

## PLANNING COMMISSION

### Meeting Agenda

Monday July 22, 2013

7:00 PM

City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

Commissioner Tyler Smith (Chair)

Commissioner Sean Joyce (Vice Chair)

Commissioner Charles Kocher

Commissioner John Proctor

Commissioner Shawn Hensley

Commissioner John Savory

Commissioner (Vacant)

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#### 1. CALL TO ORDER

#### 2. CITIZEN INPUT ON NON-AGENDA ITEMS

#### 3. PUBLIC HEARINGS

- a. *The applicant is proposing a 6 unit fuel-dispenser station which includes a canopy, underground fuel storage tanks, an attendant kiosk, equipment kiosk, restroom, dumpster, storage shed, propane fueling area, and an air/water pad.  
(Fred Meyer DR 12-03/TA 12-01/ZC 12-02)*

#### 4. NEW BUSINESS

#### 5. FINAL DECISIONS

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

#### 6. MINUTES

#### 7. ITEMS OF INTEREST/REPORT FROM STAFF

#### 8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

#### 9. ADJOURNMENT

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001.*

*A copy of this agenda can be found on the City's web page at [www.ci.canby.or.us](http://www.ci.canby.or.us)*

*City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV5.*

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



## **FRED MEYER FUEL STATION PACKET MATERIALS**

**SECTION 1: STAFF MEMOS & STAFF REPORT**

**SECTION 2: LUBA FINDINGS**

**SECTION 3: TA/ZC FINAL FINDINGS & ORDER AND  
DR FINAL FINDINGS & ORDER**

**SECTION 4: ORDINANCE 1365**

**SECTION 5: PLANNING COMMISSION & COUNCIL MINUTES FROM KEY MEETINGS**

**SECTION 6: APPEAL APPLICATION**

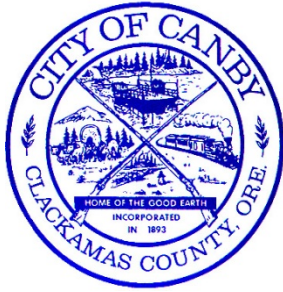
**SECTION 7: REVISED SUBMITTAL FROM FRED MEYER STORES**

**SECTION 8: SUBMITTAL FROM FRED MEYER STORES RESPONDING TO LUBA  
REMAND ISSUES (7.8.13 TRAFFIC STUDY SEPARATE)**

**SECTION 9: ORIGINAL DRAWINGS & APPLICATION MATERIALS FROM FRED MEYER  
STORES, (5.17.12 TRAFFIC STUDY SEPARATE)**

**SECTION 10: WRITTEN TESTIMONY, AGENCY COMMENTS, & CITIZEN COMMENTS**

## **SECTION 1: STAFF MEMOS & STAFF REPORT**



# *City of Canby*

**Date:** Prepared for the July 22, 2013 Planning Commission meeting  
**From:** Bryan Brown, Planning Director/Angie Lehnert, Associate Planner  
**RE:** Fred Meyer Fuel Facility revised designs/Appeal/LUBA remand

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## **Background**

At the July 17 Council Meeting, the Canby City Council is anticipated to instruct the Canby Planning Commission to review the re-consolidated DR 12-03/TA 12-01/ZC 12-02 files and LUBA remand. The Planning Commission will then recommend a final decision for Council. The memos dated 7.8.13 and 7.17.13 address the processing of the LUBA remand and the re-consolidation of DR 12-03/TA 12-01/ZC 12-02.

Please also refer to the memos dated April 3, April 19, July 8, and July 17 for more background. The memo dated April 19, 2013 provides an analysis of the design revisions that the Planning Commission has not yet reviewed.

In addition, Fred Meyer representatives have submitted a revised traffic study and letters responding to the two LUBA remand issues.

## **Staff Recommendation**

Staff recommends approval of the design revisions to DR 12-03 and staff recommends approval of the re-consolidated DR 12-03/TA 12-01/ZC 12-02 applications.

Staff also contends that the materials submitted by Fred Meyer representatives sufficiently respond to the remand issues brought up by LUBA. Staff is of the opinion that a future restriction of the proposed 99E driveway to right in/right out only would sufficiently mitigate any possible adverse traffic impacts that would arise from any possible installations of a pedestrian crossing in the vicinity of this property across Hwy. 99E.

## **Options**

The commission has the following options:

1. Reapprove DR 12-03 with the revised designs, support the additional findings submitted by Fred Meyer as a response to the LUBA remand issues associated with TA 12-01/ZC 12-02, and approve DR 12-03/TA 12-01/ZC 12-02 as a consolidated application. Final findings will reflect approval of the revised designs making them a part of the Appeal (APP 13-01) of DR 12-03, the support of the response findings submitted addressing the LUBA remand issues, and the re-consolidation of all applications which will move back to the City Council for consideration.
2. Make a new decision recommending denial of the design revisions to DR 12-03 and then otherwise follow Option #1.

**Sample motion**

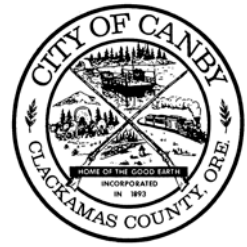
Should the Planning Commission choose Option 1 above, staff recommends the motion made be as follows:

I move to: affirm the Planning Commission's previous approval of the Fred Meyer Site Design Review #DR 12-03 with the revised designs, the findings submitted addressing the LUBA remand issues, and to approve the re-consolidated DR 12-03/TA 12-01/ZC 12-02 application as follows:

- I move to re-approve DR12-03 with the revised site design proposal for the fueling station based on the designs included in the record and further explained in staff's April 19, 2013 memo;
- I move that we recognize that Applicant's three requested approvals (the Text Amendment #TA 12-01, Map Amendment # ZC 12-02, and the Site Design Review #DR 12-03) are a single, consolidated application and therefore incorporate the record and decision from #TA 12-01/ZC 12-02 into the record of #DR 12-03 and incorporate the findings and conclusions from Ordinance No. 1365 as a part of this approval for #DR 12-03, resulting in a single record and decision for the fueling station and its three consolidated applications; and
- Direct the Applicant to prepare findings supporting approval of the consolidated applications with specific instruction to delete the original Planning Commission finding and condition concerning the monument sign because we find that the sign as now proposed meets the sign standards of Table 3 under 16.42.050 for pole and wall signs.

**Attachments:**

- Staff Memos & Staff Report
- LUBA Findings
- TA/ZC Final Findings & Order and DR Final Findings & Order
- Ordinance 1365
- Planning Commission & Council Minutes from Key Meetings
- Appeal Application
- Revised Submittal From Fred Meyer Stores
- Submittal From Fred Meyer Stores responding to LUBA Remand Issues (7.8.13 Traffic Study Separate)
- Original Drawings & Application Materials From Fred Meyer Stores, (5.17.12 Traffic Study Separate)
- Written Testimony, Agency Comments, & Citizen Comments



# MEMORANDUM

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Bryan Brown, Planning Director*  
**THROUGH:** *Greg Ellis, City Administrator*  
**DATE:** *July 1, 2013 for July 17, 2013 Council Agenda*  
**RE:** *Requested LUBA Remand Direction from Council (Save Downtown Canby v. City of Canby - LUBA No. 2012-097)*

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## Summary

This case involves a proposed Fred Meyer fuel facility for which the City Council approved a Text Amendment and Rezoning (TA 12-01 and ZC 12-01 (adopted by Ordinance 1365) which changed the subarea boundary designation of the Downtown Canby Overlay District from Core Commercial (CC) to Outer Highway (OHC) for the property at the Southwest corner of Locust Street and Hwy 99E. This case has now come back to the City Council following a remand from the Land Use Board of Appeals (“LUBA”) asking for the City to further consider whether the proposed development is subject to the Transportation Planning Rule (“TPR”) and for the City to consider any conflicts that might arise because of statements in the City’s Transportation System Plan (“TSP”) which call for a future pedestrian crossing in the vicinity of the property or explain why such conflicts need not be considered.

Since site design review of the Fred Meyer fuel proposal upon appeal has been remanded by the City Council to the Planning Commission following the Applicant’s revisions to the plans to respond to concerns raised by opposition to the project, administrative efficiency would best be served by having the LUBA remand considered by the Planning Commission as a part of the Site Design Review. The consideration of the design components and the remand issues from LUBA will be consolidated in a hearing before the Planning Commission for consideration and recommendation back to the City Council. The Commission hearing is presently set for July 22, 2013. Staff is requesting the Council use its authority with regard to the LUBA remand to direct review of the remand issues by the Planning Commission first at this time.

