. Martin said in any case, if you wanted to shift the driveway to line up with the drive isle, we would be supportive of that. There is a process you need to go through with a proposed redevelopment and you would need to apply for a new approach permit for that driveway. Tom said we can shift it and Martin said yes. Pat asked if there was a minimum separation that has to be maintained between the Burgerville access and Martin said our spacing standards are 350 ft. We will be acknowledging you have a right to access the highway, where would the driveway fit and how it would work with your proposed development. We are flexible on that point.
- Martin said the driveway for the Taco Bell extends onto your property and looks like you will be basically blocking off a portion of that driveway with landscaping and we would like to have that portion of the driveway removed and that side rebuilt to meet ADA standards.
- I did not know if the city will be requiring any type of sidewalk improvements and Hassan said yes and they will match the existing out

there. Is the sidewalk 10 ft in this area and Jerry said yes and Pat asked if the sidewalk replacement is this under ODOT's permit and Martin said yes.

- When you come in for an access permit we lump everything together in the permit process. Hassan asked if the new access falls within the old existing access and does Tom have to go through the indenture process. Martin said the existing driveway is where the access reservation is located and it is fine if you decided to shift it. Scott asked how involved is this process and Martin said there is a \$200 fee associated with it and you have to provide a title report, where the existing reservation is, how wide and where you want to move it to. It will go through our district office to our Right-Of-Way section to get recorded. Scott asked if it was fairly lengthy and Martin said it would take the same amount of time as you would here reviewing the plans, a month or two approximately and you can work it concurrently. Bryan asked if there was a cross access to the driveway to the west and Tom said right now Burgerville has an out through here and they have an easement 8 ft wide x 40 ft long they required a long time ago. I have talked to them to ask whether they would like us to improve this site so they can have the pull out or if they would prefer to just to be able to pull through. I have not heard back from them yet. Discussion ensued. Tom said we are trying to be good neighbors and it actually helps us because we would be able to get a few more parking spaces. Bryan said what we would like to see is a more defined exit place instead of being completely open, but it would be hard to do without putting in a buffer strip.
- The approach and indenture application are both on-line for you to see what they entail and they have instructions also. Scott asked if this would hold up the process with the city and Bryan said he would need to let us know you are working with ODOT on their process of applications.

CITY OF CANBY, EROSION CONTROL, Dan Mickelsen

- Did you find a stub to the state's system on this property? Pat said there is a drain and we are not sure where it goes to and we are assuming it goes to a buried drywell. Dan asked where the drain was located and the answer was in the middle of the site. Pat asked Martin if they could request a video scope of the state's storm system and Martin said you would have to check with our maintenance office, Loretta Kieffer.
- You will need to apply for an erosion control application.

CANBY UTILITY, WATER DEPARTMENT, Doug Quan

- You are planning on utilizing the existing water service and do you know if you want the service as a 1-1/2 or 2 inch. Scott said at this moment we do not know, but we will size it once we know who our final tenants look like. Doug said you will need a double check (DC) behind the meter and you will have to keep in mind if you get a tenant that meets the Table 48 requirements the device would have to be changed to a reduced pressure (RP). Are you going to be doing a single service and Tom said yes. It will need to be on your side of the public utility easement and I would put the DC where you will be able to change it to an RP if you need to.

- Will the fire service be 4 inch and the answer was yes. Doug said it would be cheaper for you if we ran a 6 inch across SW 4th Avenue and have the hydrant “T” off of it and then 4 inch into your vault. Pat said there might be a separation issue with the sewer and Doug said the water line is on the other side of the street and angles away from you. There will be a crossing and we will have the water line pressure tested to 150 and should not be an issue. Our water line will be at 30 inches and from what I understand the sewer main is at 4 to 5 ft deep and we should be fine. If we are within 18 inches of the sewer main we will have to check the condition and Pat said I assume we will be within that 18 inches based on what Jerry and Dan were stating. Doug said if we can see what the inside condition of the sewer pipe and where the joints are because we can lay our pipe between them. Dan asked if they were going to eliminate the fire or hydrant line coming across SW 4th Avenue and Pat said the hydrant line. Dan said you will run the fire line and place the hydrant and Pat said we will take it to the vault in the parking space and move it partially in the right-of-way and partially in private property. Dan said Jerry might want CDF in the ditch because there is still concrete down under the roadway of SW 4th Avenue, which was the old 99E. If you put the CDF in we will not have to worry about having a sunken crossing. Pat asked how deep the concrete was and Dan said 3 inches, we just laid the asphalt over it.
- We will be doing the tap from the main to the service in the vault and set the hydrant.
- I will do a cost estimate prior to the construction.
- Bryan asked if they knew the water meter size and Doug said they have not determined it yet.

CANBY UTILITY, ELECTRIC DEPARTMENT, Gary Stockwell

- Power to the parcel is three 2 inch conduits stubbed over from the Taco Bell property. We would set a transformer voltage of your choosing and go ahead and serve the building.
- It looks like you have a variety of ideas and nothing penned down on exactly what your needs are going to be and Scott said correct. Tom said we anticipate there will be two food users, but they will be fairly light, not full blown restaurants.
- We will just plan for the transformer location to be somewhere in rear parking lot on the east side. We can protect the transformer in the landscaping, but I will need to know whether or not you are going to put all the meters in a limited entry mechanical room or along the end of the building, because with the drive through they need to be protected. Scott asked what type protection do you need and if it was behind a menu board is there a distance separation and also how are you reading the meters today, electronically? Gary said we read them electronically and for the purpose of personnel safety we need a bollard and 6 ft of space in case a person is in there working while cars are using the drive through. Otherwise I would need to shut their drive through off. Scott said he does not have 6 ft there, it is 5 ft from the face of the curb to the building. We do not know what kind of service we are going to do yet. Gary said the narrative calls

for a couple of standard 200 amp and a couple of 400 amp services and if that is the case you are starting to get your gear spread out especially with the CT enclosures. If that is your plan and I am assuming you will have a gas meter on that exposure wall and Tom said yes. If you know you can push things and give us an extra foot or two of space here that would be good. Scott said the alternative you mentioned about putting them in a room and Gary said they would be in a limited access room with a Knox box on the outside with no other access to the buildings. Scott asked about the other parameter for the electrical code and Gary said that would be between you and the county inspector. Scott said that is based upon size and service and Gary said yes.

- Scott asked if he had 3-phase available and Gary said absolutely, that is why I have the three conduits. I can set you a transformer here and basically any voltage you are wanting and most common is 122/08 for these types of installations. If single phase will do it, it is certainly less expensive. Scott said as soon as I know what our needs will be I will let you know.
- I will follow the city's direction on their needs for street lighting. There is no street lighting on 99E and if you are going to be doing the frontage improvements, you may want to look at putting a light or two depending on how it configures on the frontage. Martin said that will be a requirement and Gary said you at least need one and the answer was yes. Gary said if we maintain our clearance and go behind the walkway and I can draw it in our plans. We will have them on an ODOT permit and Hassan said we have a design exception approved by ODOT on the setback clearance. Pat asked if the street lights go behind the sidewalks and Hassan stated from the face of the curb we have 7-1/2 or 8 ft, I will verify it with the design exemption. Gary said that is the minimum and if you are going with a 10 ft sidewalk it will go behind the sidewalk. Hassan said as long as we maintain ADA compliance and we have a minimum and Gary said optimally, we are probably looking at spacing wise for two lights. Pat said let me know because it could be farther than what the design exemption states and Hassan said we will look at the layout and make the decision.
- Tom said he assumed there was lighting on SW 4th Avenue and Gary said with the recent street improvement on SW 4th Avenue the city had street lights added and it is taken care of. You would need to provide a trench from the transformer to 99E and then along the frontage to accommodate the street lights. I will check on the lumens and I am thinking it will be 118 watt fixture, LED, cobra head and direct bury 30 ft aluminum pole.

CITY OF CANBY, PLANNING DEPARTMENT, Bryan Brown

- There are two development standards for the downtown overlay district that you cannot meet. One is 40% of the length lot frontage shall have a building built within 10 ft of the front property line and the other is you are not meeting floor area ratio. You will have to abandon your Type 2 option for an application because you do not meet those two requirements and do a Type 3 public hearing process. Some attorneys during the Fred Meyer fuel station project that went to a LUBA hearing said you cannot vary those development standards, but we have allowed the others to do it and why not let you do as well. This gives the Planning Commission the authority to vary those

standards. It is obviously a problem with our code now in the Highway Outer Sub-area in downtown Canby and it reads about purpose statements, automobile and pedestrian oriented and building your building up to the street at least partially. There will need to be some explanations, like findings concerning the oriented businesses. You usually have a single-story rather than multiple stories and because of that it is difficult to find or provide adequate parking when you are not going up and it tells me the standards in the outer highway are not suitable. I read the code and its purpose is as you are coming into town you have the normal setback strip commercial developments, there is a desire in the outer highway subarea to announce you are getting into an urban setting and it means part of your buildings are up close, once you get into the core area all the buildings have to be up to the sidewalk.

- It would be really great if when you go through the review you decide if you are going to have a free standing sign or not. Of course they cannot over hang the right-of-way and supposedly we go through an ODOT signage permit and you can have either a monument or pole sign. The maximum pole sign is 18 ft and the maximum monument sign is 9 ft tall and the monument signs have to start from the ground. The setback from the highway is probably zero and it becomes a matter of keeping it off the right-of-way. Scott asked about the vision triangle if they put the sign at the property line between Taco Bell and this site, do you know of any parameters of signage requirements and driveways from your perspective and Martin said the signs cannot encroach onto the highway's right-of-way and we typically do not want them within the site distance triangle for the driveway, which is measured 15 ft back from the curb and the sight distance triangle from the corner of the sign at 45 mph is 360 ft.
- You will need to do a traffic scope consistent with what we are doing and it is a \$500 deposit. We will be working with ODOT and DKS Engineering to figure out what our task might be and it typically takes approximately two weeks minimum for a scoping and probably four weeks to do a study.
- Your parking exceptions should fine to me, but you did not read the fine print. The 10% reduction states you also have to provide an amenity, like a park bench on your site to qualify and Scott said he tried to provide a wider sidewalk and have the opportunity for outdoor seating and I am hoping I can work something out.
- I will need more information from you to get you an estimated SDC sheet, like what size of water meter and if you let me know I can provide you with them.
- Scott asked Bryan about the floor area ratio and Bryan said he has the information in his notes (page 3) and it is a simple ratio of total flooring area and the lot area. The way to reach this goal is to have more square footage of your building, but then you would not have enough parking and this is where they were trying to make you have two-story buildings.
- Scott asked about the 15% site landscaping for a commercial site and I am pretty close and possibly if I can do something with the driveway it might help. You said something about landscaping in the right-of-way and if I am off a little bit can we agree to take care of landscaping in the right-of-way and Bryan said typically we do not do that and if you are far enough off you probably need to submit a true variance

application and Scott said he is close. Tom said we have some space on the highway frontage to work with. Martin said if you put in landscaping in the highway right-of-way you have to make sure it will not obstruct the sight distance from any of the driveways in the area. If you put in an irrigation system for the landscaping we want to have a shut off valve within the right of way in case of an emergency. Scott asked what the height restriction was for the landscape and Martin said is 24 to 30 inches.

- Bryan said I cannot imagine there would be any room to even consider street trees and we did not try to have McDonald's do it because of the sight distance nightmare.
- Scott asked about the design matrix for the Outer Highway Commercial, do you follow the matrix in the Type 3 application and Bryan said the downtown matrix substitutes and it can be a little confusing.
- Another reason to consider a variance application is the development standards you can use if you cannot make the landscaping standards and then they are all covered with a formal application you are submitting. The code reads very specifically the design standards for the overlay district, but the development standards, which is a floor area ratio and setbacks there is a question about whether they have the authority to do that and we have been letting them do it. Scott said you do them all in one variance and the answer was yes.

SCOTT R. BECK
ARCHITECT
361 N.E. Third Avenue
Canby, Oregon 97013
(503) 266-9270

Commercial Re-Development

DEVELOPER:
SCOTT INVESTMENTS, INC.
130 S.W. SECOND AVE., SUITE 130
CANBY, OR 97013
(503) 266-5400

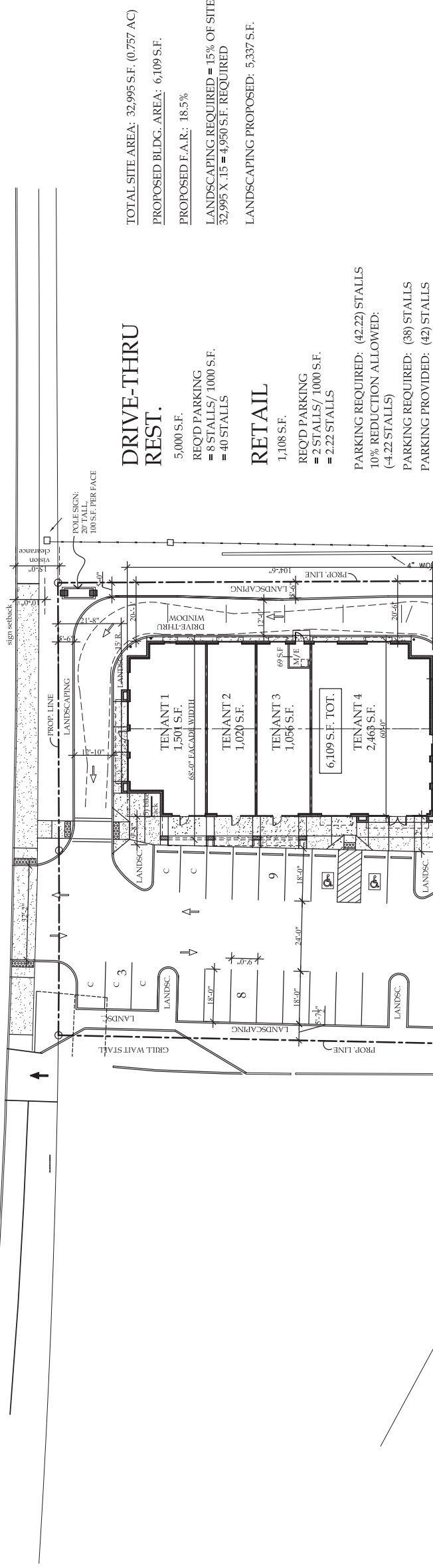
SITE PLAN
STUDY

revisions:

date: 5/11/2016
scale: 1"=20'
drawn: SRB
job no.: 1516

A1.1

PACIFIC HIGHWAY
NO. 99 E



S.W. FOURTH ST.

SITE PLAN
1" = 20'

SCOTT R. BECK
 ARCHITECT
 361 N.E. Third Avenue
 Canby, Oregon 97013
 (503) 266-9270

Commercial Re-Development
 DEVELOPER:
 SCOTT INVESTMENTS, INC.
 130 S.W. SECOND AVE., SUITE 130
 CANBY, OR 97013
 (503) 266-5400

EXTERIOR ELEVATIONS

date: 6/23/2016
 scale: 3/16"=1'-0"
 draw: SRB
 job no: 1516

A5.0



SCOTT R. BECK
 ARCHITECT
 361 N.E. Third Avenue
 Canby, Oregon 97013
 (503) 266-9270

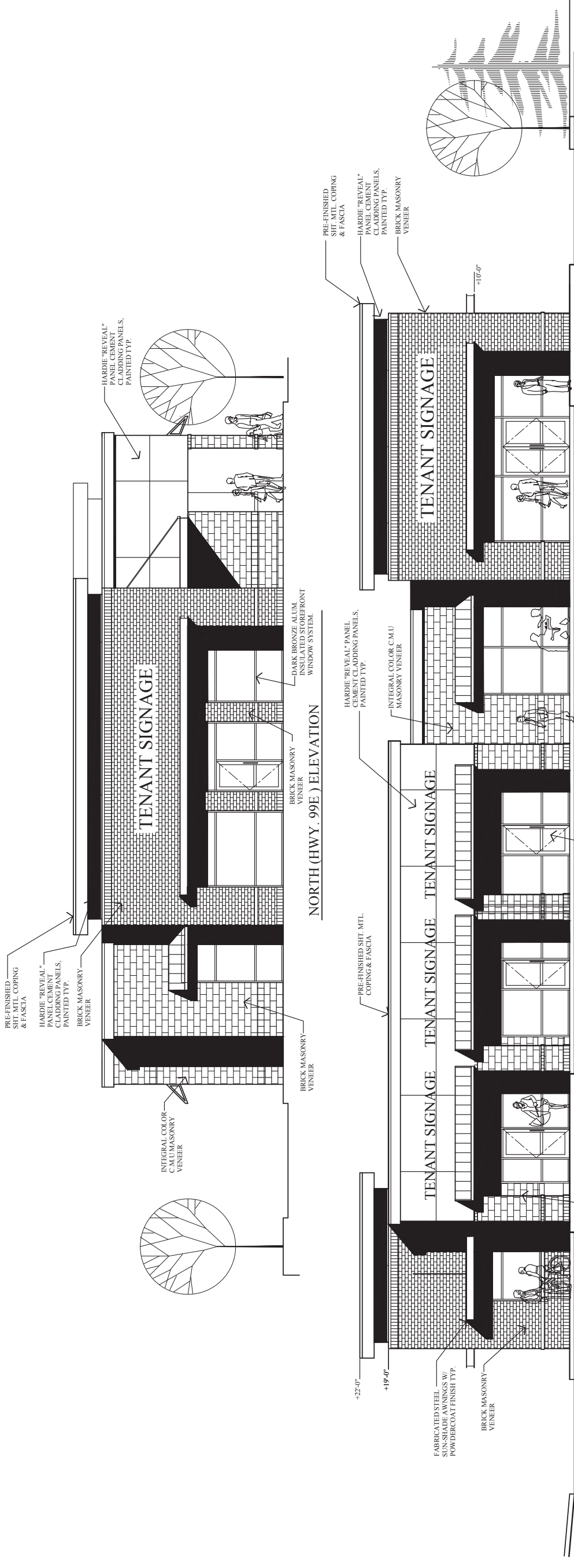
Commercial Re-Development
 DEVELOPER:
 SCOTT INVESTMENTS, INC.
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 CANBY, OR 97013
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EXTERIOR ELEVATIONS

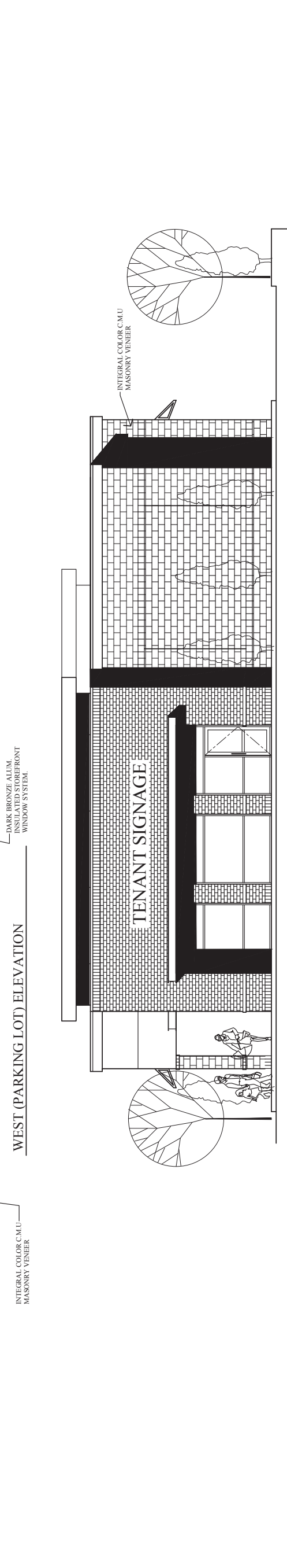
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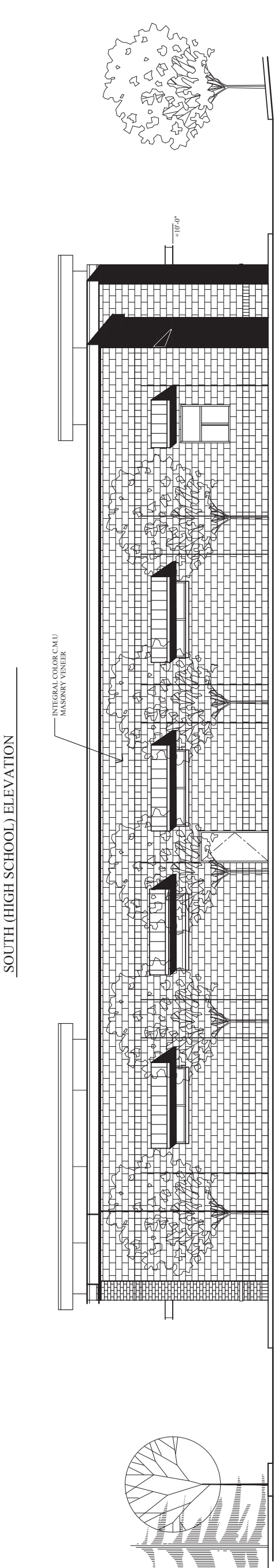
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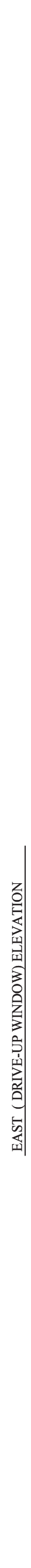
NORTH (HWY. 99E) ELEVATION



WEST (PARKING LOT) ELEVATION



SOUTH (HIGH SCHOOL) ELEVATION



EAST (DRIVE-UP WINDOW) ELEVATION



**PUBLIC RECORD REPORT
FOR NEW SUBDIVISION OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF:

Tom Scott Investments
218 SW 2nd Ave
Canby, OR 97013
Phone: (503)266-5488
Fax:

Date Prepared : May 09, 2016
Effective Date : 8:00 A.M on April 28, 2016
Order No. : 7019-2650044
Reference :

The information contained in this report is furnished by First American Title Insurance Company of Oregon (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report. Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Clackamas, State of Oregon, and is described as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:

As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.

- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

EXHIBIT "A"
(Land Description Map Tax and Account)

PARCEL I:

A TRACT OF LAND IN THE LUCIUS A. SEELY DONATION LAND CLAIM NO. 48, IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, COUNTY OF CLACKAMAS AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE PHILANDER LEE DONATION LAND CLAIM; THENCE SOUTH 79° 39' 52" WEST, A DISTANCE OF 149.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE OLD PACIFIC HIGHWAY, SAID POINT ALSO BEING LOCATED ON THE ARC OF A 318.10 FOOT RADIUS CURVE AND THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE NORTH 48° 14' WEST, A DISTANCE OF 220.32 FEET ALONG THE SOUTHWESTERLY BOUNDARY LINE OF THE HABERMAN PROPERTY, AS DESCRIBED IN CONTRACT, RECORDED SEPTEMBER 14, 1978 AS RECORDER'S FEE NO. 78-39642, TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF U.S. 99 EAST; THENCE SOUTH 41° 46' WEST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, 91.46 FEET TO THE MOST NORTHERLY CORNER OF THAT TRACT SOLD ON CONTRACT TO THE HOLLAND INC., A WASHINGTON CORPORATION, BY INSTRUMENT, RECORDED JANUARY 6, 1977 AS RECORDER'S FEE NO. 77-494, CLACKAMAS COUNTY RECORDS; THENCE SOUTH 48° 14' 08" EAST, ALONG THE NORTHERLY LINE OF SAID HOLLAND INC., TRACT, 210.22 FEET TO A POINT ON THE ARC OF SAID 318.10 FOOT RADIUS CURVE ON THE SAID NORTHERLY BOUNDARY OF SAID OLD PACIFIC HIGHWAY, SAID POINT BEING THE MOST EASTERLY CORNER OF SAID HOLLAND INC., TRACT; THENCE 92.43 FEET ALONG THE ARC OF SAID 318.10 FOOT RADIUS CURVE (THE LONG CHORD OF WHICH BEARS NORTH 48° 03' 41" EAST, 92.02 FEET) TO THE TRUE POINT OF BEGINNING.

PARCEL II:

REAL PROPERTY SITUATED IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, LYING IN THE LUCIUS SEELY DONATION LAND CLAIM, BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN THE DEED OF TRUST BETWEEN THE HOLLAND, INC., AND UNITED STATES NATIONAL BANK OF OREGON, RECORDED UNDER FILE NO. 97-026384, RECORDS OF SAID COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 48° 14' 08" EAST 210.02 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF THE OLD PACIFIC HIGHWAY, SAID POINT BEING ON THE ARC OF A 318.10 FOOT RADIUS CURVE; THENCE ALONG SAID RIGHT OF WAY LINE AND ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 13° 08' 58", AN ARC DISTANCE OF 73.00 FEET (THE CHORD BEARS SOUTH 62° 56' 54" WEST 72.84 FEET); THENCE NORTH 46° 46' 34" WEST 184.21 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF PACIFIC HIGHWAY 99E, AS LOCATED AUGUST, 1933 (SEE STATE HIGHWAY MAP 2B 23 23), SAID POINT BEING ON A SPIRAL CURVE; THENCE ALONG SAID RIGHT OF WAY LINE AND SAID SPIRAL CURVE, THE CHORD OF WHICH BEARS NORTH 42° 10' 20" EAST 63.23 FEET TO THE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

Map No.: 41E04BB01000 and 41E04BB01002

Tax Account No.: 01000641 and 01000669

EXHIBIT "B"
(Vesting)

Scott 2004 Family LP, an Oregon limited partnership

EXHIBIT "C"
(Liens and Encumbrances)

1. City liens, if any, of the City of Canby.

The following exceptions affects Parcel I:

2. Taxes for the year 2015-2016
Tax Amount \$ 910.85
Unpaid Balance: \$ 910.85, plus interest and penalties, if any.
Code No.: 086-042
Map & Tax Lot No.: 41E04BB01000
Property ID No.: P2253076
(Affects Personal Property)
3. Relinquishment of Access as contained in Deed
Recorded: June 21, 1963
Recording No.: Book 623, Page 558
From: Vona Faye Park and Roy O. Park, wife and husband
To: State of Oregon, by and through its State Highway Commission
- Modification and/or amendment by instrument:
Recording Information: July 20, 1964 as Book 643, Page 389
- Modification and/or amendment by instrument:
Recording Information: December 22, 1978 as Fee No. 78054858
4. Easement, including terms and provisions contained therein:
Recording Information: January 06, 1977 as Fee No. 77000494
In Favor of: Adjacent property
For: ingress and egress
Affects: The Southwesterly 20 feet
- Modification and/or amendment by instrument:
Recording Information: January 06, 1977 as Fee No. 77000594

The following exceptions affects Parcel II:

5. Limited access provisions contained in Deed to the State of Oregon, by and through State Highway Commission recorded June 21, 1963 as Book 623, Page 558 Deed of Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
- Modification and/or amendment by instrument:
Recording Information: July 20, 1964 as Book 643, Page 389

Modification and/or amendment by instrument:

Recording Information: December 22, 1978 as Fee No. 78054858

6. An easement reserved in a deed, including the terms and provisions thereof;

Recorded: January 26, 1979

Recording Information: Fee No. 79003694

From: Vona Faye Park

To: The Holland, Inc., a Washington corporation

For: Access

7. An easement reserved in a deed, including the terms and provisions thereof;

Recorded: May 17, 1999

Recording Information: Fee No. 99050001

From: The Holland, Inc., a Washington corporation

To: A.C.C., L.L.C., an Oregon limited liability company

For: Parking

Affects: The Southwesterly portion

8. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:

Recording Information: May 17, 1999 as Fee No. 99050001

The following exceptions affects both Parcels:

9. Unrecorded leases or periodic tenancies, if any.

NOTE: Taxes for the year 2015-2016 PAID IN FULL

Tax Amount: \$7,332.12

Map No.: 41E04BB01000

Property ID: 01000641

Tax Code No.: 086-042

(Affects Parcel I)

NOTE: Taxes for the year 2015-2016 PAID IN FULL

Tax Amount: \$5.64

Map No.: 41E04BB01000

Property ID: P0004024

Tax Code No.: 086-042

(Affects Personal Property of Parcel I)

NOTE: Taxes for the year 2015-2016 PAID IN FULL

Tax Amount: \$4,715.94

Map No.: 41E04BB01000

Property ID: P2235406

Tax Code No.: 086-042

(Affects Personal Property of Parcel I)

NOTE: Taxes for the year 2015-2016 PAID IN FULL

Tax Amount:	\$1,597.73
Map No.:	41E04BB01002
Property ID:	01000669
Tax Code No.:	086-042

(Affects Parcel II)

NOTE: This Public Record Report-Subdivision does not include a search for Financing Statements filed in the Office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a Financing Statement is filed in the Office of the County Clerk covering Fixtures on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block.

DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.

2. **Liability of the Company.**
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including, without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof, (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment on the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.

3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.

4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.



First American Title

Customer Service Department
 121 SW Morrison St., Suite 300
 Portland, OR 97204
 Phone: 503.219.TRIO (8746)
 Fax: 503.790.7872
 Email: cs.portland@firstam.com
 Date: 5/13/2016

OWNERSHIP INFORMATION

Owner: Pacific Bells
 Coowner:
 Site: 845 SW 1st Ave Canby 97013
 Mail: 111 W 39th St Ste A Vancouver WA 98660

Parcel #: 01000650
 Ref Parcel #: 41E04BB01001
 TRS: T: 04S R: 01E S: 04 Q: NW
 County: Clackamas

PROPERTY DESCRIPTION

Map Grid: 746-B7
 Census Tract: 022906 Block: 1002
 Neighborhood: CANBY
 School Dist: 86 CANBY
 Subdiv/Plat:
 Land Use: CMSC COMMERCIAL MISCELLANEOUS
 Zoning: Canby-CM Heavy
 Commercial/Manufacturing
 Watershed: Lower Molalla River
 Legal: Section 04 Township 4S Range 1E Quarter
 BB TAX LOT 01001|Y

ASSESSMENT AND TAXATION

Market Land: \$275,079
 Market Impr: \$403,500
 Market Total: \$678,579 (2015)
 % Improved: 59
 Assessed Total: \$545,634 (2015)
 Levy Code: 086-042
 Tax: \$9,303.94 (2015)
 Millage Rate: 17.0516

PROPERTY CHARACTERISTICS

Bedrooms:	Building Area:	Year Built:
Baths, Total: 0.00	First Floor:	Eff Year Built:
Baths, Full:	Second Floor:	Lot Size: .64 Acres
Baths, Half:	Basement Fin:	Lot Size: 27,878 SqFt
Total Units:	Basement Unfin:	Lot Width:
# Stories: 0.00	Basement Total:	Lot Depth:
# Fireplaces:	Attic Fin:	Roof Material:
Cooling: No	Attic Unfin:	Roof Shape:
Heating:	Attic Total:	
Ext Walls:	Garage:	
Building Style:		Const Type: 6.0

SALES AND LOAN INFORMATION

Owner	Date	Doc #	Sale Price	Deed Type	Loan Amt	Loan Type
PACIFIC BELLS LLC	11/02/15	0000073355		Other	\$145,000,000	
PACIFIC BELLS INC	11/24/08	0000078646		Other	\$20,300,000	
PACIFIC BELLS INC	10/20/06	0000097383		Other	\$7,000,000	Conv/Unk
	07/18/02	2002-070026	\$863,500	S		

This title information has been furnished without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.

1027
207

After Recording Return To:

Thomas S. Hillier
Davis Wright Tremaine
1300 S.W. Fifth Avenue, Suite 2300
Portland, Oregon 97201

WARRANTY DEED

Pacific Bells Enterprises, Inc., an Oregon corporation, Grantor, conveys and warrants to Pacific Bells Development, LLC, a Washington limited liability company, Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in Clackamas County, Oregon, to wit:

SEE EXHIBIT A ATTACHED HERETO

The said property is free from encumbrances except those easements and encumbrances of record.

The true consideration for this conveyance is \$520,000

Until a change is requested, all tax statements shall be sent to the following address:

Pacific Bells Development, LLC
10207 S.E. Mill Plain Blvd.
Vancouver, Washington 98684

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

DATED this 31 day of December, 1997.

This instrument filed for record by Fidelity National Title as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.

Pacific Bells Enterprises, Inc.

Thomas M. Cook
Thomas M. Cook, President

STATE OF ~~WASHINGTON~~ OREGON)
County of ~~Clark~~ Multnomah) ss.

This instrument was acknowledged before me on December 31, 1997, by Thomas M. Cook, as President of Pacific Bells Enterprises, Inc.



Mary E. Kidney
Notary Public for Washington OREGON
My Commission Expires 11-7-01

98-083936

FIDELITY NATIONAL TITLE CO. 805 201

Order No. 770020

EXHIBIT 'A'

A tract of land located in the Seeley Donation Land Claim in the Northwest 1/4 of Section 4, Township 4 South, Range 1 East, of the Willamette Meridian in the County of Clackamas and State of Oregon described as follows: Beginning at the Southwest corner of the Philander Lee Donation Land Claim; thence South 79°20'52" West a distance of 148.10 feet to a point on the Northerly right of way line of the Old Pacific Hwy., said point also being located on the arc of a 318.10 foot radius curve and the true point of beginning; thence leaving said Northerly right of way line, North 48°14' West a distance of 220.52 feet to a point on the Southeastery right of way line of U.S. 99 E.; thence North 41°46' East along said Southeastery right of way line a distance of 135.00 feet; thence South 48°14' East a distance of 188.41 feet to a point on the Northwestery right of way line of the Old Pacific Hwy; said point also being on the arc of a 318.10 foot radius curve; thence along the arc of said curve a distance of 140.58 feet through a central angle of 25°19'19" (the long chord of which bears South 27°15'55" West) a distance of 139.44 feet to the true point of beginning.

STATE OF OREGON 98-083936
CLACKAMAS COUNTY
Received and placed in the public
records of Clackamas County
RECEIPTS AND FEE: 78100 846.00
DATE AND TIME: 09/08/98 03:25 PM
JOHN KAUFFMAN, COUNTY CLERK

2



First American Title

Customer Service Department
 121 SW Morrison St., Suite 300
 Portland, OR 97204
 Phone: 503.219.TRIO (8746)
 Fax: 503.790.7872
 Email: cs.portland@firstam.com
 Date: 5/13/2016

OWNERSHIP INFORMATION

Owner: Holland Inc	Parcel #: 01000687
Coowner:	Ref Parcel #: 41E04BB01004
Site: 909 SW 1st Ave Canby 97013	TRS: T: 04S R: 01E S: 04 Q: NW
Mail: 109 W 17th St Vancouver WA 98660	County: Clackamas

PROPERTY DESCRIPTION

Map Grid: 746-B7
 Census Tract: 022906 Block: 1002
 Neighborhood: CANBY
 School Dist: 86 CANBY
 Subdiv/Plat:
 Land Use: CMSC COMMERCIAL MISCELLANEOUS
 Zoning: Canby-CM Heavy
 Commercial/Manufacturing
 Watershed: Lower Molalla River
 Legal: Section 04 Township 4S Range 1E Quarter
 BB TAX LOT 01004|Y

ASSESSMENT AND TAXATION

Market Land: \$205,126
 Market Impr: \$354,920
 Market Total: \$560,046 (2015)
 % Improved: 63
 Assessed Total: \$447,828 (2015)
 Levy Code: 086-042
 Tax: \$7,636.18 (2015)
 Millage Rate: 17.0516

PROPERTY CHARACTERISTICS

Bedrooms:	Building Area:	Year Built:
Baths, Total: 0.00	First Floor:	Eff Year Built:
Baths, Full:	Second Floor:	Lot Size: .47 Acres
Baths, Half:	Basement Fin:	Lot Size: 20,473 SqFt
Total Units:	Basement Unfin:	Lot Width:
# Stories: 0.00	Basement Total:	Lot Depth:
# Fireplaces:	Attic Fin:	Roof Material:
Cooling: No	Attic Unfin:	Roof Shape:
Heating:	Attic Total:	
Ext Walls:	Garage:	
Building Style:		Const Type: 0.0

SALES AND LOAN INFORMATION

Owner	Date	Doc #	Sale Price	Deed Type	Loan Amt	Loan Type
HOLLAND INC	01/03/14	0000000158		Warranty		Conv/Unk

This title information has been furnished without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.

This document has been prepared by:

Stoel Rives LLP
900 SW Fifth Ave., Suite 2600
Portland, OR 97204-1268
Attention: David W. Green

**THIS DOCUMENT IS TO
BE RETURNED TO:**

Stoel Rives LLP
900 SW Fifth Ave., Suite 2600
Portland, OR 97204-1268
Attention: David W. Green

UNTIL A CHANGE IS REQUESTED,
ALL TAX STATEMENTS SHALL BE
SENT TO THE FOLLOWING ADDRESS:

THE HOLLAND, INC.
109 W. 17th Street
Vancouver, WA 98660

Document Title and Transactions:

STATUTORY WARRANTY DEED

Grantor:

1. THI PROPERTY 2002, LLC, a Delaware limited liability company

Grantee:

1. THE HOLLAND, INC., a Washington corporation

Legal Description:

The legal description is on Exhibit A of the document

Assessor's Parcel Number(s):

1. Account No. 00522152, Map No. 22E19AC-02200
2. ~~Account No. 01000678, Map & Tax Lot No. 41E04BB-01003~~
Account No. 01000687, Map & Tax Lot No. 41E04BB-01004
Account No. 01000696, Map & Tax Lot No. 41E04BB-01005
3. Account No. 00863630, Map No. 2E08AB00900
4. Account No. 00306644, Map No. 21E14DD03900

Clackamas County, Oregon

THE HOLLAND, INC. - Deed (Clackamas County, OREGON)
Version Date: December 18, 2013
75239297.1 0035615-00051

STATUTORY WARRANTY DEED

THI PROPERTY 2002, LLC, a Delaware limited liability company, grantor ("Grantor"), conveys and warrants to **THE HOLLAND, INC.**, a Washington corporation, grantee ("Grantee"), the following-described real property, free of encumbrances created or suffered by Grantor except as referenced below:

See Exhibit A, attached hereto and incorporated herein by this reference, subject to (i) taxes and assessments affecting such property, and (ii) encumbrances of record that were disclosed to Grantee in connection with the delivery of this deed.

The true consideration for this conveyance is \$NONE. This conveyance is made in connection with a corporate liquidation of Grantee, a wholly-owned subsidiary of Grantor, into Grantor. All of Grantor's assets and all of Grantor's liabilities with respect to such property are transferred to Grantee as part of the liquidation.

The existing lease(s) between Grantor and Grantee of such property are hereby terminated of record, as a result of the parties' agreement and the merger of estates occurring on recordation of this instrument (at which time, the fee title and leasehold estate under the prior lease are both held by Grantee and merged). This instrument will not affect in any manner any mortgage lien on such property, which continues as a lien and is binding on the property and Grantee.

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

Until a change is requested, all tax statements shall be sent to the following address:

THE HOLLAND, INC., 109 W. 17th Street, Vancouver, WA 98660

Property tax account No(s): Account No. 00522152, Account No. 01000678, Account No. 01000687, Account No. 01000696, Account No. 00863630 and Account No. 00306644

DATED this 19 day of December, 2013.

GRANTOR:

**THI PROPERTY 2002 LLC, a Delaware
limited liability company**

By: Thomas W. Mears
Name/Title: Thomas W. Mears, President

Accepted and agreed.

GRANTEE:

**THE HOLLAND, INC., a Washington
corporation**

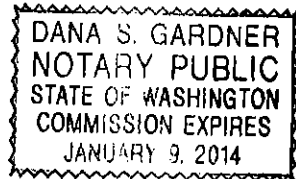
By: Thomas W. Mears
Name/Title: Thomas W. Mears, Chairman of the
Board

STATE OF WASHINGTON)
) ss.
COUNTY OF CLARK)

Acknowledgment

On this 19th day of **December**, 2013, personally appeared before me, **THOMAS W. MEARS**, to me known to be (or proved to me on the basis of satisfactory evidence) the **President** of **THI PROPERTY 2002 LLC, a Delaware limited liability company**, the entity that executed the within and foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such person, as President of such limited liability company, for the uses and purposes therein mentioned, and did acknowledge said instrument to be the voluntary act and deed of such limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



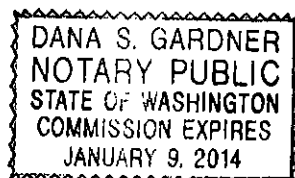
Dana S. Gardner
Notary Public in and for the State of Washington
My commission expires: 1-9-14
Residing at Vancouver WA

STATE OF WASHINGTON)
) ss.
COUNTY OF CLARK)

Acknowledgment

On this 19th day of **December**, 2013, personally appeared before me, **THOMAS W. MEARS**, to me known to be (or proved to me on the basis of satisfactory evidence) the **Chairman of the Board** of **THE HOLLAND, INC., a Washington corporation**, the entity that executed the within and foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such person, as President of such corporation, for the uses and purposes therein mentioned, and did acknowledge said instrument to be the voluntary act and deed of such corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Dana S. Gardner
Notary Public in and for the State of Washington
My commission expires: 1-9-14
Residing at Vancouver, WA

EXHIBIT A

LEGAL DESCRIPTION

See attached.

Exhibit "A"

Real property in the County of Clackamas, State of Oregon, described as follows:

A portion of Tract 4, GLEN ECHO, situated in the County of Clackamas and State of Oregon, described as follows:

Beginning at the most Southerly corner of Tract 4, GLEN ECHO; thence North 46°37' West along the County Road (River Road) 125.00 feet; thence North 43°23' East parallel with Glen Echo Avenue (formerly known as Steel Avenue) 197.8 feet to the Westerly line of the Super Highway (also known as McLoughlin Boulevard); thence Southerly following the West line of the Super Highway 130.00 feet, more or less, to the Southeasterly line of said Tract 4; thence South 43°23' West along the Southeasterly line of said Tract 4, a distance of 157.37 feet to the place of beginning.

NOTE: This legal description was created prior to January 1, 2008.

19119 SE McLoughlin Blvd.
Milwaukie, OR 97267

First American Title

EXHIBIT A

LEGAL DESCRIPTION

Real property situated in the City of Canby, County of Clackamas and State of Oregon, being a portion of the Lucius A. Seely Donation Land Claim in the Northwest one-quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, described as follows:

Commencing at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim No. 49 (said stone being North 00°32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim); thence South 67°46'19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve and the true point of beginning; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right, a distance of 77.22 feet through a central angle of 13°54'32"; thence South 70°24'30" West along the Northerly boundary of said Old Pacific Highway, a distance of 201.20 feet; thence North 46°37'11" West, 95.59 feet to a point on the Southerly right-of-way line of the Old Pacific Highway (U.S. 99 East) as located August 1933 (State Highway Map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48°02'33" East, 50.00 feet to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43°06'58" East 195.88 feet, to a point on said curve; thence South 48°14'08" East 210.22 feet to the true point of beginning.

EXCEPT the following described parcel conveyed to A.C.C., LLC, an Oregon limited liability company by Deed recorded May 17, 1999 as Recorder's Fee No. 99-050001:

Beginning at the most Northerly corner of the above described parcel; thence along the Northeasterly line of above described parcel South 48°14'08" East 210.02 feet to a point on the Northwesterly right-of-way line of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence along said right-of-way line, and along said curve to the right, through a central angle of 13°08'58", an arc distance of 73.00 feet (the chord bears South 62°56'54" West 72.84 feet); thence North 46°46'34" West 184.21 feet to a point on the Southeasterly right-of-way line of Pacific Highway 99E, as located August, 1933 (State Highway Map 2B 23 23), said point being on a spiral curve; thence along said right-of-way line and said spiral curve, the chord of which bears North 42°10'20" East 63.23 feet to the Point of Beginning.

TOGETHER WITH an easement for parking purposes reserved, in Deed recorded May 17, 1999 as Recorder's Fee No. 99-050001, over the following described property:

Beginning at the most Westerly corner of the above described exception parcel; thence along the Southwesterly line of said parcel South 46°46'34" East 40.00 feet; thence North 43°13'26" East 9.00 feet; thence North 46°46'34" West 40.12 feet to a point on the Southeasterly right-of-way line of Pacific Highway 99E, said point being on a spiral curve; thence along said right-of-way line and spiral curve, the chord bears South 42°26'00" West 9.00 feet to the Point of Beginning.

LESS AND EXCEPTING THEREFROM any portion of the foregoing property that was dedicated to the City of Canby for public park purposes, but including in this conveyance any reversionary interest or reversionary rights.

05-107821.01
FFC No. 8001-3646
909 SW First Avenue
Canby, OR

EXHIBIT A

LEGAL DESCRIPTION

A tract of land in the Samuel N. Vance Donation Land Claim in Section 8, Township 3 South, Range 2 East of the Willamette Meridian, in the City of Oregon City, County of Clackamas and State of Oregon, described as follows:

Beginning at the intersection of the Northerly right of way line of County Road No. 526, also known as Gaffney Lane (40 feet in width), and the Westerly right of way line of Molalla Avenue, also known as State Highway No. 213 (60 feet in width); thence Southwesterly following said Northerly boundary line of Gaffney Lane a distance of 250.00 feet to the Westerly corner of the tract described in the deed to Redevo, Inc., recorded September 24, 1971, Recorder's Fee No. 71 27362; thence Northwesterly along the Westerly line of said Redevo, Inc. tract, and parallel with Molalla Avenue, a distance of 150.00 feet; thence Northwesterly parallel with the Northerly line of Gaffney Lane, a distance of 250.00 feet to the Westerly right of way line of Molalla Avenue; thence Southeasterly along the Westerly line of Molalla Avenue, a distance of 150.00 feet to the point of beginning.

TOGETHER WITH a perpetual, non-exclusive easement for ingress and egress over a strip of land 24 feet wide in the Samuel N. Vance Donation Land Claim in Section 8, Township 3 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon, the center line of which is described as follows:

Beginning at the Northerly right of way line of County Road No. 526 (also known as Gaffney Lane) and the Westerly right of way line of Molalla Avenue (also known as State Highway No. 213); thence Southwesterly following said Northerly boundary line of Gaffney Lane, 250.00 feet; thence Northwesterly parallel with Molalla Avenue, 150.00 feet; thence Northeasterly parallel with the Northerly line of Gaffney Lane, 250.00 feet to the Westerly right of way line of Molalla Avenue and the true point of beginning of said center line; thence Southwesterly parallel with the Northerly line of Gaffney Lane, 20 feet to the terminus of said center line.

TOGETHER WITH a perpetual non-exclusive easement for ingress and egress in favor of the Grantee, its employees, guests and customers to cross the following described property in any manner that would not place an unreasonable burden on its operation:

A tract of land in the Samuel N. Vance Donation Land Claim in Section 8, Township 3 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

Beginning at the Northerly right of way line of County Road No. 526 (also known as Gaffney Lane) and the Westerly right of way line of Molalla Avenue (also known as State Highway No. 213); thence Southwesterly following said Northerly boundary line of Gaffney Lane, 250 feet; thence Northwesterly parallel with Molalla Avenue, 425 feet, more or less, to the Northerly boundary line of Bonneville Power Administration Line Easement recorded June 10, 1942 in Book 294, Page 461, Clackamas County Deed Records; thence Northeasterly following the Northwesterly boundary line of said easement 250 feet, more or less, to the Westerly right of way line of Molalla Avenue; thence Southeasterly along the Southwesterly right of way line of said Molalla Avenue, 425 feet, more or less, to the point of beginning.

EXCEPT that portion being a tract of land in the Samuel N. Vance Donation Land Claim in Section 8, Township 3 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

05-106968.01
FFC No. 8001-3651
1900 Molalla Ave
Oregon City, OR

Beginning at the Northerly right of way line of County Road No. 526 (also known as Gaffney Lane) and the Westerly right of way line of Molalla Avenue (also known as State Highway No. 213); thence Southwesterly following said Northerly boundary line of Gaffney Lane, 250.00 feet; thence Northwesterly parallel with Molalla Avenue, 150.00 feet; thence Northeasterly parallel with the Northerly line of Gaffney Lane, 250.00 feet to the Westerly right of way line of Molalla Avenue; thence Southeasterly along the Westerly line of Molalla Avenue 150.00 feet to the point of beginning.

Exhibit "A"

Real property in the County of Clackamas, State of Oregon, described as follows:

Lot 50, ROBINWOOD, in the City of West Linn, County of Clackamas and State of Oregon.

EXCEPT the Southwesterly 10 feet conveyed to the State of Oregon by deed recorded November 19, 1934 in Book 225, page 220, Deed Records.

ALSO EXCEPT the Northwesterly 5 feet conveyed to the City of West Linn, by Deed recorded December 6, 1984 as Recorder's Fee No. 84-42611.

NOTE: This Legal Description was created prior to January 01, 2008.

18350 Willamette Drive
West Linn, OR 97068

First American Title

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That we, Vona Faye Park and Roy O. Park, wife and husband, Grantors, for the consideration of the sum of Five Hundred Seventy-five and No/100 Dollars (\$575.00) to us paid, have bargained and sold and by these presents do bargain, sell and convey unto the State of Oregon, by and through its State Highway Commission, the following described premises, to wit:

A parcel of land lying in the Lucius A. Sealey D.L.C., Township 4 South, Range 1 East, W.M., Clackamas County, Oregon, and being a portion of that property described in that certain deed to Vona Faye Park, recorded in Book 476, Page 522 of Clackamas County Record of Deeds; the said parcel being described as follows:

Beginning on the Northwestern line of said property at a point which is 75 feet Northeasterly (when measured along said Northwestern line) from the most Westerly corner of said property; thence Southwesterly along the said Northwestern line of said property, 75 feet to said most Westerly corner; thence Easterly along the Southerly line of said property, 80 feet; thence Northwesternly in a straight line to the place of beginning.

The parcel of land to which this description applies contains 0.02 acre.

As a part of the consideration hereinabove stated, there is also bargained, sold, conveyed and relinquished to the Grantee all existing, future or potential common law or statutory abutter's easements of access between the right of way of the public way identified as the relocated Pacific Highway East and all of the Grantors' remaining real property.

Reserving, for service of the said remaining property, right of access from Grantors' remaining property to the highway right of way, at each of the following places and for the following widths:

Hwy. Engr's Sta.	Side of Hwy.	Width	Purpose
540+75	Southeasterly	40 feet	Unrestricted
541+60	Scutheasterly	40 feet	Unrestricted
539+60	Southeasterly	40 feet	Unrestricted
538+10	Southeasterly	40 feet	Unrestricted
536+25	Southeasterly	40 feet	Unrestricted

TO HAVE AND TO HOLD the said premises with their appurtenances, in fee simple, unto the State of Oregon, by and through its State Highway Commission, its successors and assigns forever.

And we the said Grantors do hereby covenant to and with the State of Oregon, by and through its State Highway Commission, its successors and assigns, that we are the owners in fee simple of said premises; that they are free from all encumbrances and that we will warrant and defend the same from all lawful claims whatsoever.

It is expressly intended that these covenants, burdens, restrictions and reservations shall run with the land and shall forever bind the Grantors, their heirs and assigns.



BOOK 623 PAGE 558

13696

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 17th day of June, 1963.

Vona Faye Park (SEAL)
Vona Faye Park

His Mark (SEAL)
Roy O. Park

LeRoy J. Edwards
Witness as to mark of Roy O. Park
Janette Pedersen
Witness as to mark of Roy O. Park

STATE OF OREGON }
County of Clackamas } ss

On this 17th day of June, 1963, personally came before me, a Notary Public in and for said county and state, the within named Vona Faye Park, wife of Roy O. Park, to me personally known to be the identical person described in, and who executed the within instrument, and who personally acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Cecil R. Stephenson
Notary Public for Oregon
My commission expires 23 February 1966

STATE OF OREGON }
County of Clackamas } ss

On this 17th day of June, 1963, personally came before me, a Notary Public, in and for said county and state, the within named Roy O. Park, husband of Vona Faye Park, to me personally known as the individual described in and who executed the foregoing instrument by his mark in my presence and in the presence of LeRoy J. Edwards and Janette Pedersen, witnesses, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Cecil R. Stephenson
Notary Public for Oregon
My Commission expires 23 February 1966

tk/rw

BOOK 623 PAGE 559

SEAL DOCUMENT 13696 RECORDED JUNE 1 1963 12:08 PM KURT SCHUMACHER, COUNTY CLERK

10-7-05
File No. 34971

GRANT OF ACCESS

12655

WHEREAS, STATE OF OREGON, by and through its State Highway Commission, hereinafter called "State", acquired from "Owners", VONA FAYE PARK and ROY O. PARK, wife and husband, by deed executed on June 17, 1963, and recorded in Book of Deeds Volume 623, page 558, for Clackamas County, Oregon, certain property lying in the Lucius A. Seeley D. L. C., Township 4 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon. Said deed conveyed all of the grantors' rights of access from their remaining lands abutting on the Southeasterly side of the relocated Pacific Highway East, State Primary Highway No. 1E, except that there were reserved for the service of said land, certain points of access not material hereto; and

WHEREAS, for the service of an existing business on said abutting lands, and for the service of a proposed business to be located adjacent thereto, a right of access on the Southeasterly side of said highway, at a point opposite State Highway Engineer's Centerline Station 537+30, of a width of 40 feet and unrestricted as to use, appears to be necessary; and

WHEREAS, Owners have requested that State grant an additional right of access at said point opposite Highway Engineer's Centerline Station 537+30; and

BOOK 643 PAGE 389

12695 II

WHEREAS, State is willing to grant Owners' request.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that State hereby grants to Vona Faye Park and Roy O. Park, wife and husband, their heirs and assigns, rights of access to and from their abutting property on the Southeasterly side of the relocated Pacific Highway East, at a point opposite Highway Engineer's Centerline Station 537+30, of a width of 40 feet and unrestricted as to use.

Except as herein modified, said deed of June 17, 1963, shall remain in full force and effect as fully as if set forth herein.

Dated at Salem, Oregon, this 22nd day of November, 1963.

APPROVED: [Signature]
Assistant State Highway Engineer

APPROVED AS TO FORM: [Signature]
Chief Counsel

[Signature]
Staff Attorney

ATTEST: [Signature]
Secretary

STATE OF OREGON, by and through its State Highway Commission

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

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By [Signature]

By [Signature]

By [Signature]

By [Signature]


By [Signature]

By [Signature]

STATE OF OREGON }
County of Marion } ss

On this 22nd day of November, 1963, before me a Notary Public, appeared GLENN L. JACKSON, K. N. FRIDLEY, and DAVID B. SIMPSON, to me personally known, who each being duly sworn, did say that he, the said Glenn L. Jackson, is Chairman of the State Highway Commission of the State of Oregon, and that he, the said K. N. Fridley, and he, the said David B. Simpson, is State Highway Commissioner of the State of Oregon; that the seal affixed to said instrument is the seal of the State Highway Commission, and that the said instrument is signed and sealed in behalf of said State by said Commission, and that the said Chairman and the said Commissioners acknowledge said instrument to be the free act and deed of said State, by said State Highway Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Conrad H. Heath
Notary Public for Oregon
My commission expires: 1965-12-31


III
SEAL DOCUMENT 12685 RECORDED JUL 20 1964 1:06 P: M ROBERT SCHUMACHER, County Clerk
BOOK 643 PAGE 391

bill MF
6/92

ORIGINAL

Highway Division
File 34971

10-6-76

INDENTURE OF ACCESS

THIS INDENTURE, made and executed this 15 day of October, 1976,
by and between the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION,
Highway Division, hereinafter called "State", and VONA FAYE PARK, hereinafter called
"Owner";

WHEREAS, State by deed recorded June 21, 1963, in Book 623, Page 558, Clackamas
County Deed Records, acquired from Owner, certain property situated in the Lucius A.
Seeley D.L.C., Township 4 South, Range 1 East. W.M., which deed, in part, reserved unto
Owner access rights to and from the Southeasterly side of the relocated Pacific Highway
East opposite Engineer's Station 539+60; and

WHEREAS, Owner has requested that her access rights opposite said Station 539+60
be terminated and that there be substituted therefor access rights to and from the
Southeasterly side of said highway opposite Engineer's Station 540+20, and that she
be granted additional access rights to and from the Southeasterly side of said highway
opposite Engineer's Station 538+88, 25 feet in width; and

WHEREAS, State is agreeable to the granting of Owner's request.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that for and in consideration of the
grant hereinafter made by State, OWNER does hereby transfer and relinquish unto State,
its successors and assigns, her access rights to and from the Southeasterly side of
the relocated Pacific Highway East opposite said Station 539+60 reserved in said deed
recorded June 21, 1963. Owner represents and warrants that no one, other than Owner,
is using or entitled to use the access rights herein relinquished. STATE in con-
sideration of the relinquishment and warranties herein made, does grant and convey
unto OWNER, her heirs and assigns, access rights to and from the Southeasterly side
of said highway, opposite said Station 538+88 in a width of 25 feet and opposite said
Station 540+20 in a width of 40 feet, both unrestricted as to use.

78 54858

Page 2 - Indenture of Access
10-6-76

Highway Division
File 34971

Except as modified herein and by Grant of Access recorded in Book 643, Page 389, Deed Records, said deed recorded June 21, 1963 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first written above.

X Vona Faye Park
Vona Faye Park

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION,
Highway Division

By J. B. Boyd
J. B. Boyd, Right of Way Engineer

APPROVED AS TO FORM:

Kalt Banie
Asst. Attorney General and Counsel

STATE OF OREGON, County of Clackamas

October 11, 1976. Personally appeared the above named Vona Faye Park, who acknowledged the foregoing instrument to be her voluntary act. Before me:

Virginia W. King
Notary Public for Oregon

My Commission expires _____
My Commission Expires September 11, 1978

STATE OF OREGON, County of Marion

Oct 15, 1976. Personally appeared J. B. Boyd, who being sworn, stated that he is the Right of Way Engineer for the State of Oregon, Department of Transportation, Highway Division, and this document was voluntarily signed on behalf of the State of Oregon, by authority delegated to him. Before me:

Orville L. Egan
Notary Public for Oregon

My Commission expires Oct 30 1976



STATE OF OREGON)
County of Clackamas) ss.
I, George D. Poppen, County Clerk, Ex-Officio
Recorder, Conveyances and Ex-Officio Clerk
of the Circuit Court of the State of Oregon, for
the County of Clackamas, do hereby certify that
the within instrument of writing was duly signed
and recorded in the records of said county at

78 DEC ?? 09: 04

Witness my hand and seal office,
George D. Poppen
GEORGE D. POPPEN
County Clerk
Recording Certificate 78 54858
CCP-84

69-

A Recording Service of
Transamerica Title Ins. Co.
412534

REAL ESTATE CONTRACT

THIS REAL ESTATE CONTRACT, made this 6th day of DECEMBER, 1976, between VONA FAYE PARK, hereinafter called "Seller", and THE HOLLAND, INC., a Washington corporation, hereinafter called "Buyer".

In consideration of the mutual covenants of the parties, it is hereby agreed as follows:

I.

Sale of Real and Personal Property

The Seller does hereby agree to sell to the Buyer and the Buyer does hereby agree to purchase from the Seller for the price and on the terms hereinafter provided, that certain real property situated in the City of Canby, County of Clackamas, State of Oregon, described in Exhibit "A", attached hereto and by this reference made a part hereof. This sale includes all personal property owned by Seller located on said premises.

II.

Purchase Price and Payment

The true consideration and purchase price for the real property hereinabove described, which Buyer agrees to pay, shall be the sum of One Hundred Two Thousand Dollars (\$102,000.00).

The aforesaid consideration and purchase price of One Hundred Two Thousand Dollars (\$102,000.00) shall be payable as follows:

Page 1 - REAL ESTATE CONTRACT

77 1976

A. The sum of Twenty Nine Thousand Five Hundred Eighty Dollars (\$29,580.00) of which \$250.00 has been paid to Seller and is held by Escrow Agent for her account shall be paid by the Buyer to the Seller on closing, January 5, 1977.

B. The sum of Thirty Six Thousand Two Hundred Ten Dollars (\$36,210.00) shall be paid by the Buyer to the Seller on January 5, 1978.

C. The balance of the purchase price, in the amount of Thirty Six Thousand Two Hundred Ten Dollars (\$36,210.00) shall be paid on January 5, 1979.

D. All deferred balances of the purchase price shall bear interest at the rate of eight percent (8%) per annum, from the 1st day of January, 1977, until paid. Interest shall be paid annually and shall be in addition to the annual payments above required. Buyer cannot prepay the 1978-1979 payments without Seller's consent.

III.

Payment of Property Taxes

A. The real property taxes for the current tax year shall be prorated between the parties as of January 1, 1977; and if the taxes for the current year have been paid by the Seller, then the prorated amount shall be paid by Buyer to Seller on closing. The Buyer shall pay all real property taxes and other charges and assessments which shall hereinafter be

assessed against the real property promptly before the same part thereof shall become past due. Buyer shall furnish Seller with a receipted copy of all such taxes or other charges, which said receipted copy shall evidence payment thereof. If the Buyer shall fail to pay any such taxes or charges, the Seller may do so, and any payments so made shall be added to and become part of the debt secured by this Real Estate Contract, and shall bear interest at the rate of eight percent (8%) per annum, without waiver, however, of any rights arising to the Seller for this breach of the Real Estate Contract by the Buyer.

IV.

Eminent Domain

A. In the event of a monetary award arising from the taking for public use of all of the property subject to this contract, whether by agreement or by court proceedings, it is agreed that all monies received by either or both of the parties hereto shall be the property of Seller and be applied as a payment on account of the purchase price of the property; provided, however, if the amount of said award exceeds the remaining balance due on the purchase price, said excess amount shall be the sole property of the Buyer. If the amount of the award is less than the remaining balance due on the purchase price, the Buyer shall be liable to the Seller for any such deficiency. There shall be no other or further obligation between Seller and Buyer under this paragraph IV.A.

B. In the event of a monetary award arising from the taking for a public use of any part, but less than all of the property subject to this contract, whether by agreement or by court proceedings, it is agreed that all monies received by either or both of the parties hereto shall be the property of the Seller and be applied as a payment on account of the purchase price of the property; provided, however, if the amount of said award exceeds the remaining balance due on the purchase price, said excess in amount shall be the sole property of the Buyer. If the amount of the award is less than the remaining balance due on the purchase price, the Buyer shall be liable to the Seller for any such deficiency. There shall be no other or further obligation between Seller and Buyer under this paragraph IV.B.

C. It is agreed and understood that any award referred to in Section A or Section B of this Paragraph IV shall in no way be abated by reason of any monies expended by either or both the Seller and Buyer in procuring the award, including but not limited to attorney's fees and court costs, and said award shall not be augmented by reason of the granting of attorneys' fees, court costs or any other costs whatsoever to either or both of the parties herein. It is further agreed and understood that either the Seller or the Buyer shall have the right to contest a proposed award, proceeding at their sole cost and expense.

V.