## Recommended Council Action

Staff recommends and moves that the City Council:

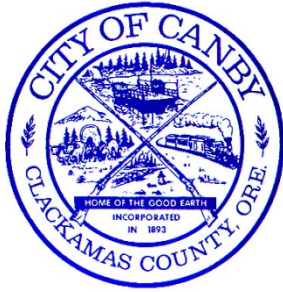
- Direct review of the LUBA remand issues by the Planning Commission as part of the Site and Design Review on remand by the Council.

## Alternative

1. As an alternative to the recommended action, the City Council may choose to review and address the LUBA remand issues under their purview directly at a future at a future meeting without input from the Planning Commission.

## Attachments

1. LUBA Final Opinion & Remand



# City of Canby

**Date: July 8, 2013**

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

**RE: Fred Meyer Fuel Facility revised designs/Appeal/LUBA remand**

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This memo is the third memo in response to Save Downtown Canby's appeal, file # APP13-01, of the Planning Commission's approval of the Site and Design Review file #DR 12-03 for a Fred Meyer Fuel Facility. This memo is also in response to the Oregon Land Use Board of Appeals (LUBA) remand of TA 12-01 and ZC 12-02 (adopted by Ordinance 1365) to the City (*Save Downtown Canby v. City of Canby*, LUBA No. 2012-097). A copy of the LUBA findings are in your packet.

Council was originally scheduled to hear the appeal application on April 3, 2013. At the request of Fred Meyer representatives, the hearing before Council was delayed until April 19, 2013 so that Fred Meyer representatives could submit revised designs. At the April 19, 2013 meeting, the Council remanded the application back to the Planning Commission because the application contained revised designs that the Planning Commission had not yet reviewed.

Since the April 19, 2013 Council meeting for APP 13-01 of File DR 12 -03, LUBA has remanded files TA 12-01 and ZC 12-02 back to the city with instructions for the city to consider whether the amendments resulting from Council's final approval of TA 12-01/ZC 12-02 significantly affect any transportation facility under the Transportation Planning Rule and 16.08.150 Traffic Impact Study of the Canby Municipal Code or conflict with a future pedestrian crossing of OR 99E in the vicinity of the site.

Therefore, the land use files associated with the proposed Fred Meyer Fuel Facility—DR 12-03, TA 12-01, and ZC 12-02 —have been re-consolidated for Planning Commission consideration and final consideration by Council. The issues raised in the appeal application APP 13-01 will be addressed in the re-consolidated hearings and all appeal proceedings are still part of the record. If necessary, future Final Findings will reflect a final decision of the appeal file #APP 13-01.

Staff prepared and sent public notices for a July 8, 2013 Public Hearing on these issues. After the notices were sent, it came to staff's attention that Council must first give the Planning Commission direction to review the LUBA items (because the LUBA appeal concerned the Council's final decision, not a Planning Commission final decision). An agenda item asking the Council to direct the Planning Commission to review the re-consolidated DR 12-03/TA 12-01/ZC 12-02 files and recommend a final decision has been made for the July 17, 2013 Council meeting. In addition, staff anticipates receiving additional information from Fred Meyer representatives in response to the LUBA remand issues. Therefore, staff recommends that the Public Hearing scheduled for July 8, 2013 be continued to the July 22, 2013 meeting.

**Sample Motion:**

I move to continue to the Public Hearing for DR 12-03/TA 12-01/ZC 12-02 to the regularly scheduled July 22, 2013 Planning Commission meeting date.



# City of Canby

**Date:** April 19, 2013

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

**RE:** Fred Meyer representative's submittal of additional designs

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Representatives of Fred Meyer Stores have submitted additional designs in response to the concerns raised in the Appeal (APP 13-01) of the Canby Planning Commission's approval of Fred Meyer Design Review file DR 12-03. Fred Meyer representatives requested that the hearing be postponed to May 1; staff agreed that it would be in everyone's best interest to allow this request and therefore the appeal hearing date was postponed to the May 1 Council meeting.

According to the applicant, the additional designs have the following changes from the original designs (pages 123-130, 138, and 139 of your original packet containing APP 13-01 materials):

- The addition of trellises so that the site may better meet the lot frontage development standards of 16.41.050(A)(1)(b). Fred Meyer representatives elected to make these design revisions because of the way 16.49.035 reads:

**16.49.035 Application for Site and Design Review**

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

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 Chapter 16.41, the applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in 16.49.040. The applicant must still meet all applicable requirements of Chapter 16.49.

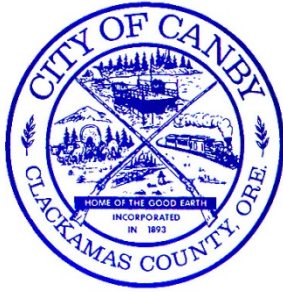
The minimum lot frontage standard is listed under 16.41.050, titled "Development standards". Therefore, it can be interpreted that this standard is less flexible than the design standards under 16.41.070, titled "DCO (Downtown Canby Overlay) site and design review standards". Therefore, the applicant made the addition of the trellises in order to meet the lot frontage standard of 16.41.050(A)(1)(b).

- The driveway along 2<sup>nd</sup> Avenue was shifted west by 12 feet in order to give more room for trucks exiting the property, this change does not conflict with the Code's driveway spacing standards
- The interior curb line of the site was extended back 3 feet to buffer the trellises from vehicles
- The landscape plan was modified to include vines for the trellises and some of the tree and shrub species were changed
- The applicant's signage along the site's frontage was modified because of a technicality in the sign code that implies that monument signs are not allowed (under 16.42.060). Therefore the applicant is now proposing a pole sign. This technicality was corrected in the recent code revisions but the development is required to be reviewed based on the code that was adopted at the time of application. In addition, this makes condition #15 in the Planning Commission's

Final Findings concerning a monument sign inapplicable and should be removed. The new pole meets the standards of Table 3 under 16.42.050 and the wall sign on the canopy meets the standards of Table 3 under 16.42.050.

Staff and Fred Meyer representatives will further discuss these changes at the meeting.





# City of Canby

**Date: April 3, 2013**

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

**RE: Appeal (APP 13-01) of Fred Meyer Design Review file DR 12-03**

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## **Background**

Representatives of Fred Meyer Stores, Inc. applied for a Site and Design Review (city file #DR 12-03), Text Amendment (city file #TA 12-01), and for a Zone Change (city file #ZC 12-02) for a proposed Fred Meyer fuel facility at the intersection of Locust and 99E.

The Text Amendment/Zone Change file was processed as a Type IV legislative land use/planning application, which requires final approval from the Canby City Council. The Design Review file was processed separately as a Type III quasi-judicial land use/planning application because it only requires final approval by the Canby Planning Commission, however Type III applications may be appealed to City Council. Although these files were considered separately due to the processing differences, they were submitted together and remain consolidated; mention of all files have been made throughout this project's review process and is evident in Council's packet of materials. Consideration of the Site and Design Review application was separated from the Text Amendment/Zone Change files when the Planning Commission recommended moving the latter two applications on for Council review and decision before considering the Site and Design Review application.

The Planning Commission recommended denial of Text Amendment/Zone Change request but the Council approved the files TA 12-01/ZC 12-02 in December. The City Council is the final local decision maker for these applications. Council approval of the Text Amendment/Zone Change applications shifted the subarea boundary of the Downtown Canby Overlay Zone at the proposed fuel station site from Core Commercial (CC) to Outer Highway Commercial (OHC) to more appropriately accommodate the proposed Fred Meyer Fuel Station. The intent of the OHC subarea of the Downtown Overlay Zone is to ensure that the design of automobile-oriented uses are built to the highest standard possible. Approval of the Text Amendment/Zone Change is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). Please inquire with staff if you have further questions about these files.