Insurance

The Buyer agrees, until full payment of the said

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purchase price, to keep all improvements on the premises set forth in Exhibit "A" insured against loss and for the benefit of the Seller as Seller's interest may appear, and to pay all premiums therefor and to furnish Seller notices of coverage. The insurance to be so carried by the Buyer shall be in an amount not less than the unpaid principal balance of the purchase price, and shall provide insurance against loss or damage by fire and other casualty normally included in extended coverage. Premises described in Exhibit C are excepted from this coverage.

VI.

Assumption of Risk and Proceeds of Insurance

The Buyer assumes all risk of damage and all risk of loss to any improvements on the premises, whether or not such damage and/or loss is covered by said insurance. No such damage shall constitute a failure of consideration, and the Buyer shall be obligated to fulfill the terms of this contract; provided, however, in the case of any such damage, all monies received by Seller by reason thereof shall be applied in reduction of the purchase price or, if the Buyer so elects, the monies received by Seller by reason thereof shall be applied to the rebuilding or restoration of such improvements to the condition substantially existing before damage, and the purchase price shall not be reduced. It is understood that this paragraph VI does not apply to any damage arising from the taking for public use, said subject being covered exclusively by paragraphs IV - A, B and C of this contract. In the

Page 5 - REAL ESTATE CONTRACT

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event of a loss by fire or other casualty covered by the fire and extended coverage, the Buyer shall within thirty days after such loss notify Seller as to whether Buyer elects to repair and replace the damage.

If Buyer elects not to repair or replace the damage, the entire insurance proceeds shall be applied on the unpaid balance of the purchase price.

If the Buyer elects to repair and replace the damage, the insurance proceeds shall be placed in escrow with a mutually agreeable Escrow Agent and shall be disbursed to pay for the repair and replacement on condition that Buyer shall deposit in escrow sufficient funds which, when added to the insurance proceeds, will cover the cost of repair and replacement. It is specifically further agreed and understood that repair and replacement of damage shall rebuild and restore the improvements to the condition substantially existing before the damage and the purchase price shall not be reduced; provided, however, the insurance proceeds shall be placed in escrow and the repair and replacement shall commence only after the Seller has approved in writing the plans of the Buyer for repair and replacement of the damage and the cost of such repair and replacement. In the event the Seller does not in writing approve such plans and such cost of repair and replacement, the election of the Buyer to repair and replace the damage shall be null and void, and the insurance proceeds shall be paid to the Seller and applied on the purchase price; provided, however, the Seller shall not unreasonably withhold such written approval.

Page 6 - REAL ESTATE CONTRACT

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If the damage is repaired and replaced by the Buyer, the funds shall be disbursed from the Escrow Agent to Buyer, and the subcontractors, under a method approved in writing by the Seller, to insure that no liens shall be placed on the property resulting from the work done.

VII.

Repair and Maintenance

The Buyer agrees at all times to keep the building now on the real property in the same condition as the property and the building is on the date and execution hereof, reasonable wear and tear excepted, and will not suffer or permit any waste or strip thereof. The Buyer shall keep the premises of the real property free from mechanic's and all other liens, and save the Seller harmless therefrom, and reimburse Seller for all costs and all attorney's fees incurred by Seller in defending against such liens. If the Buyer shall fail to pay any such liens, reserving, however, the right to Buyer to contest any such liens, the Seller may do so, and any payment so made shall be added to and become part of the debt secured by this Real Estate Contract and shall bear interest at the rate of eight percent (8%) per annum, without waiver, however, of any right arising to the Seller for this breach of the contract by the Buyer.

VIII.

Inspection of Premises

The Buyer agrees that full inspection of the premises herein has been made by them, that Buyer purchases the premises

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as is and in their existing condition, and that neither the Seller nor their heirs, executors or assigns shall be held liable at any time for the condition of the premises herein, nor shall the Buyer assert any claim against Seller relating to the condition of the premises, or of any improvement thereon. The Seller shall not be held to any covenant respecting the conditions of any improvements on the premises, nor to any agreement for alterations, improvements or repairs of any kind, unless any said covenant or agreement relied upon be in writing and signed by the Seller and Buyer hereto.

IX.

Title Insurance

The Seller agrees that on closing Seller shall furnish Buyer with a Purchaser's Title Insurance Policy in the face amount of One Hundred Two Thousand Dollars (\$102,000.00) insuring marketable title in the real property in the Seller, subject to the usual printed exceptions, and exceptions numbered 1, 2, 3, 4 and 5. The cost of the policy of Title Insurance shall be paid by the Seller. Attached hereto as Exhibit "B" is the Supplemental Title Report, containing the aforesaid exceptions numbered 1, 2, 3, 4 and 5.

X.

Possession and Closing

This transaction shall be closed on the 5th day of January, 1977, and thereupon Buyer shall be entitled to the possession of the property subject to this contract. Buyer shall take possession subject to existing month-to-month tenancy

Page 8 - REAL ESTATE CONTRACT

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with Mustang Gas & Oil Company.

XI.

Release Provision

At the time of closing, Seller agrees to release a portion of said real property described in Exhibit "A" to Buyer by a warranty deed conveying the property described in Exhibit "C" attached hereto free and clear of all liens and encumbrances except as herein noted. Said property is approximately 25,000 square feet.

XII.

Mutual Access

The within property described on Exhibit "A" and the adjacent property to the east also owned by Seller presently include an access consisting of a forty (40) foot driveway with its centerline on the common line of said properties at the Pacific Highway No. 99 E engineering station "LN" 538 + 10. Seller agrees to sell to Buyer, its successors and assigns, a perpetual non-exclusive easement to use that portion of the said forty (40) foot driveway located on said adjacent property, being twenty (20) feet east of the said centerline and extending southerly twenty (20) feet along the easterly line and Seller reserves to herself, her heirs, assigns and personal representatives a perpetual non-exclusive easement to the use of that portion of said driveway located on the property described in Exhibit "A" hereto and extending southerly twenty (20) feet along said easterly line.

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XIII.

Default Provisions and Remedies

Time is of the essence of this contract, and if Buyer shall default in the performance of any of the terms and conditions of this contract or the payment when due of any sum required to be paid, under paragraph II of this contract, then Buyer shall be in default, provided sixty (60) days' notice of breach of payment and sixty (60) days' notice of any other breach, is given Buyer, and if any of said breach or breaches are not remedied on the date of expiration of the respective sixty (60) days' notice, the Seller may thereupon elect any one or more of the following remedies, and Seller at her option shall have the following rights:

A. May elect to file a strict foreclosure or proceed in a court of appropriate jurisdiction, and in such case all of Buyer's rights hereunder shall terminate upon the entry of an appropriate Decree, and any payments theretofore made hereunder by the Buyer shall be retained by Seller as liquidated damages, and Seller shall have the right to re-enter and take possession of the property, without further or other proceedings other than the entry of Decree in said case and cause, and Buyer shall then have no further right with respect to said property, and no further obligation whatsoever under this contract. It is, however, in all events agreed and understood that Buyer shall have the

right to redeem the property foreclosed upon at any time within a period of three (3) months from and after the entry of the aforesaid Decree, upon payment to Seller of the entire balance then remaining of the purchase price, including both principal and interest at the rate of eight percent (8%) per annum to the date of redemption, together with any costs and attorney's fees awarded by such Decree, whereupon Seller shall execute a deed to Buyer as though there had been no default under this contract.

B. May elect to declare the entire balance of the purchase price immediately due and owing, and to bring action against Buyer for the full amount thereof.

C. May elect to bring an action or actions for any one or more than one unpaid installment and/or other payment due hereunder.

D. All rents, issues and profits from subject property are hereby assigned to Seller as additional security, provided that, until default of the Buyer, the same may be collected and retained by the Buyer, but upon such default for any cause, the Seller shall have the right, by receivership, to enter into and upon the subject premises and take possession thereof and to collect the rents, issues and profits therefrom, and may immediately notify all tenants to pay all rentals to the Receiver. It is understood that this assignment shall not operate to place responsibility for the control, care, management or repair of said premises upon the Receiver, nor to make the Receiver responsible or

Page 11 - REAL ESTATE CONTRACT

liable for any waste committed to the property by any person, or to impose upon Seller any duty to collect rents or to make repairs or disbursements for the maintenance or management, except as otherwise required by a court of competent jurisdiction.

XIV.

Reconveyance in Escrow.

On closing, Buyer and Seller shall execute and place in escrow with United States National Bank of Oregon, Gladstone, Oregon Branch, as Escrow Agent, the following documents:

A. Warranty Deed conveying the remainder of the real property described in Exhibit "A" to be held by the Escrow Agent together with suitable instructions authorizing delivery after all payments have been made and all other obligations of Buyer under this contract have been fulfilled.

B. Assignment by Buyer to Seller of all of Buyer's right, title and interest in the contract.

C. Quit Claim Deed from Buyer to Seller conveying the real property to Seller as described in Exhibit "A" less that portion released under Article XI.

D. If the Buyer shall default in its performance of any of the terms and conditions of this contract or the payment when due of any sum required to be paid under

paragraph II of this contract, then Buyer shall be in default provided sixty (60) days' notice of breach of payment, and sixty (60) days' notice of any other breach, is given Buyer, and if any said breach or breaches are not remedied on the date of expiration of the respective sixty (60) days' notice, Seller may at her sole option make written demand upon the Escrow Agent to deliver the foregoing quit claim deed and assignment to Seller and the Escrow Agent shall forthwith deliver such quit claim deed and assignment to Seller. The Seller shall then have the immediate right to possession of the real property which is still subject to this contract, and the further immediate right to record the foregoing documents to perfect title in the Seller; whereupon Seller shall have the complete title to and possession of such real property without any right or claim on the part of Buyer; provided, however, it is specifically agreed and understood that the Buyer shall have the right to redeem the property so conveyed to Seller by the Escrow Agent at any time within a period of three (3) months from and after the date of recordation by the Seller of the aforesaid quit claim deed and assignment, upon payment to Seller of the entire balance then remaining of the purchase price, including both principal and interest at the rate of eight percent (8%) per annum, to the date of redemption, together with any costs and attorneys' fees incurred by the Seller, whereupon Seller shall execute and

Page 13 - REAL ESTATE CONTRACT.

13

deliver a warranty deed to Buyer as though there had been no default under this contract. It is specifically agreed and understood that the provisions of this paragraph XIV shall in no way repeal, amend, modify or be a substitute for any other provision of paragraph XIII of this contract, but shall be an alternative remedy which may be availed of by Seller at her option.

XV.

Liability Insurance and Indemnity

Buyer shall purchase and keep in effect for the term of this contract, at its sole cost and expense, policies insuring the Buyer against liability for damages to person or property in or about said premises; the amount of said liability insurance shall not be less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for injury to one person; Five Hundred Thousand Dollars (\$500,000.00) for injuries arising out of any one accident, and One Hundred Thousand Dollars (\$100,000.00) coverage for property damage. Buyer further agrees to indemnify and save harmless the Seller from any and all claims, liability, damage, cost, charge or expenses of any kind or nature, arising out of the operations of Buyer, their agents, assigns or employees of any kind whatsoever, from and after the 5th day of January, 1977.

XVI.

Assignment

Buyer shall have the right to assign this contract

Page 14 - REAL ESTATE CONTRACT

14

only with the written consent of the Seller, but Seller shall not unreasonably withhold consent. It is specifically agreed and understood that any assignment made pursuant to this paragraph XVI shall not relieve the Buyer of any obligations under this contract, and further it is specifically agreed and understood that the assignee shall assume all of the obligations of this contract.

XVII.

Nonwaiver

The Buyer further agrees that failure by the Seller at any time to require performance by the Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by Seller of any succeeding breach of any such provision act as a waiver of the provision itself.

XVIII.

Attorney's Fees

In case suit or action is instituted by either party to this contract to enforce any provision hereof, the losing party agrees to pay to the prevailing party such sum as the trial court may adjudge reasonable as attorney's fees to be allowed in such suit or action; and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay the prevailing party such sum as the appellate court shall adjudge reasonable as attorney's fees on such appeal.

XIX.

Escrow Closing, Prorates, Remittance of
Payments, and Miscellaneous Matters

A. Seller and Buyer agree that the subject sale will be closed in escrow, the cost of which shall be borne equally between Seller and Buyer.

B. Seller and Buyer agree to prorate rents and taxes as of the 1st day of January, 1977. Seller covenants and warrants to Buyer that all the property and its improvements are fully reflected on the real property assessment rolls of the county. Seller shall indemnify and hold Buyer harmless from and against any subsequent claim or assessment on account of any of the property or its improvements as heretofore being omitted for any reason from the rolls.

C. Buyer shall remit all payments due to Seller under this contract to the Escrow Agent appointed hereunder, and the Escrow Agent shall disburse the funds received in accordance with the instructions of the Seller.

XX.

Except as otherwise stated herein, upon full payment of the purchase price, inclusive of both principal and interest, the property subject to this contract shall be conveyed to the Buyer by warranty deed, free and clear of encumbrances as of the 5th day of January, 1977, and free and clear of encumbrances since said date and place, permitted or arising by, through or under Seller; excepting

however, the usual printed exceptions in the title insurance policy, further excepting all the encumbrances placed, permitted, arising by or suffered by or through the Buyer, or its successors or assigns, and further excepting the exceptions numbered 1, 2, 3, 4 and 5.

XXI.

All references to subject property herein after closing shall not apply to the portion described in Exhibit "C".

XXII.

This contract shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors in interest and assigns.

IN WITNESS WHEREOF, the parties have caused this contract to be executed, the day and year first above written.

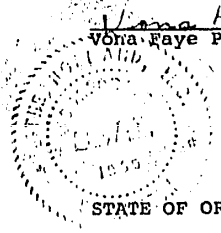
SELLER:

BUYER:

Vona Faye Park
Vona Faye Park

THE HOLLAND, INC.

By J. P. [Signature]
Its President



STATE OF OREGON)
County of Multnomah) ss.

December 6th, 1976

Personally appeared the above named VONA FAYE PARK and acknowledged the foregoing instrument to be her voluntary

Page 17 - REAL ESTATE CONTRACT

17

act and deed.

Before me:

Donald B. M. Corrao
Notary Public for Oregon
My commission expires: 10/26/79

STATE OF OREGON)
County of Mulcnomah) SS.

December 2nd, 1976

Personally appeared GEORGE PROPSTRA, who,
being duly sworn, did say that he is the President
of THE HOLLAND, INC., a Washington corporation, and that the
seal affixed to the foregoing instrument is the corporate
seal of said corporation and that said instrument was signed
and sealed in behalf of said corporation and that said
instrument was signed and sealed in behalf of said corporation
by authority of its board of directors; and he acknowledged
said instrument to be its voluntary act and deed.

Before me:

Donald B. M. Corrao
My commission expires: 10/26/79

Real property situated in the City of Canby, County of Clackamas, State of Oregon, being a portion of the Lucius A. Seely, Donation Land Claim, in the Northwest 1/4 of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, described as follows:

COMMENCING at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim #54 (said stone being North 00°32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim) thence South 67°46'19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve and the True Point of Beginning; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right a distance of 77.22 feet thru a central angle of 13°54'32"; thence South 70°24'30" West along the Northerly boundary of said Old Pacific Highway a distance of 385.69 feet; thence North 39°17'16" West, 25.10 feet to a point on the Southerly right of way line of the Old Pacific Highway (U.S. 99 East) (as located August 1933) (see State Highway map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48°02'33" East, 211.67 feet to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43°06'58" East 195.88 feet, to a point on said curve; thence South 48°14'03" East 210.22 feet to the True Point of Beginning.

TOGETHER WITH a non-exclusive easement for access over a twenty (20) foot strip lying immediately Northeasterly and adjacent to the Northerly twenty (20) feet of the easterly boundary of said tract and

SUBJECT TO a non-exclusive easement which Seller reserves for herself for access over a twenty (20) foot strip immediately Southwesterly and adjacent to the Northerly twenty (20) feet of the Easterly boundary of said tract.

EXHIBIT A

19

Box 510 Oregon City, Oregon 97045
902 Main Street (503) 656-0621



Transamerica Title Insurance Co

SUPPLEMENTAL REPORT

November 15, 1976

Transamerica Title Insurance Co.
12415 SW Main Street
Tigard, Oregon 97223
ATTN: #21-0473-9

Order No. 41-2534
~~REVISED~~
PRELIMINARY REPORT FOR

Standard Coverage Policy \$
PURCHASERS: \$102,000.00
Standard Loan Policy \$

Premium:
Owners \$
PURCHASERS: \$374.00
Mortgagees \$
City Lien \$5.00

Gentlemen:

We are prepared to issue title insurance in the form and amount shown above insuring the title to the land hereinafter described:

See attached EXHIBIT "A"

as of November 2, 1976 at 8:00 A. M., vest in
VONA FAYE PARK

subject to the usual printed stipulations and exceptions appearing in such form policy and also the following:

1. The rights of the public in and to that portion of the above property lying within the limits of roads and highways.
2. Limited access in deed to State of Oregon, by and through its Department of Transportation, Highway Department, which provides that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
Recorded : June 21, 1963 Book: 623 Page: 558
Re-recorded : July 20, 1964 Book: 643 Page: 389
3. This report does not include a search for financing statements filed in the office of the Secretary of State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a financing statement is filed in the office of the County Clerk covering timber on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system.

This Report is preliminary to the issuance of a policy of title insurance and shall become null and void unless a policy is issued, and the full premium therefore paid.

EXHIBIT B

20

Page 2
Order No. 41-2534

4. Unrecorded Leases, if any.

5. City liens, if any, of the City of Canby. (An inquiry has been directed to the City Clerk concerning the status of such liens and report will follow if such liens are found.)

NOTE: We find no judgments or United States Internal Revenue Liens against The Holland Inc.

NOTE: Taxes for the year 1976-77 in the amount of \$1,104.52, paid in full. Tax Lot 1002.

Taxes for the year 1976-77 in the amount of \$1,106.31, paid in full. Tax Lot 1003.
Code 86-2, Account No. 41E 4BB

TRANSAMERICA TITLE INSURANCE COMPANY


Al D. Owen
County Manager

BL/ph

3cc: Extra

lcc: Vana Faye Park
464 W. Clasenbon
Gladstone, Oregon

lcc: MacKay & Sposito
1705 Main St.
Vancouver, Wa 98660

lcc: The Holland Inc.
1708 Main St.
Vancouver, Wa 98660

lcc: Gerald Miller
c/o TA Tigard

lcc: McColmick & Reynolds, Atty.
701 Standard Plaza Bldg.
Portland, Oregon 97204

21

Order No. 41-2534

EXHIBIT "A"

Real property situated in the City of Canby, County of Clackamas, State of Oregon, being a portion of the Lucius A. Seely, Donation Land Claim, in the Northwest 1/4 of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, described as follows:

COMMENCING at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim #54 (said stone being North 00°32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim) thence South 67°46'19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve and the True Point of Beginning; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right a distance of 77.22 feet thru a central angle of 13°54'32"; thence South 70°24'30" West along the Northerly boundary of said Old Pacific Highway a distance of 385.69 feet; thence North 39°17'16" West, 25.10 feet to a point on the Southerly right of way line of the Old Pacific Highway (U.S. 99 East) (as located August 1933) (see State Highway map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48°02'33" East, 211.67 feet to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43°06'58" East 195.88 feet, to a point on said curve; thence South 48°14'08" East 210.22 feet to the True Point of Beginning.

22

Real property situated in the City of Canby, County of Clackamas, State of Oregon, being a portion of the Lucius A. Seely D.L.C. in the Northwest Quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, described as follows:

COMMENCING at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim #54 (said stone being North 00° 32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim) thence South 67° 46' 19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right a distance of 77.22 feet thru a central angle of 13° 54' 32" to the True Point of Beginning; thence South 70° 24' 30" West along the Northerly boundary of said Old Pacific Highway 201.20 feet; thence North 46° 37' 11" West, 95.59 feet to a point on the Southerly right of way line of the Old Pacific Highway (U. S. 99 East) (as located August 1933) (see State highway map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48° 02' 33" East, 50.00 feet, to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43° 06' 58" East 124.22 feet to a point on said curve; thence South 48° 14' 08" East 183.60 feet to the True Point of Beginning.

STATE OF OREGON)
County of Clackamas) ss.

I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clackamas, do hereby certify that the within instrument of writing was received for and recorded in the records of said county at

JUN 5 1938 49

Witness my hand and seal affixed,

GEORGE D. POPPEN
County Clerk

Recording Certificate 77 494
CCP-R4

EXHIBIT C

28

MODIFICATION AGREEMENT

The undersigned Lessor, VONA FAYE PARK, and Lessees, JOHN R. STEWART and BEULAH STEWART, having heretofore executed a Business Property Lease dated November 13, 1975 and expiring April 30, 1977 relating to the building known as BO'S WASH 'N' DRY located at 851 S. W. First Avenue, Canby, Oregon and the real property upon which said building is located and described as follows:

A part of Sections 4 and 5, Township 4 South, Range 1 East of the W.M., Clackamas County, State of Oregon, more particularly described as follows: Beginning at a point on the southerly boundary of the Pacific Highway which point is 142 feet distant in a westerly direction from the most northerly corner of that certain tract of land conveyed to Vona Faye Park by Deed recorded December 14, 1953 in Book 476 at page 522, Deed Records of Clackamas County, Oregon; thence Westerly along the southerly boundary of said Pacific Highway 80 feet to a point; thence Southerly and parallel to the easterly boundary of the Lessor's real property as described in said Book 476 at page 522 to a point on the southerly boundary of said property; thence easterly along the southerly boundary of Lessor's said property 80 feet more or less to a point; thence northerly equal distance from and parallel to the westerly boundary of the property herein described to the point of beginning,

hereby agree to amend and modify the terms and provisions thereof as follows:

Article 19 thereof relating to Lessees' right of of option to purchase the above described building and real property is amended to provide that, in the event said option

Page 1 - MODIFICATION AGREEMENT

77-594

A Recording Service of
Transpacific Title Ins. Co.
42534

is exercised, that twenty (20) foot portion of the property above described which lies in the present forty (40) foot driveway with its centerline on the common line of said properties at the Pacific Highway No. 99 E engineering station "LN" 538 + 10, shall become part of a non-exclusive easement with the Lessor, her heirs and assigns, and Lessor in consideration thereof, shall reserve to Lessees, their heirs and assigns, a similar non-exclusive easement for the use of the twenty (20) foot strip lying immediately adjacent to said property. Said mutual non-exclusive easement shall be forty (40) feet wide and shall extend into the properties twenty (20) feet, as illustrated on attached Exhibit "A".

All other terms and conditions of said Lease Agreement shall remain the same.

Dated: December 1, 1976

Dated: December 1, 1976

John R. Stewart
John R. Stewart, Lessee

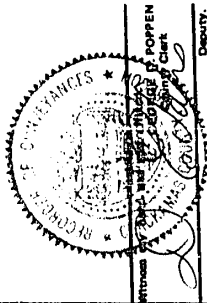
Vona Faye Park
Vona Faye Park, Lessor

Beulah Stewart
Beulah Stewart, Lessee

STATE OF OREGON)
County of Clatsop) ss.

I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Court of the State of Oregon, for the County of Clatsop, do hereby certify that the within instrument of writing was read and its contents fully explained to the parties and its contents are as recorded in the records of said county at

77 JAN 6 P 3:37



Witness my hand and the seal of said County at Gladstone, Oregon, this 1st day of December, 1976.
George D. Poppen, County Clerk
Recording Certificate 77 534
CCP-RA

AFTER RECORDING RETURN TO:
Vona Faye Park
464 W. Clarendon
Gladstone, Oregon
Order No. 41 2534

2

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That we, Vona Faye Park and Roy O. Park, wife and husband. Grantors, for the consideration of the sum of Five Hundred Seventy-five and No/100 Dollars (\$575.00) to us paid, have bargained and sold and by these presents do bargain, sell and convey unto the State of Oregon, by and through its State Highway Commission, the following described premises, to wit:

A parcel of land lying in the Lucius A. Seoley D.L.C., Township 4 South, Range 1 East, W.H., Clackamas County, Oregon, and being a portion of that property described in that certain deed to Vona Faye Park, recorded in Book 476, Page 522 of Clackamas County Record of Deeds; the said parcel being described as follows:

Beginning on the Northwestern line of said property at a point which is 75 feet Northeastly (when measured along said Northwestern line) from the most Westerly corner of said property; thence Southwesterly along the said Northwestern line of said property, 75 feet to said most Westerly corner; thence Easterly along the Southerly line of said property, 80 feet; thence Northwesternly in a straight line to the place of beginning.

The parcel of land to which this description applies contains 0.02 acre.

As a part of the consideration hereinabove stated, there is also bargained, sold, conveyed and relinquished to the Grantee all existing, future or potential common law or statutory abutter's easements of access between the right of way of the public way identified as the relocated Pacific Highway East and all of the Grantors' remaining real property.

Reserving, for service of the said remaining property, right of access from Grantors' remaining property to the highway right of way, at each of the following places and for the following widths:

<u>Hwy. Engr's Sta.</u>	<u>Side of Hwy.</u>	<u>Width</u>	<u>Purpose</u>
540+75	Southeasterly	40 feet	Unrestricted
541+60	Scutheasterly	40 feet	Unrestricted
539+60	Southeasterly	40 feet	Unrestricted
538+10	Southeasterly	40 feet	Unrestricted
536+25	Southeasterly	40 feet	Unrestricted

TO HAVE AND TO HOLD the said premises with their appurtenances, in fee simple, unto the State of Oregon, by and through its State Highway Commission, its successors and assigns forever.

And we the said Grantors do hereby covenant to and with the State of Oregon, by and through its State Highway Commission, its successors and assigns, that we are the owners in fee simple of said premises; that they are free from all encumbrances and that we will warrant and defend the same from all lawful claims whatsoever.

It is expressly intended that these covenants, burdens, restrictions and reservations shall run with the land and shall forever bind the Grantors, their heirs and assigns.

13696



BOOK 623 PAGE 558

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 17th day of June, 1963.

Vona Faye Park (SEAL)
Vona Faye Park

His Mark (SEAL)
Roy O. Park

LeRoy J. Edwards
Witness as to/mark of Roy O. Park

Janette Pedersen
Witness as to/mark of Roy O. Park

STATE OF OREGON }
County of Clackamas } ss

On this 17th day of June, 1963, personally came before me, a Notary Public in and for said county and state, the within named Vona Faye Park, wife of Roy O. Park, to me personally known to be the identical person described in, and who executed the within instrument, and who personally acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Clay R. Stephenson
Notary Public for Oregon

My commission expires 23 February 1966

11

STATE OF OREGON }
County of Clackamas } ss

On this 17th day of June, 1963, personally came before me, a Notary Public, in and for said county and state, the within named Roy O. Park, husband of Vona Faye Park, to me personally known as the individual described in and who executed the foregoing instrument by his mark in my presence and in the presence of LeRoy J. Edwards and Janette Pedersen witnesses, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein named.

Witness my hand and official seal the day and year last above written.

Clay R. Stephenson
Notary Public for Oregon

My Commission expires 23 February 1966

tk/rw

BOOK 623 PAGE 550

SEAL DOCUMENT 13696 RECORDED JUNE 19 1963 12:08 PM HUBERT SCHUMACHER, County Clerk

10-7-05

File No. 34971

GRANT OF ACCESS

12685

WHEREAS, STATE OF OREGON, by and through its State Highway Commission, hereinafter called "State", acquired from "Owners", VONA FAYE PARK and ROY O. PARK, wife and husband, by deed executed on June 17, 1963, and recorded in Book of Deeds Volume 623, page 558, for Clackamas County, Oregon, certain property lying in the Lucius A. Seeley D. L. C., Township 4 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon. Said deed conveyed all of the grantors' rights of access from their remaining lands abutting on the Southeastern side of the relocated Pacific Highway East, State Primary Highway No. 1E, except that there were reserved for the service of said land, certain points of access not material hereto; and

WHEREAS, for the service of an existing business on said abutting lands, and for the service of a proposed business to be located adjacent thereto, a right of access on the Southeastern side of said highway, at a point opposite State Highway Engineer's Centerline Station 537+30, of a width of 40 feet and unrestricted as to use, appears to be necessary; and

WHEREAS, Owners have requested that State grant an additional right of access at said point opposite Highway Engineer's Centerline Station 537+30; and

BOOK 643 PAGE 389

12695 II

WHEREAS, State is willing to grant Owners' request.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that State hereby grants to Vona Faye Park and Roy O. Park, wife and husband, their heirs and assigns, rights of access to and from their abutting property on the Southeasterly side of the relocated Pacific Highway East, at a point opposite Highway Engineer's Centerline Station 537+30, of a width of 40 feet and unrestricted as to use.

Except as herein modified, said deed of June 17, 1963, shall remain in full force and effect as fully as if set forth herein.

Dated at Salem, Oregon, this 22nd day of November, 1963.

APPROVED: [Signature]
Assistant State Highway Engineer

APPROVED AS TO FORM: [Signature]
Chief Counsel

[Signature]
Staff Attorney

ATTEST: [Signature]
Secretary

STATE OF OREGON, by and through its State Highway Commission

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

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By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

By [Signature]

STATE OF OREGON }
County of Marion } ss

On this 22nd day of November, 1963, before me a Notary Public, appeared GLENN L. JACKSON, K. N. FRIDLEY, and DAVID B. SIMPSON, to me personally known, who each being duly sworn, did say that he, the said Glenn L. Jackson, is Chairman of the State Highway Commission of the State of Oregon, and that he, the said K. N. Fridley, and he, the said David B. Simpson, is State Highway Commissioner of the State of Oregon; that the seal affixed to said instrument is the seal of the State Highway Commission, and that the said instrument is signed and sealed in behalf of said State by said Commission, and that the said Chairman and the said Commissioners acknowledge said instrument to be the free act and deed of said State, by said State Highway Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Carol H. Heath
Notary Public for Oregon
My commission expires: 12-31-1966



SEAL DOCUMENT 12685 RECORDED JUL 20 1964 1:06 P: M ROBERT SCHUMACHER, County Clerk

BOOK 643 PAGE 391

bill MF
6/9/76

ORIGINAL

Highway Division
File 34971

10-6-76

INDENTURE OF ACCESS

THIS INDENTURE, made and executed this 15 day of October, 1976,
by and between the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION,
Highway Division, hereinafter called "State", and VONA FAYE PARK, hereinafter called
"Owner";

WHEREAS, State by deed recorded June 21, 1963, in Book 623, Page 558, Clackamas
County Deed Records, acquired from Owner, certain property situated in the Lucius A.
Seeley D.L.C., Township 4 South, Range 1 East. W.M., which deed, in part, reserved unto
Owner access rights to and from the Southeasterly side of the relocated Pacific Highway
East opposite Engineer's Station 539+60; and

WHEREAS, Owner has requested that her access rights opposite said Station 539+60
be terminated and that there be substituted therefor access rights to and from the
Southeasterly side of said highway opposite Engineer's Station 540+20, and that she
be granted additional access rights to and from the Southeasterly side of said highway
opposite Engineer's Station 538+88, 25 feet in width; and

WHEREAS, State is agreeable to the granting of Owner's request.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that for and in consideration of the
grant hereinafter made by State, OWNER does hereby transfer and relinquish unto State,
its successors and assigns, her access rights to and from the Southeasterly side of
the relocated Pacific Highway East opposite said Station 539+60 reserved in said deed
recorded June 21, 1963. Owner represents and warrants that no one, other than Owner,
is using or entitled to use the access rights herein relinquished. STATE in con-
sideration of the relinquishment and warranties herein made, does grant and convey
unto OWNER, her heirs and assigns, access rights to and from the Southeasterly side
of said highway, opposite said Station 538+88 in a width of 25 feet and opposite said
Station 540+20 in a width of 40 feet, both unrestricted as to use.

78 54858

Page 2 - Indenture of Access
10-6-76

Highway Division
File 34971

Except as modified herein and by Grant of Access recorded in Book 643, Page 389, Deed Records, said deed recorded June 21, 1963 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first written above.

X Vona Faye Park
Vona Faye Park

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION,
Highway Division

By J. B. Boyd
J. B. Boyd, Right of Way Engineer

APPROVED AS TO FORM:

Kalt Banie
Asst. Attorney General and Counsel

STATE OF OREGON, County of Clackamas

October 11, 1976. Personally appeared the above named Vona Faye Park, who acknowledged the foregoing instrument to be her voluntary act. Before me:

Virginia W. King
Notary Public for Oregon

My Commission expires _____
My Commission Expires September 11, 1978

STATE OF OREGON, County of Marion

Oct 15, 1976. Personally appeared J. B. Boyd, who being sworn, stated that he is the Right of Way Engineer for the State of Oregon, Department of Transportation, Highway Division, and this document was voluntarily signed on behalf of the State of Oregon, by authority delegated to him. Before me:

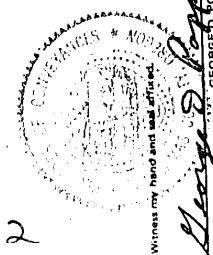
Orville L. Egan
Notary Public for Oregon

My Commission expires Oct 30 1976



STATE OF OREGON)
County of Clackamas) ss.
I, George D. Poppen, County Clerk, Ex-Officio
Recorder, Conveyances and Ex-Officio Clerk
of the Circuit Court of the State of Oregon, for
the County of Clackamas, do hereby certify that
the within instrument of writing was duly signed
and recorded in the records of said county at

78 DEC ?? 09:04



Witness my hand and seal office,
George D. Poppen
GEORGE D. POPPEN
County Clerk
Recording Certificate
78 54858
CCP-84

WARRANTY DEED

VONA FAYE PARK, Grantor, conveys and warrants to THE HOLLAND, INC., a Washington corporation, Grantee, the following real property as more particularly described in Exhibit A attached hereto and by reference incorporated herein, free of encumbrances except as specifically set forth.

Subject to and excepting:

1. The rights of the public in and to that portion of the within described property lying within the limits of roads and highways.

2. Limited access in deed to State of Oregon, by and through its Department of Transportation, Highway Department, which provides that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property,

Recorded : June 21, 1963 Book: 623 Page: 558
Re-Recorded : July 20, 1964 Book: 643 Page: 389

3. A non-exclusive easement which Grantor reserves for herself for access over a twenty (20) foot strip immediately Southwesterly and adjacent to the Northerly twenty (20) feet of the Easterly boundary of said property.

The true and actual consideration for this conveyance is Seventy Two Thousand Four Hundred Twenty and no/100ths Dollars (\$72,420.00) which is part of the total consideration.

Until a change is requested, all tax statements are to be sent to the following address:

c/o The Holland, Inc.
1708 Main Street
Vancouver, Washington 98660

Dated this 6th day of December, 1976.

Vona Faye Park
Vona Faye Park

STATE OF OREGON)
County of Multnomah) ss.

December 6th, 1976.

Personally appeared the above named VONA FAYE PARK and acknowledged the foregoing instrument to be her voluntary act and deed.

Donald B. McCann
Notary Public for Oregon
My commission expires: 10/26/79

79 3694

EXHIBIT "A"

Real property situated in the City of Canby, County of Clackamas, State of Oregon, being a portion of the Lucius A. Seely D.L.C. in the Northwest Quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, described as follows:

COMMENCING at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim #54 (said stone being North 00° 32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim) thence South 67° 46' 19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve and the True Point of Beginning; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right a distance of 77.22 feet thru a central angle of 13° 54' 32"; thence South 70° 24' 30" West along the Northerly boundary of said Old Pacific Highway a distance of 385.69 feet; thence North 39° 17' 16" West, 25.10 feet to a point on the Southerly right of way line of the Old Pacific Highway (U. S. 99 East) (as located August 1933) (see State Highway map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48° 02' 33" East, 211.67 feet to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43° 06' 58" East 195.88 feet, to a point on said curve; thence South 48° 14' 08" East 210.22 feet to the True Point of Beginning.

LESS that portion of said property described as follows:

COMMENCING at a stone which marks the Southwest corner of the Philander Lee Donation Land Claim #54 (said stone being North 00° 32' West, 389.00 feet from the Southeast corner of the Seely Donation Land Claim) thence South 67° 46' 19" West, 232.52 feet to a point on the Northerly boundary of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence following the Northerly boundary of the Old Pacific Highway along the arc of said curve to the right a distance of 77.22 feet thru a central angle of 13° 54' 32" to the True Point of Beginning; thence South 70° 24' 30" West along the Northerly boundary of said Old Pacific Highway 201.20 feet; thence North 46° 37' 11" West, 95.59 feet to a point on the Southerly right of way line of the Old Pacific Highway (U. S. 99 East) (as located August 1933) (see State highway map 2B 23 23) said point being also located on the arc of a spiral curve; thence Northeasterly along the arc of said curve, the long chord of which bears North 48° 02' 33" East, 50.00 feet, to a point on said curve; thence continuing along said spiral curve, Northeasterly along the arc of said curve, the long chord of which bears North 43° 06' 58" East 124.22 feet to a point on said curve; thence South 48° 14' 08" East 183.60 feet to the True Point of Beginning.

Ret.
McCORMICK & REYNOLDS
ATTORNEYS AT LAW
STANDARD PLAZA
PORTLAND, OREGON 97204

STATE OF OREGON)
County of Clackamas) ss.
I, George D. Poppen, County Clerk, Ex-Officio Recorder, and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clackamas, do hereby certify that the within instrument of writing was recorded and recorded in the records of said county at

79 JAN 26 PM 2:29

2



Witness my hand and the seal of said office this 26th day of January, 1979.
George D. Poppen
County Clerk

Recording Certificate 79 3694
CCP-R4

99-050001-1

Recordation requested by
and
after recordation return to:

Norwood Homes Inc.
c/o 10804 NE Highway 99
Vancouver, WA 98686

**OREGON
STATUTORY WARRANTY DEED**

THE HOLLAND, INC., a Washington corporation, Grantor, conveys and warrants to **A.A.C., LLC**, an Oregon limited liability company, Grantee, the following-described real property free of encumbrances except as specifically set forth herein:

The real property being conveyed by Grantor to Grantee is described on the attached Exhibit A; the encumbrances on such property are described on the attached Exhibit B. The property being retained by Grantor and that is not being conveyed to Grantee is described on the attached Exhibit C.

The true consideration for this conveyance is \$72,500.00.

This deed is being recorded to effect a lot line adjustment as approved by the City of Canby under Lot Line Adjustment No. 99-03, so that the property being conveyed to Grantee (described on the attached Exhibit A) and the property being retained by Grantor (described on the attached Exhibit C) will each be a separate legal lot.

This Deed is made subject to certain restrictive covenants set forth below, which are binding on and appurtenant to the real property described on the attached Exhibit A (the "Property") and are appurtenant to the real property being retained by Grantor which is adjacent to the Property and described on the attached Exhibit C (also referred to as the "Burgerville Property"), and for the benefit of Grantor, and its successors and assigns, as owner of the Burgerville Property. By acceptance hereof, the Grantee

Until a change is requested, all tax statements shall be sent to the following address:
A.A.C., LLC, c/o 10804 NE Highway 99, Vancouver, WA 98686
Property tax account No.:

99-050001

The Holland, Inc. - Statutory Warranty Deed - Oregon
Deed with Restrictive Covenants
Last printed: May 12, 1999
FD01A-169901.2 39615-0001

FIRST AMERICAN TITLE CO. OF OREGON
NO. 613997-Comm

agrees that the Property, Grantee and all subsequent owners of the Property are and shall be bound by these restrictive covenants, and Grantee agrees to comply with the terms of such restrictive covenants, as follows:

1. **Restrictions on Use.** For the Term (as defined below), the Property will not be leased, subleased, operated or otherwise used for (i) the sale of coffee, espresso or coffee-related products, or (ii) as a fast food or "quick service" restaurant in which more than twenty-five percent of the gross sales in any calendar year is from the sale of the following type of products (in the aggregate, for the sales of all of the following) (the "Restricted Items"): hamburgers, hamburger-related products (including products such as vegetable-based or soy-based products, such as Gardenburgers), french fries and french fry-type products (such as potato patties), and milkshakes and ice cream and ice cream products (the "25% Limitation"). The restrictions in this paragraph are the "Restrictive Covenants."

If the Property is used for any restaurant or fast-food restaurant or "quick service" restaurant use during any calendar year, then in determining whether the 25% Limitation is exceeded, Grantee (or other Owner, tenant, operator, sublessee or occupant of the Property) shall compute and certify to Grantor on an annual basis, or such shorter period of time (but not more frequently than once per month) as may be reasonable under the circumstances, the total amount of gross sales from the business(es) and operation(s) on the Property and the total amount of gross sales of Restricted Items. On request, Grantee (or other owner, tenant, operator, sublessee or occupant of the Property) shall: (i) provide reasonable back-up detail and respond in a commercially reasonable manner to requests by Grantor for additional information concerning such gross sales and sales of Restricted Items; (ii) provide a copy to Grantor of any sales or sales tax filings concerning sales at the Property; and (iii) co-operate on any audit or examination by Grantor of the amount of such gross sales and sales of Restricted Items.

2. **Term.** The term of the Restrictive Covenants will commence as of the date of recordation of this Deed and end of the thirtieth anniversary of such date (the "Term").

3. **Effect of Acceptance.** By acceptance hereof, Grantee acknowledges and agrees that any lease or occupancy agreement subsequently entered into with respect to the Property will subject to the requirement that the tenant's use (and any changes to the original use by the tenant) must comply with applicable laws and these Restrictive Covenants. In acquiring the Property, Grantee (and each subsequent owner of the Property) shall automatically be deemed to acknowledge that the Restrictive Covenants set forth in this Deed are an essential part of the particular transaction covering the Property and, further, that the Restrictive Covenants are fair and reasonable to assure the owners of the Burgerville Property and the Property of their expected benefits and the orderly and beneficial development of the respective properties, but not to control competition (recognizing that the relevant competitive market consists not of the properties described in the attached Exhibits but of the commercial retail market in the broader Portland, Oregon greater metropolitan area).

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this ___ day of May, 1999.