## **Appeal**

The Planning Commission approved the applicant's Site and Design Review application in February. The submitted Site and Design Review application and the Planning Commission's decision of the Site and Design Review application was predicated on approval of the original accompanying Text Amendment and Zone Change applications. As stated above, Type III Design Review applications only require final approval by the Canby Planning Commission but they may be appealed to the Canby City Council. Moreover, the City then received an appeal application from "Save Downtown Canby" appealing the Planning Commission's approval of Fred Meyer's Site and Design Review application DR 12-03. Additionally, representatives from Fred Meyer have granted extensions to 120 day review time limit set by state law for processing land use applications, thus allowing time for a Council decision and preparation of Council Final Findings and Order (the extension letter is attached to this memo).

### **Criteria for Processing Appeals**

The applicable criteria for reviewing appeals are stated in Chapter 16.89.050(I) and (J) of the *Canby Land Development and Planning Ordinance*:

#### **16.89.050 Type III Decision.**

**I. Appeal.** *The Planning Commission's decision on a Type III decision or Type II appeal may be appealed to the City Council as follows:*

**1.** *The following have legal standing to appeal:*

- a.** *The applicant;*
- b.** *Any person who was mailed notice of the decision;*
- c.** *Any other person who participated in the proceeding by testifying or submitting written comments; and*
- d.** *The City Council, on its own motion.*

**2.** *Procedure.*

- a.** *A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.*
- b.** *The Notice of Appeal shall be accompanied by all required information and fees.*
- c.** *The appeal shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.*
- 3.** *The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings are made:*
  - a.** *That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;*
  - b.** *That the Commission did not observe the precepts of good planning as interpreted by the Council; or*
  - c.** *That the Commission did not adequately consider all of the information which was pertinent to the case.*
- 4.** *The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application.*

**J.** *Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title.*

### **Staff Response**

Overall, the issues raised in the applicant's appeal were raised to the Planning Commission; the reasoning behind the Planning Commission's decision is detailed in the attached Final Findings and Order, Staff Report, and Meeting Minutes. These documents sufficiently respond to the appellant's concerns. In general:

- After considering written and verbal testimony from the opponent's traffic engineer (Lancaster Engineering) concerning the adequacy of the Fred Meyer's traffic study, the Planning Commission upheld the city's consulting traffic engineer's assessment of Fred Meyer's traffic

study, thus addressing all city code criteria pertaining to traffic issues (specified in Chapter 16.08 of the *Land Development and Planning Ordinance*). Specifically, the Planning Commission relied on the city's traffic engineer's assessment that the study was suitable and adequate to meet all city code criteria concerning submittal needs, scope, parameters, and methodology, and that the resulting analysis and outcomes were accurate. The study's scope, parameters, methodology, and results were also accepted by ODOT representatives who have jurisdiction over Highway 99E.

- Per code section 16.49.035, the Planning Commission had the discretion to review “alternative methods or materials to meet the intent of the site and design review standards set forth in Section 16.41.070”, which refers to the design standards pertaining to the Downtown Overlay Zone. This clause gave the Planning Commission flexibility when reviewing the design standards of 16.41.
- The Planning Commission found that the proposed fuel canopy is not a building, thus making many of the Code's design standards inapplicable.
- The Planning Commission found that the proposed signage falls within the overall code allowance for both number and size.
- The staff report presented at the Planning Commission meeting contained an arithmetical error pertaining to Table 16.49.040; a correction of this error was orally presented at the Planning Commission meeting, and is also reflected in the Final Findings and Order and in the revised staff report in the Council packet.
- It is impractical to require all final construction-ready plans reflecting public works and agency requirements at the Planning Commission review stage, therefore some of these designs were not presented to the Planning Commission. Per Design Conditions 7-13 and Procedural Conditions 1-3 specified in the Planning Commission's Final Findings and Order, final designs that meet all Public Works and agency standards must be submitted prior to the approval of building permits.
- The site and design review, text amendment, and zone change applications for this project were filed as a consolidated application package and are therefore not subject to the “fixed goal post rule” that would require the Site and Design Review application to be reviewed under the Core Commercial (CC) standards of the Downtown Overlay Zone (the adopted code at the time of application).
- The intent of the Code's provisions regarding a Site and Design Review Board is to give the *option* for the city to establish a Site and Design Review Board; the Planning Commission reviews Site and Design Review applications when no Site and Design Review Board is appointed; this intention was clarified in the recently adopted code amendments.

### **Decision Options**

The Council has the following options; Council's final decision will be reflected in a written Final Findings and Order to be approved by Council at a future meeting:

1. Uphold the Planning Commission's decision and uphold the Final Findings & Order of the Planning Commission
2. Overturn the decision of the Planning Commission based on the criteria contained in 16.89.050 (in the box above)
3. Modify the Planning Commission's decision and revise the Conditions of Approval contained in the Planning Commission's Final Findings and Order

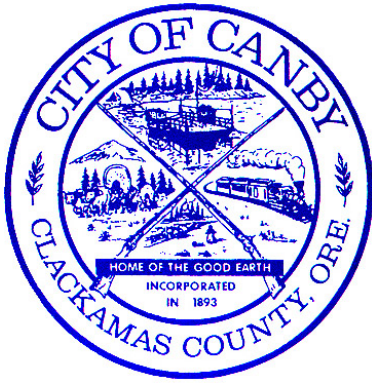
### **Sample Motion**

*"I move that the City Council (Uphold/Overturn/Modify) the decision of the Planning Commission to approve Site and Design File #DR 12-03 as reflected in the Final Findings & Order of the Planning Commission and as further reflected in Council's impending Final Findings & Order."*

### **Attachments**

The following items are hereby incorporated into the Council packet and are an official part of the Council record; a copy of all items will be placed at the Council dais, are available on the city's website, and are available for review at City Hall:

- Planning Commission Final Findings and Order
- Appeal application form and narrative
- Fred Meyer application form and narratives for the Site and Design Review application
- Neighborhood meeting notices and minutes
- Pre-application minutes
- ODOT approval letter for the proposed driveway approach
- Fred Meyer customer map
- Architectural drawings, including landscaping, lighting, and sign plans
- Fred Meyer's Traffic Impact Study and Queuing Review (prepared by Fred Meyer's traffic engineer Group MacKenzie)
- Written testimony/comments on the proposal, including testimony and comments from:
  - Fred Meyer's attorney Steve Abel
  - The opponent's attorney and the appellant Mike Connors
  - Lancaster Engineering, the opponent's traffic engineer
  - Citizen comment forms
  - Comment form and letter from the owner of Hulbert's Flowers
  - DKS, the city's consulting traffic engineer
  - Hassan Imbram, the city's consulting engineer
  - Dan Mickelsen, Canby Public Works
  - Darwin Tramel, Canby Environmental Services
  - NW Natural
  - Canby Utility
  - Canby Fire District
  - Canby Transit
  - Clackamas County
  - Canby Telcom



# City of Canby

## MEMORANDUM

**To:** Canby City Council

**Date:** November 7, 2012

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

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

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

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

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

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

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

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

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

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

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

Other attachments include:

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



# City of Canby

## SITE AND DESIGN REVIEW STAFF REPORT

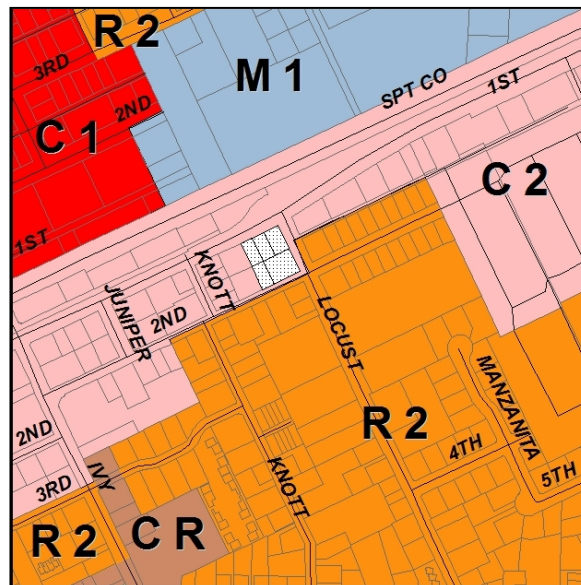
FILE #: DR 12-03

March 20, 2013 (Amended from the Staff Report

written for the January 28, 2013 Planning Commission Meetings; the calculations at the bottom of page 22 are the only revisions)

**LOCATION:** 351, 369 & 391 SE 1st Avenue & 354 & 392 SE 2<sup>nd</sup> Avenue (Shaded area in map below)

**ZONING:** C-2 Highway Commercial (Below). The applicant has presumably received a Text Amendment/Zone Change so that the above properties are within the Outer Highway Commercial subarea of the Downtown Overlay Zone.



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

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

**OWNER:** Oliver Lang LLC

**APPLICANT:** Fred Meyers Stores, Inc.

**APPLICATION TYPE:** Site & Design Review (Type III)

**CITY FILE NUMBER:** DR 12-03

### I. PROJECT OVERVIEW & EXISTING CONDITIONS

1. The applicant is proposing a 6 unit fuel-dispenser station. This proposal includes a canopy, underground fuel storage tanks, an attendant kiosk, equipment kiosk, restroom, dumpster, storage shed, propane fueling area, and an air/water pad. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under



appeal and as a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be upheld by the Oregon Land Use Board of Appeals.

## II. **ATTACHMENTS**

- A. Citizen and Agency Comments
- B. Application narrative
- C. Architectural and site plans

## III. **APPLICABLE CRITERIA & FINDINGS**

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

- 16.08 General Provisions
- 16.10 Off-street Parking
- 16.28 C-2 Zone
- 16.41 Downtown Overlay Zone
- 16.42 Signs
- 16.43 Outdoor Lighting Standards
- 16.46 Access Standards
- 16.49 Site and Design Review
- 16.88 General Standards & Procedures
- 16.89 Application and Review Procedures

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

### ***Chapter 16.08 General Provisions***

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#### **16.08.090 Sidewalks required.**

- 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.*

**Findings:** There are existing curbs, an existing 8 foot sidewalk to the north of the site, and an existing 5 foot sidewalk to the east and south of the site. These will remain for the foreseeable future until street improvements are necessary.

There is an existing driveway off Locust Street. The applicant is proposing to close this driveway. As a **condition of approval**, the city shall require that the existing driveway be demolished and replaced with a new curb and sidewalk that matches the existing along Locust street. Final sidewalk design must be approved by the city prior to construction.

**16.08.110 Fences.**

- E.** The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.
- F.** The Planning Commission may require fences of up to eight feet in height for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

**Findings:** The submitted plans do not show any proposed fencing. There are residential areas to the south and east of the site. Staff finds that additional fencing is not needed to screen the development because the proposed landscaping provides sufficient screening.

**16.08.150 Traffic Impact Study (TIS)**

- A. Determination.** Based on information provided by the applicant about the proposed development, the city will determine when a TIS is required and will consider the following when making that determination.
  - 1. Changes in land use designation, zoning designation, or development standard.
  - 2. Changes in use or intensity of use.
  - 3. Projected increase in trip generation.
  - 4. Potential impacts to residential areas and local streets.
  - 5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to school routes and multimodal street improvements identified in the TSP.
  - 6. Potential impacts to intersection level of service (LOS).

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

**16.08.150 Traffic Impact Study (TIS), continued**

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

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

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

- 1. On-and off-site improvements beyond required standard frontage improvements.
- 2. Development of a transportation demand management program.
- 3. Payment of a fee in lieu of construction, if construction is not feasible.
- 4. Correction of off-site transportation deficiencies within the study area that are substantially exacerbated by development impacts.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

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

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.
2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, traffic channelization, construction of sidewalks, bikeways, accessways, paths, or street that serve the proposed use may be required.
3. The city may require the development to grant a cross-over access easement(s) to adjacent parcel(s) to address access spacing standards on arterials and collector roadways or site-specific safety concerns. Construction of shared access may be required at the time of development if feasible, given existing adjacent land use. The access easement must be established by deed.

**Findings:** The city's traffic engineer comments are part of this packet. They recommended to "condition the site so that if future ODOT monitoring or evaluation find that the full access to OR 99E has safety issues related to queuing onto the highway, crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island, the owner/operator of the site will accept the access being restricted to right-in/right-out manoeuvres and that this condition should be placed upon the property such that it carries from one owner to another".

This is a difficult condition for the city to enforce because 99E is technically ODOT's jurisdiction, and ODOT has approved the full service driveway. However if the City wants any chance at all in the future of restricting the driveway to be right in/right out only, then the Planning Commission should consider adding the above right in/right out restriction as condition of approval. Staff will bring this issue up to the Planning Commission. Staff has asked ODOT if they would support or allow the City to impose a restricted driveway up front. We will report our findings at the public hearing.

The city's traffic engineer also recommended to maintain site triangles at corners, which has been addressed in the submitted plans, and to obtain ODOT's permission for an access driveway in writing, which has also been done in the submitted plans.

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

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

Proportionate Share Contribution = [Net New Trips/ (Planning Period Trips-Existing Trips)] X Estimated Construction Cost

- a. Net new trips means the estimated number of new trips that will be created by the proposed development within the study area.
- b. Planning period trips means the estimated number of total trips within the study area within the planning period identified in the TSP.
- c. Existing trips means the estimated number of existing trips within the study area at the time of TIS preparation.
- d. Estimated construction cost means the estimated total cost of construction of identified improvements in the TSP.

**Findings:** The city's traffic engineer has no recommended conditions of approval related to the above standards.

**16.08.160 Safety and Functionality Standards.**

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

- A. Adequate street drainage, as determined by the city.
- B. Safe access and clear vision at intersections, as determined by the city.
- C. Adequate public utilities, as determined by the city.
- D. Access onto a public street with the minimum paved widths as stated in Subsection E below.
- E. Adequate frontage improvements as follows:
  - 1. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.
  - 2. For collector and arterial streets, a minimum paved width of 20 feet along the site's frontage.
  - 3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.
- F. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies.

**Findings:** Refer to the discussion on page 4 of this staff report.

## **Chapter 16.10 Off Street Parking & Loading**

**16.10.030 General requirements.**

**Table 16.10.050**

Retail store handling exclusively bulky merchandise such as furniture, automobile and service repair shops: 1 space per 1,000 square feet of sales floor area  
All other uses: 1 space per 550 square feet

**Findings:** The Code does not specifically state parking requirements for a fuel station. The total area of the kiosk, restroom/mechanical room, and storage shed is approximately 330 square feet. Under both of the above parking requirements, one parking stall is required. The site plan shows 2 spaces, 1 regular and 1 handicapped accessible. Therefore, parking standards have

been met.

**16.10.060.G**

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.

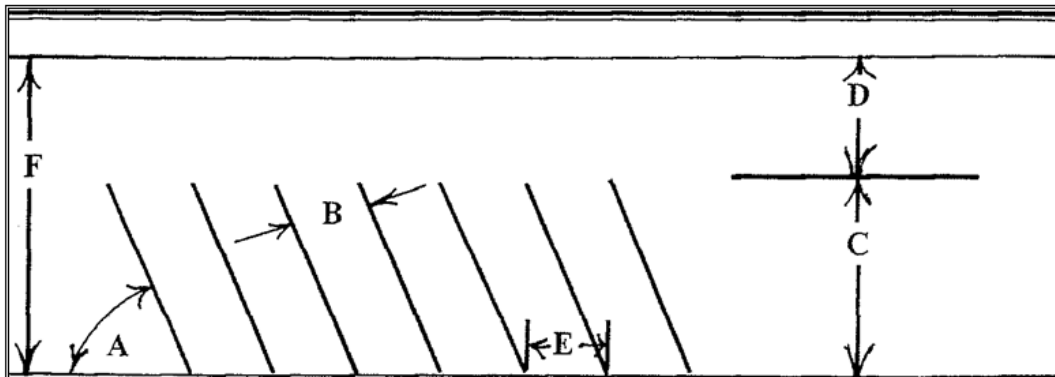
**Findings:** Staff is requesting that the Planning Commission waive loading requirements because the proposal will not construct buildings capable of accommodating a loading berth.

**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:

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 B = Minimum stall width C = Minimum stall depth			D = Minimum clear aisle width E = Minimum clear stall distance at bay side 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"



**Findings:** The applicant's site plan dated 8/27/12 shows conformance with these standards.

5. Except for parking to serve residential uses, parking areas adjacent to or within residential planning districts or adjacent to residential uses shall be designed to minimize disturbance of residents. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential planning district or on any adjacent dwelling, or any street right-of-way in such a manner as to impair the use of such way.

**Findings:** Refer to pages 15-19 which discuss applicable lighting standards. No light trespass into the adjacent residential zones will be permitted.