GRANTOR: **THE HOLLAND, INC.,**
a Washington corporation

By *Thomas W. Mears*
Name/Title: **Thomas W. Mears, President**

STATE OF WASHINGTON)
) ss.
County of Clark)

This instrument was acknowledged before me on May 11, 1999, by Thomas W. Mears, as the President of THE HOLLAND INC., a Washington corporation.



Berta Roberts
Notary Public for WA
Residing at: Vancouver

The foregoing restrictions set forth above as the Restrictive Covenants have been read, approved and accepted by the undersigned and the undersigned agrees to be bound thereby and to comply with the same, subject to the terms and conditions set forth above.

GRANTEE:
BY: *Howard Arnold*
Howard Arnold, member

A.A.C., LLC,
an Oregon limited liability company



By *C. David Callahan*
Name/Title: **C. David Callahan, member**

By *George H. Callahan*
Name/Title: **George H. Callahan, member**

STATE OF OREGON)
County of CLATSOP)

This instrument was acknowledged before me on May 11, 1999, by

Berta Roberts
Berta Roberts
Notary Public for WA
Residing at: Vancouver

PDX1A-169901.3 35615-0001

3

STATE OF WASHINGTON

County of Clatsop

SS.

I certify that I know or have satisfactory evidence that C. David Callahan (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.C.C., LLC, a Limited Liability Company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Beta Roberts
Name (typed or printed): Beta Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Union City
My appointment expires: 10-09-99

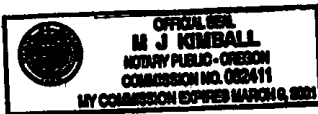
STATE OF OREGON

County of

SS.

I certify that I know or have satisfactory evidence that Howard Arnold (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.C.C., LLC, a Limited Liability Company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



M. J. Kimball
Name (typed or printed): M. J. Kimball
NOTARY PUBLIC in and for the State of Oregon
Residing at Beaverton
My appointment expires: 3/9/01

STATE OF WASHINGTON

)
) SS.
)

County of

I certify that I know or have satisfactory evidence that George M. Callaham (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.A.C., LLC, an Oregon limited liability company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Berna Roberts
Name (typed or printed): Berna Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Wapato, WA
My appointment expires: 10-09-2000

This jurat is page ___ of ___ and attached to _____ dated _____

STATE OF WASHINGTON

}
} SS.

County of

I certify that I know or have satisfactory evidence that C. David Callahan (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.A.C., LLC, an Oregon limited liability company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Berta Roberts
Name (typed or printed): Berta Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Unknowen
My appointment expires: 10-29-2000

This jurat is page _____ of _____ and attached to _____ dated _____.



(Corporate)

STATE OF WASHINGTON

County of

SS.

I certify that I know or have satisfactory evidence that Thomas W. Mears (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the President of The Holland Inc., a Washington Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: May 14, 1999



Ruth Roberts
Name (typed or printed): Ruth Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Washoula
My appointment expires: 10-29-2000

This instrument is page ___ of ___ and is attached to _____ dated _____

EXHIBIT A

Legal Description of the Property Being Conveyed

Real property situated in the City of Canby, Clackamas County, Oregon, lying in the Lucius Seely Donation Land Claim, being a portion of the Northwest quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, more particularly described as follows:

Beginning at the most Northerly corner of that parcel of land described in the Deed of Trust between The Holland, Inc., and United States National Bank of Oregon, recorded under File No. 97-026384, records of said county; thence along the Northeasterly line of said parcel South 48° 14' 08" East 210.02 feet to a point on the Northwesterly right of way line of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence along said right of way line, and along said curve to the right, through a central angle of 13° 08' 58", an arc distance of 73.00 feet (the chord bears South 62° 56' 54" West 72.84 feet); thence North 46° 46' 34" West 184.21 feet to a point on the Southeasterly right of way line of Pacific Highway 99E, as located August, 1933 (see State Highway Map 2B 23 23), said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord of which bears North 42° 10' 20" East 63.23 feet to the Point of Beginning.

Containing 0.300 acres ±.

RESERVING therefrom an easement for parking purposes in favor of the Grantor over the following described property:

Beginning at the most Westerly corner of the above described parcel; thence along the Southwesterly line of said parcel South 46° 46' 34" East 40.00 feet; thence North 43° 13' 26" East 9.00 feet; thence North 46° 46' 34" West 40.12 feet to a point on the Southeasterly right of way line of said Pacific Highway 99E, said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord bears South 42° 26' 00" West 9.00 feet to the Point of Beginning.

FDCK1A-169901.2 33615-0001

Exhibit A, Page 1 of 1

EXHIBIT B

Exceptions to Title

1. Current taxes and assessments, if any, affecting the Property.
2. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission recorded June 21, 1963 in Book 623, page 558, Deed Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
 - As modified or amended by instrument
 - Recorded : July 20, 1964 in Book 643, page 389
 - As modified or amended by instrument
 - Recorded : December 22, 1978 as Fee No. 78 54858
3. An easement reserved in a deed, including the terms and provisions thereof;
 - Recorded: : January 26, 1979 as Fe No. 79 3694
 - From : Vona Faye Park
 - To : The Holland, Inc., a Washington corporation
 - For : Access

FDK1A-169901.2 19615-0001

Exhibit B, Page 1 of 1

EXHIBIT C

Legal Description of the Burgerville Property

The real property described in that certain Warranty Deed from Vona Faye Park to Grantor (The Holland, Inc.) dated December 6, 1976 recorded on January 6, 1977 as Recorder's No. 77-593, Official Records of Clackamas County, Oregon, **LESS AND EXCEPTING THEREFROM** the real property described on Exhibit A of this deed.

The legal description of the Burgerville Property, upon recordation of this deed and to give effect to the Lot Line Adjustment No. 99-03 is as follows:

Real property situated in the City of Canby, Clackamas County, Oregon, lying in the Lucius Seely Donation Land Claim, being a portion of the Northwest quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, more particularly described as follows:

That parcel of land described in the Deed of Trust between The Holland, Inc., and United States National Bank of Oregon, recorded under File No. 97-026384, records of said county.

EXCEPT the following described parcel:

Beginning at the most Northerly corner of said parcel; thence along the Northeasterly line of said parcel South 46° 14' 06" East 210.02 feet to a point on the Northwesterly right of way line of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence along said right of way line, and along said curve to the right, through a central angle of 13° 08' 58", an arc distance of 73.00 feet (the chord bears South 62° 56' 54" West 72.84 feet); thence North 46° 46' 34" West 184.21 feet to a point on the Southeasterly right of way line of Pacific Highway 99E, as located August, 1933 (see State Highway Map 2B 23 23), said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord of which bears North 42° 10' 20" East 63.23 feet to the Point of Beginning.

ALSO an easement for parking purposes over the following described property:

Beginning at the most Westerly corner of the above described exception parcel; thence along the Southwesterly line of said parcel South 46° 46' 34" East 40.00 feet; thence North 43° 13' 26" East 9.00 feet; thence North 46° 46' 34" West 40.12 feet to a point on the Southeasterly right of way line

12,736.LD2
5-13-89
KDB

of said Pacific Highway 99E, said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord bears South 42° 26' 00" West 9.00 feet to the Point of Beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Richard Sposito
OREGON
SEPTEMBER 23, 1971
RICHARD SPOSITO
1332

5/13/99

EXPIRES: 06-30-00

Page 2 of 2

11

STATE OF OREGON 99-050001
CLACKAMAS COUNTY
Received and placed in the public
records of Clackamas County
RECEIPT# AND FEE: 82888 885.00
DATE AND TIME: 05/17/99 03:18 PM
JOHN KAUFFMAN, COUNTY CLERK

99-05001

Recordation requested by
and
after recordation return to:

Norwood Homes Inc.
c/o 10804 NE Highway 99
Vancouver, WA 98686

**OREGON
STATUTORY WARRANTY DEED**

THE HOLLAND, INC., a Washington corporation, Grantor, conveys and warrants to **A.A.C., LLC**, an Oregon limited liability company, Grantee, the following-described real property free of encumbrances except as specifically set forth herein:

The real property being conveyed by Grantor to Grantee is described on the attached Exhibit A; the encumbrances on such property are described on the attached Exhibit B. The property being retained by Grantor and that is not being conveyed to Grantee is described on the attached Exhibit C.

The true consideration for this conveyance is \$72,500.00.

This deed is being recorded to effect a lot line adjustment as approved by the City of Canby under Lot Line Adjustment No. 99-03, so that the property being conveyed to Grantee (described on the attached Exhibit A) and the property being retained by Grantor (described on the attached Exhibit C) will each be a separate legal lot.

This Deed is made subject to certain restrictive covenants set forth below, which are binding on and appurtenant to the real property described on the attached Exhibit A (the "Property") and are appurtenant to the real property being retained by Grantor which is adjacent to the Property and described on the attached Exhibit C (also referred to as the "Burgerville Property"), and for the benefit of Grantor, and its successors and assigns, as owner of the Burgerville Property. By acceptance hereof, the Grantee

Until a change is requested, all tax statements shall be sent to the following address:
A.A.C., LLC, c/o 10804 NE Highway 99, Vancouver, WA 98686
Property tax account No.:

99-050001

The Holland, Inc. - Statutory Warranty Deed - Oregon
Deed with Restrictive Covenants
Last printed: May 12, 1999
FD01A-169901.2 39615-0001

FIRST AMERICAN TITLE CO. OF OREGON
NO. 613997-Comm

agrees that the Property, Grantee and all subsequent owners of the Property are and shall be bound by these restrictive covenants, and Grantee agrees to comply with the terms of such restrictive covenants, as follows:

1. **Restrictions on Use.** For the Term (as defined below), the Property will not be leased, subleased, operated or otherwise used for (i) the sale of coffee, espresso or coffee-related products, or (ii) as a fast food or "quick service" restaurant in which more than twenty-five percent of the gross sales in any calendar year is from the sale of the following type of products (in the aggregate, for the sales of all of the following) (the "Restricted Items"): hamburgers, hamburger-related products (including products such as vegetable-based or soy-based products, such as Gardenburgers), french fries and french fry-type products (such as potato patties), and milkshakes and ice cream and ice cream products (the "25% Limitation"). The restrictions in this paragraph are the "Restrictive Covenants."

If the Property is used for any restaurant or fast-food restaurant or "quick service" restaurant use during any calendar year, then in determining whether the 25% Limitation is exceeded, Grantee (or other Owner, tenant, operator, sublessee or occupant of the Property) shall compute and certify to Grantor on an annual basis, or such shorter period of time (but not more frequently than once per month) as may be reasonable under the circumstances, the total amount of gross sales from the business(es) and operation(s) on the Property and the total amount of gross sales of Restricted Items. On request, Grantee (or other owner, tenant, operator, sublessee or occupant of the Property) shall: (i) provide reasonable back-up detail and respond in a commercially reasonable manner to requests by Grantor for additional information concerning such gross sales and sales of Restricted Items; (ii) provide a copy to Grantor of any sales or sales tax filings concerning sales at the Property; and (iii) co-operate on any audit or examination by Grantor of the amount of such gross sales and sales of Restricted Items.

2. **Term.** The term of the Restrictive Covenants will commence as of the date of recordation of this Deed and end of the thirtieth anniversary of such date (the "Term").

3. **Effect of Acceptance.** By acceptance hereof, Grantee acknowledges and agrees that any lease or occupancy agreement subsequently entered into with respect to the Property will subject to the requirement that the tenant's use (and any changes to the original use by the tenant) must comply with applicable laws and these Restrictive Covenants. In acquiring the Property, Grantee (and each subsequent owner of the Property) shall automatically be deemed to acknowledge that the Restrictive Covenants set forth in this Deed are an essential part of the particular transaction covering the Property and, further, that the Restrictive Covenants are fair and reasonable to assure the owners of the Burgerville Property and the Property of their expected benefits and the orderly and beneficial development of the respective properties, but not to control competition (recognizing that the relevant competitive market consists not of the properties described in the attached Exhibits but of the commercial retail market in the broader Portland, Oregon greater metropolitan area).

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this ___ day of May, 1999.

GRANTOR: **THE HOLLAND, INC.,**
a Washington corporation

By *Thomas W. Mears*
Name/Title: **Thomas W. Mears, President**

STATE OF WASHINGTON)
) ss.
County of Clark)

This instrument was acknowledged before me on May 11, 1999, by Thomas W. Mears, as the President of THE HOLLAND INC., a Washington corporation.



Berta Roberts
Notary Public for WA
Residing at: Vancouver

The foregoing restrictions set forth above as the Restrictive Covenants have been read, approved and accepted by the undersigned and the undersigned agrees to be bound thereby and to comply with the same, subject to the terms and conditions set forth above.

GRANTEE:
BY: *Howard Arnold*
Howard Arnold, member

A.A.C., LLC,
an Oregon limited liability company



By *C. David Callahan*
Name/Title: **C. David Callahan, member**

By *George H. Callahan*
Name/Title: **George H. Callahan, member**

STATE OF OREGON)
County of CLATSOP)

This instrument was acknowledged before me on May 11, 1999, by

Berta Roberts
Berta Roberts
Notary Public for WA
Residing at: Vancouver

PDX1A-169901.3 25615-0001

STATE OF WASHINGTON

County of Clallam

SS.

I certify that I know or have satisfactory evidence that C. David Callahan (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.C.C., LLC, a Limited Liability Company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Beta Roberts
Name (typed or printed): Beta Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Unmanned
My appointment expires: 10-09-99

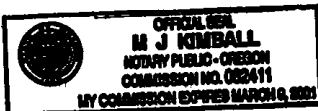
STATE OF OREGON

County of

SS.

I certify that I know or have satisfactory evidence that Howard Arnold (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.C.C., LLC, a Limited Liability Company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



M. J. Kimball
Name (typed or printed): M. J. Kimball
NOTARY PUBLIC in and for the State of Oregon
Residing at Beaverton
My appointment expires: 3/9/01

STATE OF WASHINGTON

)
) SS.
)

County of _____

I certify that I know or have satisfactory evidence that George M. Callaham (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.A.C., LLC, an Oregon limited liability company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Berta Roberts
Name (typed or printed): Berta Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Wapato, WA
My appointment expires: 10-09-2000

This jurat is page _____ of _____ and attached to _____ dated _____

STATE OF WASHINGTON

County of

}
} SS.

I certify that I know or have satisfactory evidence that C. David Callahan (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she) is the individual(s) described in and who signed this instrument as Member of A.A.C., LLC, an Oregon limited liability company, and acknowledged it to be (his/her) free and voluntary act, for the uses and purposes mentioned in this instrument, and on oath stated that (he/she) is authorized to execute the instrument.

DATED: May 14, 1999



Berta Roberts
Name (typed or printed): Berta Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Unconuma
My appointment expires: 10-29-2000

This jurat is page _____ of _____ and attached to _____ dated _____.



(Corporate)

STATE OF WASHINGTON

County of

SS.

I certify that I know or have satisfactory evidence that Thomas W. Mears (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he is/she is /they are) authorized to execute the instrument and acknowledged it as the President of The Holland Inc., a Washington Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: May 14, 1999



Ruth Roberts
Name (typed or printed): Ruth Roberts
NOTARY PUBLIC in and for the State of WA
Residing at Washoula
My appointment expires: 10-29-2000

This instrument is page ___ of ___ and is attached to _____ dated _____

EXHIBIT A

Legal Description of the Property Being Conveyed

Real property situated in the City of Canby, Clackamas County, Oregon, lying in the Lucius Seely Donation Land Claim, being a portion of the Northwest quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, more particularly described as follows:

Beginning at the most Northerly corner of that parcel of land described in the Deed of Trust between The Holland, Inc., and United States National Bank of Oregon, recorded under File No. 97-026384, records of said county; thence along the Northeasterly line of said parcel South 48° 14' 08" East 210.02 feet to a point on the Northwesterly right of way line of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence along said right of way line, and along said curve to the right, through a central angle of 13° 08' 58", an arc distance of 73.00 feet (the chord bears South 62° 56' 54" West 72.84 feet); thence North 46° 46' 34" West 184.21 feet to a point on the Southeasterly right of way line of Pacific Highway 99E, as located August, 1933 (see State Highway Map 2B 23 23), said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord of which bears North 42° 10' 20" East 63.23 feet to the Point of Beginning.

Containing 0.300 acres ±.

RESERVING therefrom an easement for parking purposes in favor of the Grantor over the following described property:

Beginning at the most Westerly corner of the above described parcel; thence along the Southwesterly line of said parcel South 46° 46' 34" East 40.00 feet; thence North 43° 13' 26" East 9.00 feet; thence North 46° 46' 34" West 40.12 feet to a point on the Southeasterly right of way line of said Pacific Highway 99E, said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord bears South 42° 26' 00" West 9.00 feet to the Point of Beginning.

FDCK1A-169901.2 33615-0001

Exhibit A, Page 1 of 1

EXHIBIT B

Exceptions to Title

1. Current taxes and assessments, if any, affecting the Property.
2. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission recorded June 21, 1963 in Book 623, page 558, Deed Records, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.
 - As modified or amended by instrument
 - Recorded : July 20, 1964 in Book 643, page 389
 - As modified or amended by instrument
 - Recorded : December 22, 1978 as Fee No. 78 54858
3. An easement reserved in a deed, including the terms and provisions thereof;
 - Recorded: : January 26, 1979 as Fe No. 79 3694
 - From : Vona Faye Park
 - To : The Holland, Inc., a Washington corporation
 - For : Access

FDK1A-169901.2 19615-0001

Exhibit B, Page 1 of 1

EXHIBIT C

Legal Description of the Burgerville Property

The real property described in that certain Warranty Deed from Vona Faye Park to Grantor (The Holland, Inc.) dated December 6, 1976 recorded on January 6, 1977 as Recorder's No. 77-593, Official Records of Clackamas County, Oregon, LESS AND EXCEPTING THEREFROM the real property described on Exhibit A of this deed.

The legal description of the Burgerville Property, upon recordation of this deed and to give effect to the Lot Line Adjustment No. 99-03 is as follows:

Real property situated in the City of Canby, Clackamas County, Oregon, lying in the Lucius Seely Donation Land Claim, being a portion of the Northwest quarter of Section 4, Township 4 South, Range 1 East of the Willamette Meridian, more particularly described as follows:

That parcel of land described in the Deed of Trust between The Holland, Inc., and United States National Bank of Oregon, recorded under File No. 97-026384, records of said county.

EXCEPT the following described parcel:

Beginning at the most Northerly corner of said parcel; thence along the Northeasterly line of said parcel South 46° 14' 06" East 210.02 feet to a point on the Northwesterly right of way line of the Old Pacific Highway, said point being on the arc of a 318.10 foot radius curve; thence along said right of way line, and along said curve to the right, through a central angle of 13° 08' 58", an arc distance of 73.00 feet (the chord bears South 62° 56' 54" West 72.84 feet); thence North 46° 46' 34" West 184.21 feet to a point on the Southeasterly right of way line of Pacific Highway 99E, as located August, 1933 (see State Highway Map 2B 23 23), said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord of which bears North 42° 10' 20" East 63.23 feet to the Point of Beginning.

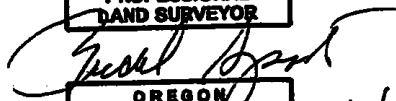
ALSO an easement for parking purposes over the following described property:

Beginning at the most Westerly corner of the above described exception parcel; thence along the Southwesterly line of said parcel South 46° 46' 34" East 40.00 feet; thence North 43° 13' 26" East 9.00 feet; thence North 46° 46' 34" West 40.12 feet to a point on the Southeasterly right of way line

12,736.LD2
5-13-89
KDB

of said Pacific Highway 99E, said point being on a spiral curve; thence along said right of way line and said spiral curve, the chord bears South 42° 26' 00" West 9.00 feet to the Point of Beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
SEPTEMBER 23, 1971
RICHARD SPOSITO
1332

5/13/99

EXPIRES: 06-30-00

Page 2 of 2

11

STATE OF OREGON 99-050001
CLACKAMAS COUNTY
Received and placed in the public
records of Clackamas County
RECEIPT# AND FEE: 82888 885.00
DATE AND TIME: 05/17/99 03:18 PM
JOHN KAUFFMAN, COUNTY CLERK



First American

First American Title Company of Oregon

121 SW Morrison Street, Suite 300

Portland, OR 97204

Phone: (503)222-3651 / Fax: (877)242-3513

PR: NWEST

Ofc: 7019 (1011)

Final Invoice

To: Tom Scott Investments
218 SW 2nd Ave
Canby, OR 97013

Invoice No.: 1011 - 7019134684
Date: 05/13/2016

Our File No.: 7019-2650044
Title Officer: Dona Cramer
Escrow Officer:

Customer ID: ORCATO0001

Attention: Tom Scott

Your Reference No.:

RE: Property:
851 SW 1st Avenue and, 909 SW 1st Avenue, Canby, OR
97013

Liability Amounts
Owners:
Lenders:

Buyers:

Sellers: Scott 2004 Family LP

Description of Charge	Invoice Amount
Guarantee: Subdivision/Plat Certificate	\$275.00
INVOICE TOTAL	\$275.00

Comments:

Thank you for your business!

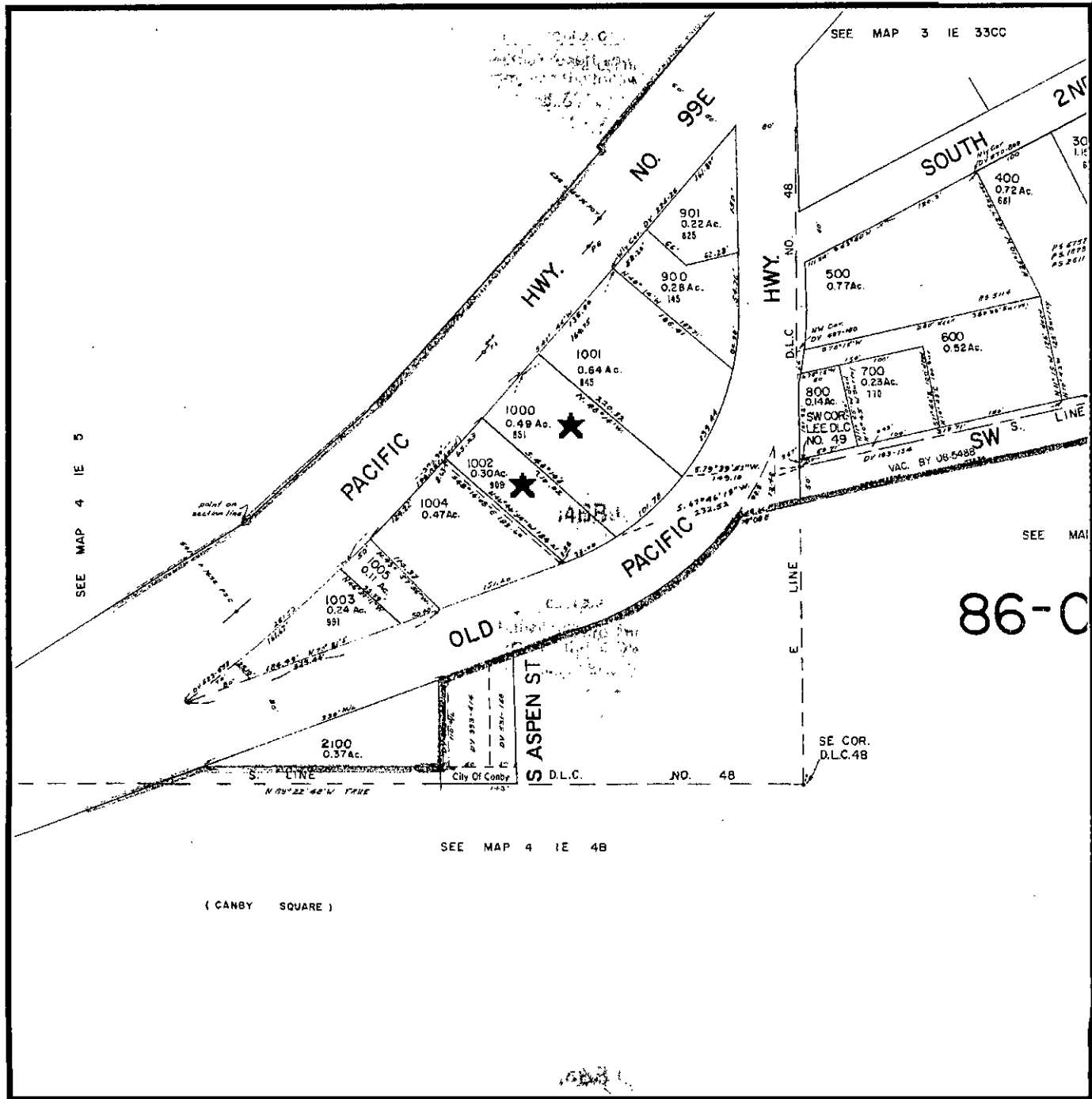
To assure proper credit, please send a copy of this Invoice and Payment to:

Attention: Accounts Receivable Department

PO Box 31001-2266

Pasadena, CA 91110-2266

Reference Parcel #: 41E04BB01000 / 1002



**First American
Title Company of Oregon**

Customer Service Department
121 SW Morrison Street Suite 300 Portland, OR 97204
Phone: 503.219.TRIO (8746) Fax: 503.790.7872
Email: cs.portland@firstam.com

THIS MAP IS PROVIDED AS A CONVENIENCE IN LOCATING PROPERTY. FIRST AMERICAN TITLE COMPANY OF OREGON ASSUMES NO LIABILITY FOR ANY VARIATIONS AS MAY BE DISCLOSED BY AN ACTUAL SURVEY

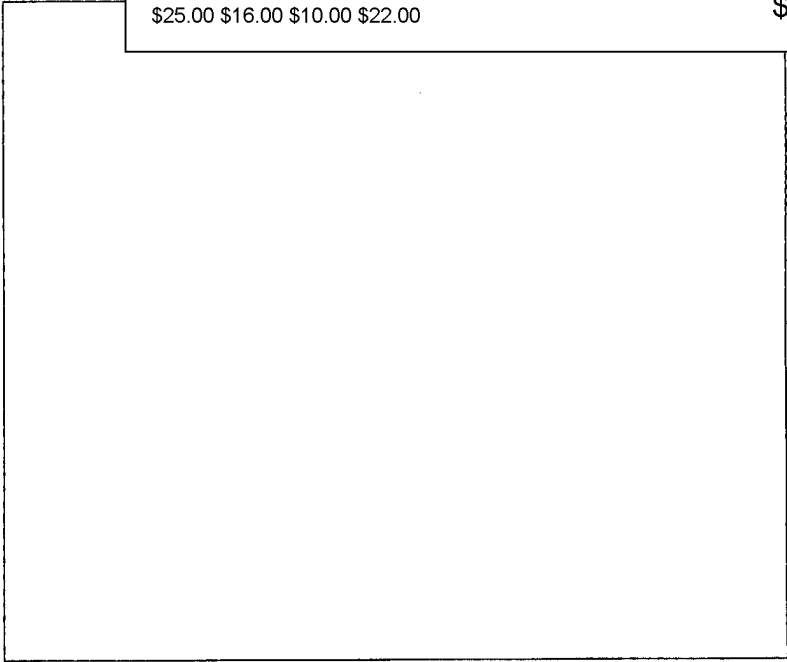
Clackamas County Official Records **2015-072895**
Sherry Hall, County Clerk
10/29/2015 02:56:58 PM
D-D Cnt=1 Stn=2 LESLIE
\$25.00 \$16.00 \$10.00 \$22.00 **\$73.00**



After recording return to:
Scott 2004 Family LP
130 SW 2nd Ave., Ste 103
Canby, OR 97013

Until a change is requested all tax
statements shall be sent to the
following address:
Scott 2004 Family LP
130 SW 2nd Ave., Ste 103
Canby, OR 97013

File No.: 7072-2495579 (DJC)
Date: October 13, 2015



STATUTORY WARRANTY DEED

ACC LLC 2 a Washington limited liability company who acquired title as A.C.C. LLC2, an Oregon limited liability company, Grantor, conveys and warrants to Scott 2004 Family LP, an Oregon limited partnership, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$550,000.00**. (Here comply with requirements of ORS 93.030)

FIRST AMERICAN 2495579-SS

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

Dated this 14 day of Oct., 20 15.

ACC LLC 2 a Washington limited liability company formally ACC LLC2, an Oregon limited liability company

By: *C. David Callaham*

Name: C. David Callaham
Title: Managing Member

By: *George M. Callaham*

Name: George M. Callaham
Title: Managing Member

By: *Lisa J. Zahler-Callaham*

Name: Lisa J. Zahler-Callaham
Title: Managing Member

By: *Leahlyn D. Callaham*

Name: Leahlyn D. Callaham
Title: Managing Member

STATE OF Oregon)
)ss.
County of Clackamas)

This instrument was acknowledged before me on this 14 day of Oct., 2015 by C. David Callaham, George M. Callaham, Lisa J. Zahler-Callaham and Leahlyn D. Callaham as Managing Member of ACC LLC 2 a Washington limited liability company formally ACC LLC2, an Oregon limited liability company, on behalf of the .

D. Chase

Notary Public for Oregon
My commission expires: 11/17/16

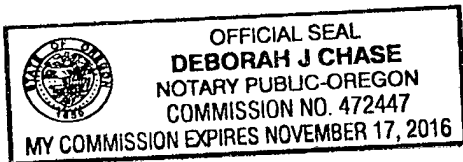


EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Clackamas, State of Oregon, described as follows:

PARCEL I:

A TRACT OF LAND IN THE LUCIUS A. SEELY DONATION LAND CLAIM NO. 48, IN THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF CANBY, COUNTY OF CLACKAMAS AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE PHILANDER LEE DONATION LAND CLAIM; THENCE SOUTH 79° 39' 52" WEST, A DISTANCE OF 149.10 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE OLD PACIFIC HIGHWAY, SAID POINT ALSO BEING LOCATED ON THE ARC OF A 318.10 FOOT RADIUS CURVE AND THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE NORTH 48° 14' WEST, A DISTANCE OF 220.32 FEET ALONG THE SOUTHWESTERLY BOUNDARY LINE OF THE HABERMAN PROPERTY, AS DESCRIBED IN CONTRACT, RECORDED SEPTEMBER 14, 1978 AS RECORDER'S FEE NO. 78-39642, TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF U.S. 99 EAST; THENCE SOUTH 41° 46' WEST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, 91.46 FEET TO THE MOST NORTHERLY CORNER OF THAT TRACT SOLD ON CONTRACT TO THE HOLLAND INC., A WASHINGTON CORPORATION, BY INSTRUMENT, RECORDED JANUARY 6, 1977 AS RECORDER'S FEE NO. 77-494, CLACKAMAS COUNTY RECORDS; THENCE SOUTH 48° 14' 08" EAST, ALONG THE NORTHERLY LINE OF SAID HOLLAND INC., TRACT, 210.22 FEET TO A POINT ON THE ARC OF SAID 318.10 FOOT RADIUS CURVE ON THE SAID NORTHERLY BOUNDARY OF SAID OLD PACIFIC HIGHWAY, SAID POINT BEING THE MOST EASTERLY CORNER OF SAID HOLLAND INC., TRACT; THENCE 92.43 FEET ALONG THE ARC OF SAID 318.10 FOOT RADIUS CURVE (THE LONG CHORD OF WHICH BEARS NORTH 48° 03' 41" EAST, 92.02 FEET) TO THE TRUE POINT OF BEGINNING.

PARCEL II:

REAL PROPERTY SITUATED IN THE CITY OF CANBY, CLACKAMAS COUNTY, OREGON, LYING IN THE LUCIUS SEELY DONATION LAND CLAIM, BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN THE DEED OF TRUST BETWEEN THE HOLLAND, INC., AND UNITED STATES NATIONAL BANK OF OREGON, RECORDED UNDER FILE NO. 97-026384, RECORDS OF SAID COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL SOUTH 48° 14' 08" EAST 210.02 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF THE OLD PACIFIC HIGHWAY, SAID POINT BEING ON THE ARC OF A 318.10 FOOT RADIUS CURVE; THENCE ALONG SAID RIGHT OF WAY LINE AND ALONG SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 13° 08' 58", AN ARC DISTANCE OF 73.00 FEET (THE CHORD BEARS SOUTH 62° 56' 54" WEST 72.84 FEET); THENCE NORTH 46° 46' 34" WEST 184.21 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF PACIFIC HIGHWAY 99E, AS LOCATED AUGUST, 1933 (SEE STATE HIGHWAY MAP 2B 23 23), SAID POINT BEING ON A SPIRAL CURVE; THENCE ALONG SAID RIGHT OF WAY LINE AND SAID SPIRAL CURVE, THE CHORD OF WHICH BEARS NORTH 42° 10' 20" EAST 63.23 FEET TO THE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.



Oregon

Kate Brown, Governor

Department of Transportation

Region 1 Headquarters
123 NW Flanders Street
Portland, Oregon 97209
(503) 731.8200
FAX (503) 731.8259

April 4, 2016

ODOT #7017

ODOT Response

Project Name: MiniMart-Car Wash Redevelopment (Canby)	Applicant: BKM_Applicant
Jurisdiction: City of Canby	Jurisdiction Case #: BKM_PrimJuriCase
Site Address: 851 SW 1st Avenue, Canby, OR	Legal Description: 41E04BB Tax Lot(s): 01000 and 01002
State Highway: OR 99E	Mileposts: 21.69

The site of this proposed land use action is adjacent to SW 1st Avenue (OR-99E). ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

- If the City of Canby requires a Traffic Impact Analysis, please contact the ODOT Traffic representative identified below to scope the study.
- Curb, sidewalk, bikeways and road widening shall be constructed as necessary to be consistent with the local, ODOT, and ADA standards.
- The applicant's site plan shows a drive aisle connection between the subject property and TL 01004 (Burgerville). The applicant shall record necessary cross-over easements to the adjacent properties with state highway frontage with the County Assessor.
- ODOT recommends that the northernmost access to OR-99E be closed to the subject property. Please note, that the access will remain and serve TL 01001 (Taco Bell) only.
- A State Highway Approach (access) Road Permit from ODOT for access to the state highway is required and must be obtained. Site access to the state highway is regulated by OAR 734.51. Sight distance will be reviewed as part of ODOT's permit review. *Note: It takes 2 to 3 months to process a State Highway Approach Road Permit.*
- The applicant is advised that the subject property's highway frontage is access controlled. ODOT has acquired and owns access rights to the subject property. The subject property was granted a Reservation of Access, as recorded in the property deed. Based on the reviewed materials, the proposed access appears to be consistent with the property's access rights. The applicant may want to consider shifting the proposed access to the southwest to make it more in line with the site's main drive aisle. However, shifting the access more than 10' will require the applicant to apply for and obtain an Indenture of Access from ODOT.
- An ODOT Miscellaneous Permit must be obtained for all work in the highway right of way. When the total value of improvements within the ODOT right of way is estimated to be \$100,000 or more, an agreement with ODOT is required to address the transfer of

ownership of the improvement to ODOT. An intergovernmental agreement (IGA) is required for agreements involving local governments and a cooperative improvement agreement (CIA) is required for private sector agreements. The agreement shall address the work standards that must be followed, maintenance responsibilities, and compliance with ORS 276.071, which includes State of Oregon prevailing wage requirements. *Note: If a CIA is required, it can take up to 6 months to process.*

- The applicant must obtain an ODOT permit to place trees in the state right of way. Landscaping, tree spacing and design must be consistent with Highway Design Manual or ODOT must approve a design exception. If trees are proposed in the planter strip a design exception from the clear zone is required. *Note: It can take up to 1 month to process a design exception.*
- Illumination within the ODOT right of way must be in accordance with AASHTO illumination standards and the ODOT Lighting Policy and Guidelines, which states that local jurisdictions must enter into an Intergovernmental Agreement (IGA) with ODOT wherein the local jurisdiction is responsible for installation, maintenance, operation, and energy costs.
- An ODOT Drainage Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way.

A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if:
 1. Total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or
 2. The improvements create an increase of the impervious surface area greater than 10,758 square feet.
- Private signs are not permitted in the state highway right of way (ORS 377.700-377.840).

Please send a copy of the Notice of Decision including conditions of approval to:

ODOT Region 1 Planning
 Development Review
 123 NW Flanders St
 Portland, OR 97209
Region1_DEVREV_Applications@odot.state.or.us

Development Review Planner: Joshua Brooking	503.731.3049, joshua.c.brooking@odot.state.or.us
RAME: Martin Jensvold, P.E.	503.731.8219
Traffic Contact: Andy Jeffrey, P.E.	503.731.8435
District Contact: Loretta Keiffer	971.673.6228

REPORT OF GEOTECHNICAL ENGINEERING SERVICES
4th Avenue and Highway 99E Restaurant
Canby, Oregon

Geotech

Solutions Inc.

March 23, 2016

GSI Project: scottinvest-16-2-gi

March 23, 2016

scottinvest-16-2-gi

Scott 2004 Family LP
tomscott@scott-investments.com

REPORT OF GEOTECHNICAL ENGINEERING SERVICES Highway 99E and SW Fourth Avenue Restaurant Development – Canby, Oregon

As authorized, herein we present our report of geotechnical engineering services for the proposed new restaurant development. The parcel has had previous buildings demolished and pavement removed. New plans include a single story roughly 6,000 square feet restaurant with drive thru and paved parking and new utility connections. We have assumed loads are less than 4 kips per foot for walls, 100 kips for columns, and 250 psf for floors. The purpose of our services was to provide geotechnical recommendations for design and construction. Specifically, our scope of work included the following:

- Provide principal level project management including client communications, management of field and subcontracted services, report writing, analyses, and invoicing.
- Review geologic maps and vicinity geotechnical information as indicators of subsurface conditions.
- Complete a site reconnaissance to observe surface features relevant to geotechnical issues, such as topography, vegetation, presence and condition of springs, exposed soils, and evidence of previous grading.
- Identify exploration locations and coordinate possible location conflicts with utilities.
- Explore subsurface conditions by excavating two test pits to depths of up to 12 feet or refusal.
- Complete infiltration testing in one of the test pits.
- Classify and sample the materials encountered and maintain a detailed log of the explorations.
- Complete lab testing of select samples to aid in classification.
- Provide recommendations for earthwork including fill materials, seasonal material usage, use of granular working pads, cut and fill slope inclinations, compaction criteria, utility trench backfill, need for subsurface drainage, and reuse of demolition materials.
- Provide recommendations for footing foundations, including embedment, bearing pressure, settlement estimates, resistance to lateral loads, a seismic site class and the need for subsurface drainage.
- Provide geotechnical recommendations for site pavements, including preparation, base stabilization, base rock materials and thickness, asphalt concrete thickness, and compaction.
- Provide a report summarizing our observations and recommendations

SITE OBSERVATIONS AND CONDITIONS

Surface Conditions

The site is located between SW Fourth Avenue and Highway 99E (SW 1st Avenue) at 851 SW 1st Avenue roughly opposite the high school entrance drives in Canby, Oregon. An aerial photo of the site from 2015 is on the attached **Site Plan**. The existing site topography is generally flat and within a few feet of roughly elevation 155 feet. Former buildings have been removed from the site, exposing

disturbed gravel and gravelly silt soils at the surface, with pavements to the southwest and a Taco Bell to the northeast.

Subsurface Conditions

General – Subsurface conditions at the site were explored on March 16, 2016 by completing 2 test pits to depths up to 12 feet below the existing ground surface (bgs) using an extendable boom backhoe. Approximate exploration locations are shown on the attached **Site Plan**. Specific subsurface conditions observed at each exploration are described in the attached **Test Pit Logs**.

In general, subsurface conditions include silt and gravel fill to depths of 1.5 to 2.5 feet, underlain by dense gravels and cobbles to the 12 foot depth explored. The fill surface was disturbed, likely from demolition, and was generally very loose or soft in the top few inches to one foot. Very loose pea gravel may be deeper northwest of TP-2. In TP-2 we encountered a terra cotta tile surrounded by drain rock from a depth of 2.5 to 4 feet. Beneath the fill in both test pits we encountered dense, brown to light brown, moderately graded, subangular to subrounded gravels and cobbles that contained some sand and silt near the contact and graded to trace silt with depth, with occasional boulders. No seepage was observed, with generally moderate caving except in the drain rock fill which caved severely.

Site Geology

We reviewed the Geologic Map of the Canby and Oregon City Quadrangles (DOGAMI, Bulletin 99) as part of our evaluation. The site is located in an area of mapped deltaic deposits (Qdg) of sand, gravel, and boulders 'up to 8 feet in diameter'. Subsurface conditions encountered in our explorations are consistent with the mapped site geology.

Laboratory Testing – Laboratory testing resulted in moisture contents of 12% to 12% in the gravel and cobble unit, with 9% fines at a depth of 8 feet in TP-1. Results of moisture content testing are provided in the attached **Moisture Contents**.

Groundwater – We did not observe groundwater seepage to the depths. Due to the presence of silty near surface soils, perched ground water conditions could exist during extended periods of wet weather. Ground water is mapped (GSI Water Solutions, 2013) near elevation 110 feet in the site area, with a depth to seasonal high ground water of roughly 35 to 40 feet.

Infiltration Testing – We completed one open hole steady state infiltration test at a depth of 10 feet in TP-1. The average head during the test was approximately 2 inches and no water accumulated outside a roughly 2 foot diameter wetted area using a 2-inch fire hose from an elevated water tank over a period of 15 minutes. Geotechnical recommendations for infiltration rate and system construction are provided in the **Infiltration** section of this report.

CONCLUSIONS AND RECOMMENDATIONS

General

Based on the results of our explorations, laboratory testing, and engineering analyses, it is our opinion that the site can be developed as proposed following the recommendations contained herein. Key geotechnical issues include removal or proper reuse of surface fill, possible caving and boulders, and protection of silty subgrades in wet conditions. The proposed structure, with the anticipated structural

loads as previously stated, can be supported on shallow spread footings as recommended herein. Specific geotechnical recommendations are provided in the following sections.