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.*

**Findings:** Refer to the discussion on page 4 of this staff report.

**B. Access.**

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

**Findings:** The applicant has proposed a joint access driveway with the property to the west of the site and has received ODOT's approval of this driveway (since the joint/shared access will be off 99E, it is ODOT's jurisdiction to regulate this driveway; their approval letter is part of this packet). However, as a reiteration, staff recommends a **condition of approval** that the applicant coordinate all necessary deeds, easements, leases, or contracts pertaining to the joint access driveway with ODOT.

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 and Design Review Board.*

**Findings:** There is an existing driveway off Locust Street. The applicant is proposing to close this driveway. As a **condition of approval**, the city shall require that the existing driveway be demolished and replace with a new curb and sidewalk that matches the existing along Locust street. Final sidewalk design must be approved by the city prior to construction.

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:

<b>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:</b>			
<i>Parking spaces required</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks &amp; curbs (in addition to driveways)</i>
1-4	1	12 feet	None required

**12. Maximum driveway widths and other requirements:**

- 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.

**13. Distance Between Driveways and Intersections-**The minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection:

- a. At the intersection of any collector or arterial streets, driveways shall be located a minimum of fifty (50) feet from the intersection.

**Findings:** The above standards are 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
- C. Number of spaces for Auto-oriented Services: 2, or 0.33 space per 100sf, whichever is greater

**Findings:** The applicant's site plan dated 8/27/12 shows conformance with these standards.

**Chapter 16.28 C-2 Highway Commercial Zone**

**16.28.010 Uses permitted outright.**

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

**Findings:** A retail fuel station is permitted within the C-2 zone.

**16.28.030 Development standards.**

The following subsections indicate the required development standards of the C-2 zone:

- A. Minimum lot area: none;
- B. Minimum width and frontage: none;



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

**D. Maximum building height:**

1. Freestanding signs: thirty feet;
2. All other structures: forty-five feet.

**E. Maximum lot coverage: sixty percent;**

**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.
3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet.

**Findings:** The above setback, height, vision clearance, and coverage requirements are met. See pages 14-15 for discussion of the sign standards. The proposed plantings are 15"-30" in height which conform to the clear vision height standard of having a clear area 30 feet by 2.5-10 feet high. The applicant will be required to maintain the landscaping to conform to clear vision triangle standards.

## **16.41 Downtown Overlay Zone**

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**16.41.010 Purpose.**

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

- A. Encourage more intense development in the Core Commercial area and allow for more intensive development in the Transitional Commercial area over time. Intensity of development and the relationship between setbacks, lot coverage and floor area ratio address this objective. Floor area ratios (FAR) are intended to work with building height and setback standards to control the overall bulk of the building. The proposed FAR in conjunction with the maximum lot coverage ensures that the development will be a minimum of two floors along the street in the C-1 portion of the Core Commercial area.
- B. Create a pedestrian friendly environment in the Core Commercial and Transitional Commercial areas while allowing for a more auto-oriented focus in the Outer Highway Commercial area. A comfortable pedestrian-oriented environment and limited setbacks are important in the Core Commercial and Transitional Commercial areas. In the Outer Highway Commercial area, a portion of development should be closer to the road to provide visual connection and signal that drivers are entering an urban area. Larger setbacks in the Outer



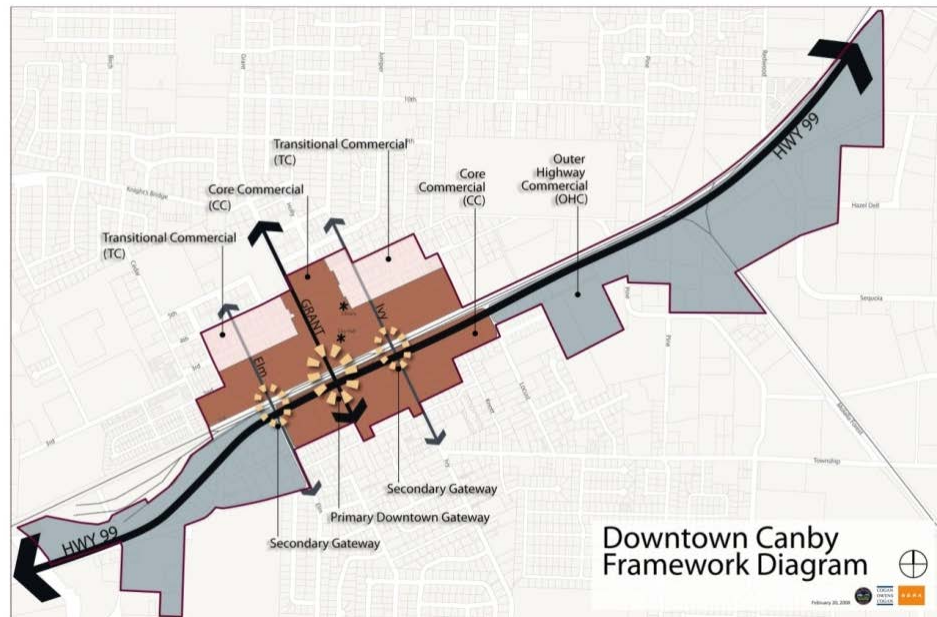
Highway Commercial area also allows for more landscaping, access and other improvements between buildings and street.

- C.** Ensure that building sizes reflect desired uses in the Core Commercial and Transitional Commercial areas. Requirements limit the size of the building footprint to 40,000 square feet in these areas. For the purpose of understanding the scale of development, the proposed maximum allows for the creation of a high end grocery store (e.g., New Seasons, Whole Foods or Zupans). The proposed maximum differentiates developments in this area from those in the Outer Highway Commercial area. Maximum building footprints are much larger in the Outer Highway Commercial area.

**16.41.020 Applicability.**

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

- 1.** Core Commercial Area. This area straddles Highway 99E and includes portions of both the C-1 and C-2 zones and forms the densest commercial area of the city, as well as the city's primary community facilities – city hall, police station, library, etc.
- 3.** Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of Locust Street. This area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.



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

- 1.** Permits land uses which are permitted by the underlying zone districts, 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.

**Findings:** This Site and Design Review application has been reviewed with the assumption that the Canby City Council's approval of the Text Amendment/Zone Change to alter the subarea boundaries so that the site is in the Outer Highway Commercial (OHC) subarea, which is intended for more auto-oriented uses, will be upheld. The file is currently under appeal to the Oregon Land Use Board of Appeals (LUBA).

Approval of this file #DR 12-03 is contingent on LUBA upholding the approval of files #TA 12-01/ZC 12-02 and is a **condition of approval** of this Design Review application.

**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.*

**Findings:** Most of the development standards of Chapter 16.41 are not applicable because the site is not proposing substantial buildings, but rather nominal restroom, storage, and attendant kiosk buildings totaling ~330 square feet of a 32,457 square foot site. These structures are less than 200 square feet each and would not require a building permit if constructed separately from this Site and Design Review.

Therefore, the frontage, street corner frontage, maximum setback, floor-area ratio (FAR), etc. standards of chapter 16.41 are not applicable to this proposal. However, building height (45 feet in the OHC), maximum building footprint (80,000sf in the OHC), and a minimum setback (10 feet in the OHC) standards are met.

**16.41.050 Development standards.**

**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.

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

**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:

**(1)** By providing parapets as tall as the tallest part of the equipment with a minimum height of 3 feet and 6 inches;

**(2)** By incorporating an architectural screen around all sides of the equipment;

- (3) By setting the equipment back from the building edge with a setback of at least 3 feet for every 1 foot of building height.

**Findings:** The applicant's site plan dated 8/27/12 shows conformance with these standards.

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;*

**Findings:** The site's maneuvering area is not set back 15 feet from the front lot line. There is room at the site in order to meet the above standard. Therefore, as a **condition of approval**, the applicant shall submit a revised site plan showing conformance with the above standard.

- (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 accessways 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;*

**Findings:** The above standard is met.

- (3) *Parking and maneuvering areas, including accessways 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;*

**Findings:** The above standard is not applicable because the applicant is not proposing substantial buildings that consist of parking and maneuvering areas.

- (4) *On lots greater than 120,000 square feet, side parking areas shall be broken up into multiple smaller parking areas rather than concentrated in one portion of the lot. This may be done through the use of landscaping or the location of multiple buildings on a lot.*

**Findings:** The above standard is not applicable because the applicant is not proposing substantial buildings that consist of parking and maneuvering areas.

**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).*
- a. *Core Commercial Sub-Area (CC). The "downtown" portion of this area extends primarily along 1st and 2nd Avenues between Cedar and Knott Streets, and extends*

northward, away from Highway 99E along Grant and Holly, past Wait Park to 4th Avenue. This area is the “heart” of Canby. Here one will find the City’s more historic, traditional commercial structures. The built environment is characterized by one to two story buildings with commercial storefronts, built up to the sidewalk, and containing a more or less solid “building wall.” The result is a more active and vibrant street life than may be found elsewhere in the City. Future development in this area should continue this trend, designing commercial and mixed-use buildings that adequately address the sidewalk and create an engaging experience for pedestrians (see Figures 23 and 24).

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

- 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).

#### **16.41.070 DCO site and design review standards.**

##### **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.**

**Findings:** Again, as discussed on page 11, most of the development standards of Chapter 16.41 are not applicable because the site is not proposing substantial buildings, but rather nominal restroom, storage, and attendant kiosk buildings totaling ~330 square feet of a 32,457 square foot site. These structures are less than 200 square feet each and would not require a building permit if constructed separately from this Site and Design Review. Therefore, the chapter’s window coverage standards, building entrance/orientation standards, decorative feature standards, and architectural bay standards are not applicable. The proposed storage and restroom buildings do have a distinctive base, middle, and top, cornices, stucco and stone veneer materials, columns/bay divisions, and a color palate of browns and beiges that is consistent with the surrounding built environment.

In addition, as stated in 16.49.035 on pages 20-21, “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 16.49.040.3” which states that the Planning Commission shall consider “ 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” when reviewing development applications. This clause gives the Planning Commission flexibility when reviewing the standards of 16.41.

## **16.42 Signs**

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### **16.42.040 Design standards for signs.**

*The following standards apply to signs in all zone districts.*

**A. Setbacks.** *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.*

**Findings:** The applicant’s site plan dated 8/27/12 shows conformance with these standards.

### **B. *Illumination.***

**3.** *External or internal sign illumination shall not result in glare onto neighboring properties or onto public right-of-way, such that due to level of brightness, lack of shielding, or high contrast with surrounding light levels, the sign illumination results in discomfort or visual disability for persons.*

**Findings:** As a **condition of approval**, the site’s proposed signage shall not result in glare onto neighboring properties or onto public right-of-way per the above standard.

### **C. *Monument signs.***

**2.** *Monument signs shall incorporate the following materials, unless otherwise approved pursuant to subsection 4 of this section.*

**a.** *The base and top shall be constructed of stone, brick, or wood.*

**Findings:** Staff will ask the Planning Commission if the proposed monument sign should have a top constructed of stone, brick, or wood (which it presently does not have) and if this should be a condition of approval.

**Table 3: C-2 & OHC Wall Sign Standards:**

<b>Wall Sign</b>		
<p><u>Size:</u> 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><u>Maximum Height:</u> shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p><u>Location/Number:</u> 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>

**Findings:** In order to apply the above wall sign standards, staff is considering the canopy face as the “frontage” even though it is not a “building”. Each of the two gas price signs is approximately 30sf; each of the two Fred Meyer name signs is approximately 11sf. Therefore the total proposed sign area is approximately 82sf.

The applicant is exceeding the maximum sign square footage per frontage and maximum number of signs allowed per frontage. However, the applicant is not proposing any signs on the western canopy frontage, and the applicant is not exceeding the total frontage square footage allotment for all wall signs (which would be about 96sf). Therefore, the proposed signage meets the intent of the sign standards for wall signs and the proposed signage should be permitted. Staff will bring this interpretation to the Planning Commission’s attention.

## **16.43 Outdoor Lighting Standards**

### **16.43.030 Applicability.**

The outdoor lighting standards in this section apply to the following:

**A. New uses, buildings, and major additions or modifications:**

1. For all proposed new land uses, developments, buildings, and structures that require a building permit, all outdoor lighting fixtures shall meet the requirements of this Code.

### **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).**



**Table 16.43.040 Lighting Zone descriptions**

<b>Zone</b>	<b>Ambient Illumination</b>	<b>Representative Locations</b>
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.

**Findings:** The standards of LZ 2 apply to this project.

**16.43.050 Exempt Lighting.**

The following luminaires and lighting systems are exempt from the requirements of this Section.

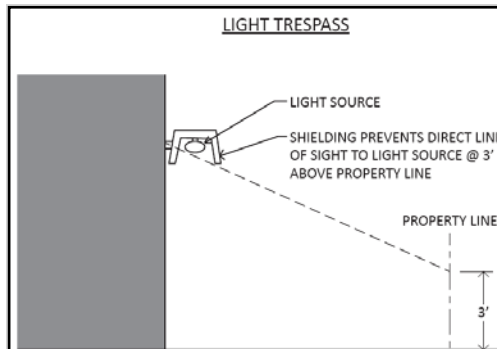
**A.** Externally illuminated signs in conformance with provisions in section 16.42.040 of this code.

**B.** Internal lighting for signs in conformance with provisions in section 16.42.040 of this code.

**Findings:** The proposed lighted signs are permitted per the above exceptions. See pages 14-15 for discussion of the sign criteria.

**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.



**Figure 16.43.1: Light Trespass**

**Findings:** The applicant's lighting plan dated 6/19/12 shows the use of a flat lens/dark sky compliant fixture a "fixture house side shield" to prevent light trespass for the seven "P1" lights at the periphery of the site. However, placement of the canopy lights are not shown in detail. As a **condition of approval**, the applicant shall use lighting that is reassessed up into the canopy and to prevent light trespass.

**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.

**Table 16.43.070 – Luminaire Maximum Wattage and Required Shielding**

<b>Lighting Zone</b>	<b>Fully Shielded</b>	<b>Shielded</b>	<b>Partly Shielded</b>	<b>Unshielded</b> (Shielding is highly encouraged. Light trespass is prohibited.)
LZ 2	450	100	60	Landscape and facade lighting 100 watts or less; ornamental lights of 60 watts or less.

**Findings:** The lighting plan shows three types of lighting, with wattages of 291, 88, and 250. P1 lights on the plan have a wattage of 250. The applicant's lighting plan dated 6/19/12 shows the use of a flat lens/dark sky compliant fixture a "fixture house side shield" to prevent light trespass for the seven "P1" lights at the periphery of the site. However, canopy lights are not shown in detail. As a **condition of approval**, the applicant shall use lighting that is recessed up into the canopy and to prevent light trespass.

**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).

**Findings:** Canopy lights are not shown in detail in the lighting plan. As a **condition of approval**, the applicant shall submit a revised lighting plan showing canopy lights that are reassessed up into the canopy and preventing light trespass.

The site is bordered with landscaping that is 15"-30" high; this will provide a shield for headlight light trespass. However, vehicles exiting the south driveway will shine light into the residential structure directly to the south of the driveway. This is an inevitable consequence of a commercial zone abutting a residential zone and is very difficult to mitigate.

**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.

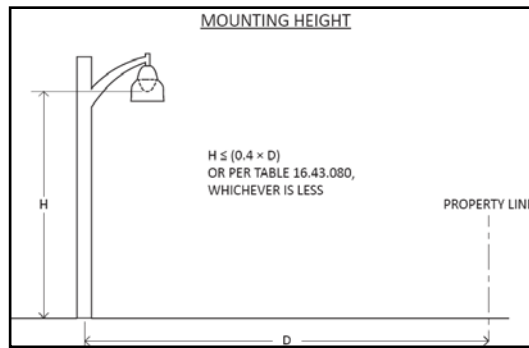
**Findings:** The proposal does not have any proposed facade lighting because the site does not propose a facade with buildings.

**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.





**Figure 16.43.2: Mounting Height**

**Findings:** The proposed pole lights at the periphery of the site are 27.5 feet, conforming to the “Lighting for Driveways, Parking and Transit” in the table below. However, they exceed the mounting height above; but (3) below allows greater heights if the luminaire is side shielded. See discussion below.

*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.

**Findings:** The proposed pole lights at the periphery of the site are 27.5 feet, conforming to the “Lighting for Driveways, Parking and Transit” in the table below. The applicant’s lighting plan dated 6/19/12 shows the use of a flat lens/dark sky compliant fixture a “fixture house side shield” to prevent light trespass for the seven “P1” lights at the periphery of the site.