Dry season grading (typically July through September) is recommended but not required. Earthwork construction during wet weather will result in increased construction costs and schedules to remove or protect near surface silty soils. The near surface soils at the site consist of silty fill in some areas which is easily disturbed when wet. If construction is planned for wet conditions, measures must be taken to minimize disturbance.

Small boulders are present in the gravel unit and have been encountered nearby. Based on available geologic information and our experience in the site vicinity, boulders may exceed 8 feet in diameter. If utilities or excavations extend below boulder elevations, special excavation techniques and large excavations will be required at considerable time and cost. Project budgets and schedules must include a contingency for rock/boulder excavation and increased backfill volumes. Excavation with a large excavator equipped with rock teeth may advance deeper than the depths reached with conventional equipment, although special rock excavation or large excavations may still be required.

Site Preparation

General - Prior to earthwork construction, the site should be prepared by removing any existing structures, utilities, pavement and any loose surficial or undocumented fill. Any excavation resulting from the aforementioned preparation should be brought back to grade with structural fill. It is possible to recompact the existing loose/soft fills (which were 4-12 inches deep) as structural fill in dry season conditions at the surface using proper compaction if moisture contents are near optimum. Site preparation for earthwork will also require the removal of the landscape area root zone and topsoil/till zone soils, if present, from all pavement, building, and fill areas. Deeper stripping depths may be required in areas near trees or shrubs.

Root balls from trees and shrubs may extend several feet and grubbing operations can cause considerable subgrade disturbance. All disturbed material should be removed to undisturbed subgrade and backfilled with structural fill. In general, roots greater than one-inch in diameter should be removed as well as areas of concentrated smaller roots.

Stabilization and Soft Areas - After stripping, we must be contacted to evaluate the exposed subgrade. This evaluation can be done by proof rolling in dry conditions or probing during wet conditions. Soft areas will require over-excavation and backfilling with well graded, angular crushed rock compacted as structural fill, overlying a separation geosynthetic such as a Propex Geotex 601 or equivalent. A geogrid may also be required in particularly soft areas, such as a Hanes EGrid 2020 or equivalent punched and drawn biaxial geogrid.

Working Blankets and Haul Roads - Construction equipment must not operate directly on the subgrade, as it is susceptible to disturbance and softening. Any remaining site pavement can be used for this. Rock working blankets and haul roads placed over a geosynthetic in a thickened advancing pad can be used to protect silt subgrades. We recommend that sound, angular, pit run or crushed basalt with no more than 6 percent passing a #200 sieve be used to construct haul roads and working blankets, overlying the preceding separation geosynthetic. Working blankets must be at least 10 inches thick, and haul roads at least 14 inches thick.

The preceding rock and amendment thicknesses are the minimum recommended. Subgrade protection is the responsibility of the contractor and thicker sections may be required based on subgrade conditions during construction and type and frequency of construction equipment.

Earthwork

Fill – The on-site fine grained near surface fill, and native gravel and cobbles soils, can be used for structural fill if properly moisture conditioned and if all debris and deleterious materials are removed. Use of material with more than roughly 6% silt will not be feasible during wet conditions. Once moisture contents are within 3 percent of optimum, the material must be compacted to at least 92 percent relative to ASTM D1557 (modified proctor) using a tamping foot type compactor. Fill must be placed in lifts no greater than 10 inches in loose thickness. In addition to meeting density specifications, fill will also need to pass a proof roll using a loaded dump truck, water truck, or similar size equipment.

In wet conditions, fill must be imported granular soil with less than 6 percent fines, such as clean crushed or pit run rock. This material must also be compacted to 95 percent relative to ASTM D1557.

Trenches – Utility trenches may encounter perched ground water seepage and moderate to severe caving must be expected where seepage is present or in the gravels. Flowing soil conditions can occur in the sand or gravel units where seepage is present. We did not encounter seepage in our March test pits. Shoring of utility trenches will be required for depths greater than 4 feet and where groundwater seepage is present. We recommend that the type and design of the shoring system be the responsibility of the contractor, who is in the best position to choose a system that fits the overall plan of operation.

Our explorations encountered occasional boulders at the depths noted on the attached **Boring Logs**. Difficult and large excavations and/or special excavation techniques will be required if trenches extend below depths where boulders are present. Project budgets and schedules must include a contingency for rock/boulder excavation and increased backfill volumes.

Depending on the excavation depth and amount of groundwater seepage, dewatering may be necessary for construction of underground utilities. Flow rates for dewatering are likely to vary depending on location, soil type, and the season during which the excavation occurs. The dewatering systems, if necessary, must be capable of adapting to variable flows.

Pipe bedding must be installed in accordance with the pipe manufacturers' recommendations. If groundwater is present in the base of the utility trench excavation, we recommend overexcavating the trench by 12 to 18 inches and placing trench stabilization material in the base. Trench stabilization material must consist of well-graded, crushed rock or crushed gravel with a maximum particle size of 4 inches and be free of deleterious materials. The percent passing the U.S. Standard No. 200 Sieve must be less than 5 percent by weight when tested in accordance with ASTM C 117.

Trench backfill above the pipe zone must consist of well graded, angular crushed rock or sand fill with no more than 7 percent passing a #200 sieve. Trench backfill must be compacted to 92 percent relative to ASTM D-1557, and construction of hard surfaces, such as sidewalks or pavement, must not occur within one week of backfilling.

Seismic Design

General - In accordance with the International Building Code (IBC) as adapted by State of Oregon Structural Specialty Code (SOSSC) and based on our explorations and experience in the site vicinity, the subject project should be evaluated using the parameters associated with Site Class D.

Liquefaction - Liquefaction occurs in loose, saturated, granular soils. Strong shaking, such as that experienced during earthquakes, causes the densification and the subsequent settlement of these soils. Given the generally flat topography, unsaturated near surface conditions, and the soil type and consistency encountered in our explorations, the risk of liquefaction related structurally-damaging deformations in proposed building areas is low.

Infiltration

General - Site soils are amenable to dry well disposal of storm water. Due to caving concerns, dry wells should be installed prior to building foundations, in which case dry wells or trenches can be within 5 feet of footings. Otherwise they must be 10 feet away and at least 1.5 times their depth away, from footings. The following paragraphs provide geotechnical recommendations for dry wells or trenches. Actual system design will be completed by the project civil engineer based on storm water volumes and rates.

Based on the results of our testing and analyses, infiltration rates in the unsaturated portion of the native gravels and cobbles are high (unfactored rate measured at 370 in³/hour per in²). This rate requires fines contents of less than 5%, which we must evaluate during system excavation. We recommend using a design infiltration rate of 120 in³/hour per in² applied to the portion of the sides of the dry well(s) or trenches that are embedded within gravels and cobbles neglecting any layers containing more than 5% fines. This unit and fines criteria was generally met at depths below 9 feet in our test pits, and seasonal high ground water is mapped at depths of 35 to 40 feet. This rate includes a reduction factor, and can also be used for the base of drywells that are protected by upstream sediment capture. Clean gravel or cobble fill with less than 2% fines can be used for filling trenches or the perimeter of dry wells in the perforated zone. Care must be taken to design any drywell or pipe perforations and fill to avoid loss of backfill into the dry well or pipe. If geosynthetics are used over perforations, flow rates of the geosynthetic must exceed the design flows by a factor of 3. Clean, well graded, angular crushed rock or pit run rock should be used overlying the perforation zone fill. All backfill must be compacted until well keyed as structural fill.

We must be contacted during infiltration system construction to confirm that exposed conditions are consistent with those observed during our infiltration testing. Systems should be sized by the civil engineer according to design storm water volumes and rates. Minimum embedment should also be specified by the civil engineer.

Confirmation Testing and Maintenance - Testing of infiltration systems is required to confirm the design infiltration rate as actual subsurface conditions and infiltration rates can vary widely. Flexibility for adaptation and expansion of infiltration systems should be incorporated into the design and construction, with contingencies included in the project budget and schedule. Infiltration systems need to be maintained free of debris and silt in order to function properly.

Shallow Foundations

Based on the provided information regarding building type and anticipated structural loads as previously stated, the proposed structure can be supported on shallow spread foundations bearing in the native medium stiff or stiffer silt or medium dense gravels or on properly constructed structural fill bearing on these units. Footings should be embedded at least 18 inches below the lowest adjacent, exterior grade. Footings can be designed for an allowable net bearing pressure of 3,500 psf when founded on medium dense or better native gravels and cobbles or on granular structural fill. The preceding bearing pressure can be increased to 6,000 psf for temporary wind and seismic loads. Any silt present will require overexcavation and/or placement of one foot of crushed rock fill.

Continuous footings should be no less than 18 inches wide, and pad footings should be no less than 24 inches wide. Resistance to lateral loads can be obtained by a passive equivalent fluid pressure of 350 pcf against suitable footings, ignoring the top 12 inches of embedment, and by a footing base friction coefficient of 0.40. Properly founded footings are expected to settle less than a total of 1 inch, with less than ½ inch differentially. Footings adjacent to slopes up to 2H:1V should have a minimum horizontal setback of 5 feet from the face of the slope.

If footing construction is to occur in wet conditions, a few inches of crushed rock should be placed at the base of footings to reduce subgrade disturbance and softening during construction. Granular soils loosed by footing excavation could be “re-seated” during compaction of the crushed rock protection layer.

Slabs

Floor slab loads up to 250 psf are expected to induce less than one inch of settlement. A minimum of six inches of clean, angular crushed rock with no more than 5 percent passing a #200 sieve is recommended for underslab rock. Prior to slab rock placement the subgrade will need to be evaluated by us by probing or observing a proof rolling using a fully loaded truck. Underslab rock should be compacted to 92 percent compaction relative to ASTM D1557, and should be proof rolled as well. In addition, any areas contaminated with fines must be removed and replaced with clean rock. If the base rock is saturated or trapping water, this water must be removed prior to slab placement.

Some flooring manufacturers require specific slab moisture levels and/or vapor barriers to validate the warranties on their products. A properly installed and protected vapor flow retardant can reduce slab moistures. If moisture sensitive floor coverings or operations are planned, we recommend a vapor barrier be used. Typically a reinforced product or thicker product (such as a 15 mil STEGO wrap) can be used. Experienced contractors using special concrete mix design and placement have been successful placing concrete directly over the vapor barrier which overlies the rock. This avoids the issue of water trapped in the rock between the slab and vapor barrier, which otherwise requires removal. In either case, slab moisture should be tested/monitored until it meets floor covering manufacturer's recommendations.

Drainage

General - We recommend installing perimeter foundation drains around all exterior foundations. The surface around building perimeters should be sloped to drain away from the buildings.

Foundation and Wall Drains - Foundation and wall drains should consist of a two-foot wide zone of drain rock encompassing a 4-inch diameter perforated pipe, all enclosed with a non-woven filter fabric. The drain rock should have no more than 2 percent passing a #200 sieve and should extend to within one foot of the ground surface. The geosynthetic should have an AOS of a #70 sieve, a minimum permittivity of 1.0 sec⁻¹, and a minimum puncture resistance of 80 pounds (such as Propex Geotex 601 or equivalent). One foot of low permeability soil (such as the on-site silty soils) should be placed over the fabric at the top of the drain to isolate the drain from surface runoff.

Pavement

Asphalt Concrete – At the time of this report we did not have specific information regarding the type and frequency of expected traffic. We therefore developed new asphalt concrete pavement thicknesses for areas exposed to passenger vehicles only and areas exposed to up to 3 trucks per day based on a 20-year design life with 3-axle trucks. We assumed that the average truck will consist of a panel-type delivery truck or 3-axle truck. Traffic volumes can be revised if specific data is available. In general, the existing site pavements exceed this capacity.

Our pavement analyses is based on AASHTO methods and subgrade of structural fill or undisturbed medium stiff or better native silt having a resilient modulus of 6,000 psi and prepared as recommended herein. We have also assumed that roadway construction will be completed during an extended period of dry weather. The results of our analyses based on these parameters are provided in the table below.

<u>Traffic</u>	<u>ESAL's</u>	<u>AC (inches)</u>	<u>CR (inches)</u>
Passenger Vehicle Only	-	2.5	6
Up to 3 Trucks Per Day	17,100	3	8

The thicknesses listed in the above table are the minimum acceptable for construction during an extended period of dry weather. Increased rock thicknesses will be required for construction during wet conditions. Crushed rock must conform to ODOT base rock standards and have less than 6 percent passing the #200 sieve. Asphalt concrete must be compacted to a minimum of 91 percent of a Rice Density.

Portland Cement Concrete - We developed PCC pavement thicknesses at the site for the assumed one-way traffic levels as shown in the table below. Each of these sections is based on AASHTO methods with no reduction for wander and a composite modulus of subgrade reaction of 350 pci (AASHTO Figure 3.3 with M_r = 6,000 psi and 6 inches crushed rock base). Other parameters include 4,000 psi compressive strength portland cement concrete (PCC), and plain jointed concrete **without** load transfer devices or tied concrete shoulders. PCC pavements over trench backfill should not be placed within one week of fill installation unless survey data indicates that settlement of the backfill is complete.

<u>Traffic</u>	<u>ESALS</u>	<u>PCC (inches)</u>	<u>CRB (inches)</u>
Up to 3 Trucks Per Day	17,100	5	6

Subgrade Preparation - The pavement subgrade must be prepared in accordance with the **Earthwork and Site Preparation** recommendations presented in this report. Existing fill may be used as pavement

subgrade only if organics are removed, the surface is stiff in wet conditions and protected with a working blanket or haul road, or is ripped and recompactd as documented structural fill in dry conditions to a depth of one foot. All pavement subgrades must pass a proof roll prior to paving. Soft areas must be repaired per the preceding **Stabilization** section.

LIMITATIONS AND OBSERVATION DURING CONSTRUCTION

We have prepared this report for use by Scott 2004 Family LP and the design and construction teams for this project only. The information herein could be used for bidding or estimating purposes but must not be construed as a warranty of subsurface conditions. We have made observations only at the aforementioned locations and only to the stated depths. These observations do not reflect soil types, strata thicknesses, water levels or seepage that may exist between observations. We must be consulted to observe all foundation bearing surfaces, subgrade stabilization, proof rolling of slab and pavement subgrades, installation of structural fill, subsurface drainage, and cut and fill slopes. We must be consulted to review final design and specifications in order to see that our recommendations are suitably followed. If any changes are made to the anticipated locations, loads, configurations, or construction timing, our recommendations may not be applicable, and we must be consulted. The preceding recommendations must be considered preliminary, as actual soil conditions may vary. In order for our recommendations to be final, we must be retained to observe actual subsurface conditions encountered. Our observations will allow us to interpret actual conditions and adapt our recommendations if needed.

Within the limitations of scope, schedule and budget, our services have been executed in accordance with the generally accepted practices in this area at the time this report was prepared. No warranty, expressed or implied, is given.



We appreciate the opportunity to work with you on this project and look forward to our continued involvement. Please call if you have any questions.

Sincerely,

Don Rondema, MS, PE, GE
Principal



Attachments:

Site Plan, Guidelines for Classification of Soil, Test Pit Logs, Moisture Contents, Fines Content.



NOT TO SCALE

BASE FROM GOOGLE EARTH 2015 AERIAL

GUIDELINES FOR CLASSIFICATION OF SOIL

Description of Relative Density for Granular Soil	
Relative Density	Standard Penetration Resistance (N-values) blows per foot
very loose	0 - 4
loose	4 - 10
medium dense	10 - 30
dense	30 - 50
very dense	over 50

Description of Consistency for Fine-Grained (Cohesive) Soils		
Consistency	Standard Penetration Resistance (N-values) blows per foot	Torvane Undrained Shear Strength, tsf
very soft	0 - 2	less than 0.125
soft	2 - 4	0.125 - 0.25
medium stiff	4 - 8	0.25 - 0.50
stiff	8 - 15	0.50 - 1.0
very stiff	15 - 30	1.0 - 2.0
hard	over 30	over 2.0

Grain-Size Classification	
Description	Size
Boulders	12 - 36 in.
Cobbles	3 - 12 in.
Gravel	1/4 - 3/4 in. (fine) 3/4 - 3 in. (coarse)
Sand	No. 200 - No. 40 Sieve (fine) No. 40 - No. 10 sieve (medium) No. 10 - No. 4 sieve (coarse)
Silt/Clay	Pass No. 200 sieve

Modifier for Subclassification	
Adjective	Percentage of Other Material In Total Sample
Clean/Occasional	0 - 2
Trace	2 - 10
Some	10 - 30
Sandy, Silty, Clayey, etc.	30 - 50

Test Pit # Depth (ft) Soil Description

Explorations completed on March 16, 2016 with an extendable boom John Deere backhoe

TP-1

Location: Southeast area of the site.

Surface conditions: gravelly silt fill.

- 0 – 0.3 Soft, brown, gravelly SILT FILL with some concrete and asphalt debris; moist.
- 0.3 – 0.6 Medium dense to dense, gray, well graded angular GRAVEL FILL (3/4"-0) with trace sand and silt; moist.
- 0.6 – 1.5 Dense, brown, silty, moderately graded, angular, silty GRAVEL and COBBLE FILL (Pit run); moist.
- 1.5 – 12 Dense, brown, well graded, subangular to subrounded GRAVELS and COBBLES with some sand and trace silt and occasional boulders; moist.
4 feet becomes light brown.
10 feet – open hole steady state infiltration test.

No seepage observed.

Moderate caving 0-12 feet.

TP-2

Location: Northwest area of the site.

Surface conditions: pea gravel.

- 0 – 1 Very loose, gray, subrounded poorly graded small GRAVEL FILL; moist. (pea gravel).
- 1 – 2.5 Dense, gray, well graded angular GRAVEL FILL with some sand and silt; moist.
2.5 to 4 feet - Drain rock and terra cotta tile in north side of test pit.
- 2.5 – 10 Dense, light brown, well graded, subangular to subrounded GRAVELS and COBBLES with some sand and trace silt and occasional boulders; moist.

No seepage observed.

Severe caving 0-4 feet. Moderate caving 4-10 feet.

Exploration	Depth, ft	Moisture Content
TP-1	4.0	12%
TP-1	8.0	12%

Exploration	Depth, ft	Fines Content
TP-1	8.0	9%

CITY OF CANBY –COMMENT FORM

If you are unable to attend the Public Hearing, you may submit written comments on this form or in a letter addressing 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 111 NW Second Street
E-mail: eplingd@ci.canby.or.us

Written comments to be included in the Planning Commission’s meeting packet are due by Noon on Wednesday, June 29, 2016. Written comments can also be submitted up to the time of the Public Hearing on Monday, July 16, 2016 and may also be delivered in person to the Planning Commission during the Public Hearing at 7 pm in the City Council Chambers, 155 NW 2nd Avenue.

Application: Site & Design Review – DR 16-03 Scott Commercial Re-development

COMMENTS:

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

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

NAME: Gary StockwellLine Foreman, Ca
AGENCY: Lineforeman, Canby Utility
DATE: 6-13-16

Thank you!


CURRAN-McLEOD, INC.
CONSULTING ENGINEERS

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

June 16, 2016

MEMORANDUM

TO: Mr. Bryan Brown
City of Canby

FROM: Hassan Ibrahim, P.E. 
Curran-McLeod, Inc.

**RE: CITY OF CANBY
851 & 909 SW 1ST AVENUE REDEVELOPMENT**

We have reviewed the submitted preliminary plans on the above mentioned project and have the following comments:

1. Access to the site from Hwy 99E shall conform to ODOT access control plan for this area. Concurrence from ODOT will be needed. Driveway must meet the current ADA guidelines.
2. Sidewalk and street lights shall be constructed along the entire site frontage with Hwy 99 E. Sidewalk shall match the existing width. Construction plans shall be reviewed and approved by ODOT. A copy of the approval letter or stamped set of plans shall be submitted to the City.
3. The existing driveway on SW 4th Avenue that lies outside the proposed driveway shall be removed and replaced with a new curb and sidewalk shall be constructed.
4. The new access onto SW 4th Avenue shall have a commercial driveway approach with 6" minimum concrete thickness and reinforcements.
5. The existing sanitary sewer on SW 4th Avenue is 4" in size, it needs to be capped and replaced with a new 6" diameter service lateral.
6. An erosion control permit will be required from the City of Canby prior to any on-site disturbance.
7. A storm drainage analysis shall be submitted to the City for review and approval during the final design phase. The analysis shall meet Chapter 4 of the City of Canby Public Works Design Standards dated June 2012.

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Mr. Bryan Brown
June 16, 2016
Page 2

8. The proposed UIC structures location shall meet at least one of the two conditions: (1) the vertical separation distance between the UIC and seasonal high groundwater is more than 2.5 feet or (2) the horizontal separation distance between the UIC and any water well is a minimum of 267 feet in accordance of the City of Canby Stormwater Master Plan, Appendix "C", Groundwater Protectiveness Demonstration and Risk Prioritization for Underground Injection Control (UIC) Devices.
9. All on-site drywells shall be ruled authorized by the Department of Environmental Quality (DEQ). A copy of the registration shall be submitted to the City prior to any storm drainage construction.

Should you have any questions or need additional information, please let me know.