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.

**Findings:** The proposed pole lights at the periphery of the site are 27.5 feet, exceeding the 40% of the horizontal distance to the property line standard. The applicant’s revised lighting plan that is part of the 1/28/13 Planning Commission packet shows the use of a flat lens/dark sky compliant fixture a “fixture house side shield” to prevent light trespass for the seven “P1” lights at the periphery of the site.

**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:

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.

**Findings:** The proposal does not have any proposed building lighting. Placement of the canopy lights are not shown in detail in the lighting plan. As a **condition of approval**, the applicant shall submit a revised lighting plan showing canopy lights that are reassessed up into the canopy and preventing light trespass.

**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

## **16.46 Access Limitations on Project Density**

### **16.46.030 Access connection.**

**A. Spacing of accesses on City streets.** The number and spacing of accesses on City streets shall be as specified in Table 16.46.030. Proposed developments or land use actions that do not comply with these standards will be required to obtain an access spacing exception and address the joint and cross access requirements of this Chapter.

**TABLE 16.46.30**

**Access Management Guidelines for City Streets\***

Street Facility	Maximum spacing** of roadways	Minimum spacing** of roadways	Minimum spacing** of roadway to driveway***	Minimum Spacing** driveway to driveway***
Arterial	1,000 feet	660 feet	330 feet	330 feet or combine
Collector	600 feet	250 feet	100 feet	100 feet or combine
Neighborhood/Local	600 feet	150 feet	50 feet	10 feet

\*\* Measured centerline on both sides of the street

\*\*\* Private access to arterial roadways shall only be granted through a requested variance of access spacing policies when access to a lower classification facility is not feasible (which shall include an access management plan evaluation).

Note: Spacing shall be measured between access points on both sides of the street.

**Findings:** Highway OR-99E is a state highway and access is regulated by ODOT. No new roads are proposed so roadway spacing does not apply. Roadway to driveway spacing and driveway to driveway spacing is met along 2<sup>nd</sup> Ave. and Locust. The applicant has obtained an access permit from ODOT; ODOT's approval letter is part of this packet. However, as a reiteration, staff recommends a **condition of approval** that the applicant shall obtain all necessary permits from ODOT prior to construction.

### **16.46.035 Restricted access.**

...Access to OR 99E shall be regulated by ODOT through OAR 734.51.

### **16.46.080 State highway standards.**

**A. Refer to the Motor Vehicle Chapter of the Transportation System Plan.** ODOT regulates access to OR 99E. ODOT shall review and process applications for approaches to OR 99E

consistent with Oregon Highway Plan standards and OAR 734.51 procedures. An ODOT permit to operate and maintain a State Highway Approach must be approved prior to site occupancy.

**Findings:** As a **condition of approval**, the applicant shall obtain all necessary permits and coordinate this development with ODOT and all their requirements.

## 16.49 Site and Design Review

### 16.49.035 Application for Site and Design Review

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 16.49.040.3. The applicant must still meet all applicable requirements of Chapter 16.49.

**Findings:** The above standard allows Planning Commission flexibility when interpreting the Code in respect to the standards of Chapter 16.41.

### 16.49.040.040 Site and Design Review Menu

The following Design Review Menu applies to the proposed development. Proposed point allocations are highlighted in dark gray. Non-applicable standards are struck out.

**Table 16.49.040 Site Design Review Menu**

Required for approval: 70% of total possible points (15% of which must be from LID elements)

Design Criteria	Possible Points				
Parking	0	1	2	3	4
Screening of loading facilities from public right of way	Not screened	Partially screened	Fully screened	-	-
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	-	-
Access	0	1	2	3	4
Distance of access to nearest intersection.	≤70 feet	71 - 100 feet	>100 feet	-	-
Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building	No more than one undesignated crossing of access drive.		

Design Criteria	Possible Points				
<b>Access</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Pedestrian walkways from public street to building entrance.	One entrance connected.	-	All entrances connected.	-	-
<b>Tree Retention</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
For trees outside of building footprint and parking/access areas (3 or more trees)	No arborist report or follows <10% of arborist report	Follows 25-50% of arborist report	Follows 51-75% of arborist report	Follows >75% of arborist report	-
Replacement of trees removed (percent of those recommended for retention)	<50%	≥50%	-	-	-
<b>Signs</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Dimensional size of sign (% of maximum permitted)	>75%	50-75%	<50%	-	-
Similarity of sign color to building color	Not similar	Somewhat similar	Similar	-	-
Pole sign used	Yes	No	-	-	-
Location of sign	>25 feet from driveway entrance	Within 25 feet of driveway entrance	-	-	-
<b>Building Appearance</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Style (similar to surroundings)	Not similar	Somewhat similar (1 or 2 points possible depending on level of similarity)			
Color (subdued and similar to surroundings is better)	Neither	Similar or subdued	Both	-	-
Material (concrete, wood and brick are best)	Either 1 or 2 points may assigned at the discretion of the Site and Design Review Board				
<b>Landscaping</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
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)	>50%	25-50%	<25%	-	-
Location of shrubs	Foreground	Background	-		
<b>Low Impact Development (LID)</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Use of pervious paving materials (% of total paved)	<10%	-	10-50%	51-75%	>75%
Provision of park or open space area for public use	None	-	Open space	-	Park
Use of drought tolerant species* in landscaping (% of	<25% drought	-	25-50% drought	51-75% drought	>75% drought

Low Impact Development (LID)	0	1	2	3	4
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)	<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 (existing buildings)	None	Some downspouts disconnected	All downspouts disconnected	-	-
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-
*Drought tolerant species per Metro's list.					

**Findings:** Staff has assigned the above point values in dark grey. Staff referenced the applicant's submitted point allocations when assigning points.

A few items from the point table are not applicable to this development and therefore were not included in the total points possible for the development. The non-applicable standards are struck out in the above table. These include:

- Loading standards are not applicable because there are no proposed buildings large enough to accommodate a loading area.
- Tree standards are not applicable because there are no trees outside of the building area requiring an arborist report.
- Pervious paving points are not applicable because pervious paving is not recommended for fuel stations.
- Interior parking lot landscaping points are not applicable because the applicant is not proposing a parking lot.
- Rooftop or underground parking points are not applicable because large buildings that would accommodate such parking are not proposed.
- Disconnection of downspouts points are not applicable because this is only applicable for existing buildings.

Thus, there are 41 total possible points for this development. In order for the applicant to pass the table, the development needs 25.9 points (70%), 5.55 (15%) must be LID points. Staff has found that, the applicant can earn 29 points, 6 of which are LID points, therefore allowing the applicant the pass the above Design Review Menu (Table 16.49.040) above.

(Note: the above calculation was verbally presented at the 1/28/13 Planning Commission meeting; this is a correction from a calculation error written in the Staff Report for the 1/28/13 Planning Commission packet.)

Staff found that green roof points are applicable because a green roof could be applied to the canopy. The site plan dated 8/247/12 shows the provision of “open space for public use”. However, if the above interpretations are valid, then the applicant still passes the point table.

**16.49.050 Conditions placed on site and design review approvals.**

**A.** A site and design review approval may include restrictions and conditions. These restrictions and conditions shall be reasonably conceived to:

1. Protect the public from the potentially deleterious effects of the proposal; and/or
2. Fulfill the need for services created, increased or in part attributable to the proposal; and/or
3. Further the implementation of the requirements of the Canby Municipal Code.

**Findings:** As a **condition of approval**, under the authorization of the above Code section, the development shall comply with the requests from agencies that submitted comments with design recommendations, including comments from:

- Hassan Ibrahim, City Engineer-Made comments pertaining to sidewalks, stormwater, right-of-way, ADA compliance, and vision triangles; the applicant shall comply with all of the City Engineer’s requests and recommendations.
- Chris Maciejewski, City Traffic Engineer
- Gary Stockwell, Canby Utility Board
- Dan Mickelsen, Canby Public Works
- Dan Kizer, NW Natural
- Darvin Tramel, City of Canby Environmental Services Coordinator

**5. Off-Site Improvements.** Improvements in public facilities, including public utilities, not located on the project site where necessary to assure adequate capacity and where service demand will be created or increased by the proposed development. The costs of such improvements may be paid for in full while allowing for recovery of costs from users on other development sites, or they may be pro-rated to the proposed development in proportion to the service demand projected to be created on increases by the project. If determined appropriate by the city based on specific site conditions, off-site roadway improvements may be required to accommodate bicycle and pedestrian travel consistent with the TSP and applicable sections of this code.

**Findings:** As a **condition of approval**, the applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk along Locust Street. Final sidewalk design must be approved by the city prior to construction.

**7. Access Limitation.** The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

**Findings:** Highway OR-99E is a state highway and access is regulated by ODOT. Roadway to driveway spacing and driveway to driveway spacing is met along 2<sup>nd</sup> Ave. and Locust, which are city streets. The applicant has obtained an access permit from ODOT; ODOT’s approval letter is

part of this packet. However, for reiteration purposes, staff recommends a **condition of approval** that the applicant shall obtain all necessary permits from ODOT prior to construction.

**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.*
- 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 accessways.*

**Findings:** As a **condition of approval**, the applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk along Locust Street. Final sidewalk design must be approved by the city prior to construction.

**16.49.080 General provisions for landscaping.**

- 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:*
  - 1.** *Fifteen (15) percent for all industrial and commercial zones (except the Downtown-Commercial zone, but including the Commercial-Residential zone).*

**Findings:** The proposed landscape area for this development is 4,935sf (15.2% of the total area), thus meeting this requirement.

**16.49.090 Specifications for tree and plant materials.**

- A.** *Deciduous Trees. Deciduous shade and ornamental trees shall be a minimum of two inch (2") caliper, measured six inches (6") above ground, balled and burlapped. Bareroot trees will be acceptable to plant during their dormant season. Trees shall be well branched and characteristically shaped specimen.*
- B.** *Coniferous Trees. Coniferous trees shall be a minimum five feet (5') in height above ground, balled and burlapped. Trees shall be well branched and characteristically shaped specimen.*
- C.** *Evergreen and Deciduous Shrubs. Evergreen and deciduous shrubs shall be at least one (1) to five (5) gallon size. Shrubs shall be characteristically branched. Side of shrub with best foliage shall be oriented to public view.*

**Findings:** The submitted landscape plan shows the above requirements. However, see 16.49.120.F below for additional requirements.

**16.49.100 Landscaping installation and maintenance.**

- C.** *All landscaping approved through the site and design review process shall be continually*

*maintained, including necessary watering, weeding, pruning and replacement, in a manner substantially similar to that originally approved by the Site and Design Review Board, unless later altered with Board approval.*

**Findings:** As a condition of approval, the applicant will be required to maintain all landscaping on the site.

**16.49.120 Parking lot landscaping standards.**

**B. Application.** *Parking lot landscaping standards shall apply to any surface passenger vehicle parking area of ten (10) spaces or more, or to any paved vehicular use area 3,500 square feet or larger on the same tax lot or on contiguous tax lots under common ownership. Any paved vehicular area which is used specifically as a utility storage lot or a truck loading area shall be exempt from landscaping requirements within a parking lot.*

**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.*

**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 (except as provided below in subsections B and C).*

**Findings:** The proposed parking lot landscape area for this development is 4,935sf (15.2% of the total area), thus meeting the above requirements.

**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.*

**Findings:** The landscape plan dated 8/27/12 shows conformance with the above criteria except one species of tree is shown to grow to a mature height of only 30 feet. Staff will consult the Planning Commission about mature tree height.

**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.

**Findings:** The perimeter of the site will be landscaped and will help screen the site. The proposed shrubs and grasses will grow to 15"-30", thereby providing a screen from headlights. The landscape plan dated 8/27/12 shows one tree per 40 feet along the setback.

However, vehicles exiting the south driveway will shine light into the residential structure directly to the south of the driveway. This is an inevitable consequence of a commercial zone abutting a residential zone and is very difficult to mitigate.

**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.

**Findings:** The applicant's irrigation plan dated 8/27/12 shows conformance with the above requirements.

#### ***16.89 Application and Review Procedures***

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**Findings:** This Design Review portion is being processed as a Type III Site and Design Review application. Proper notice of this application and of the January 28, 2013 hearing was mailed to owners of lots within 500 feet of the subject development, and applicable agencies, including ODOT. Notice of the meeting was posted at the Development Services Building, published in the *Canby Herald*, and a neighborhood meeting was held within the parameters of 16.89.070. All public hearing, application requirements, and Type III application procedures are being met.

#### **IV. PUBLIC TESTIMONY**

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

- Hassan Ibrahim, Curren McLeod, Consulting City Engineers
- Chris Maciejewski, DKS, Consulting City Traffic Engineers
- Gary Stockwell, Canby Utility Board
- Dan Mickelsen, Canby Public Works
- Dan Kizer and Jennifer Wood, NW Natural
- Darwin Tramel, City of Canby Environmental Services Coordinator
- Nancy Muller, Canby Transit
- Todd Gary, Canby Fire District, stating no issues
- 2 citizen comment forms
- Comment form and letter from the owner of Hulbert's Flowers

- Testimony from the opponent's (Save Downtown Canby) attorney Mike Connors
- Testimony from the opponent's (Save Downtown Canby) traffic engineer Lancaster Engineers
- Testimony from the applicant's attorney Steve Abel

## **V. CONDITIONS OF APPROVAL**

Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #DR 12-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. Staff concludes that, with conditions, the application will meet the requirements for site and design review approval. Staff has concluded the following conditions of approval:

### **A. Design Conditions:**

1. The applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk. Final sidewalk design must be approved by the city prior to construction.
2. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). As a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be upheld by LUBA.
3. The applicant shall submit a revised site plan substantially showing the site's maneuvering area set back 15 feet from the front lot line.
4. The site's signage shall not result in glare onto neighboring properties or onto public right-of-way per the above standard.
5. The proposed canopy lights shall be recessed up into the canopy, preventing light trespass as defined within the lighting ordinance or apply shielding in a manner that prevents trespass.
6. The applicant will be required to maintain all landscaping on the site.
7. The applicant shall coordinate this development with the Oregon Department of Transportation (ODOT) and shall obtain all necessary permits from ODOT prior to construction.
8. The development shall comply with the requests from agencies that submitted comments, including comments from Hassan Ibrahim, Curren McLeod, consulting City Engineers; Chris Maciejewski, DKS, consulting City Traffic Engineers; Gary Stockwell, Canby Utility Board; Dan Mickelsen, Canby Public Works; Dan Kizer and Jennifer Wood, NW Natural; and Darvin Tramel, City of Canby Environmental Services Coordinator.
9. Per Condition #8, Canby Utility Board electric easements shall be dedicated as requested along SE 2<sup>nd</sup> Avenue and a portion of the Locust Street frontages.
10. Per Condition #8, trees shall be approved by the City Arborist on the final landscape construction plans as suitable for planting under overhead lines along the SE 2<sup>nd</sup> Avenue and Locust Street frontages. Final tree species shall comply with the provisions of

16.49.120(F).

11. Per Condition #8, The development shall dispose of all stormwater on-site and shall be approved by the City Engineer, Public Works, and the Oregon Department of Environmental Quality (DEQ).

**B. Procedural Conditions:**

Prior to issuance of Building Permits the following must be completed:

1. Submit final construction plans: Final construction plans shall indicate 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, and emergency service provisions. Construction plans shall be designed and stamped by a professional engineer registered in the State of Oregon.
2. Prior to the issuance of a City of Canby Building Permit/Site Plan Review permit, final construction plans must be approved by the city and all other utility/service providers. The City of Canby may require a pre-construction conference to obtain final approval from utility providers and applicable city departments. This includes, but is not limited to, approval by:
  - a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items. A non-residential wastewater survey must be submitted for review and approval by the city prior to final building occupancy.
  - c. Canby Fire District
  - d. Canby Utility Board
  - e. Northwest Natural Gas
  - f. Canby Telcom
  - g. Wave Broadband
3. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical for this project. Structural, electrical, plumbing, mechanical, and other applicable permits from Clackamas County are required prior to construction.

**VI. Decision**

Based on the application submitted and the facts, findings, and conclusions of this report, Staff recommends that the Planning Commission **approve** Site and Design Review File #DR 12-03 pursuant to the Conditions of Approval presented in this Staff Report in Section V.



# City of Canby

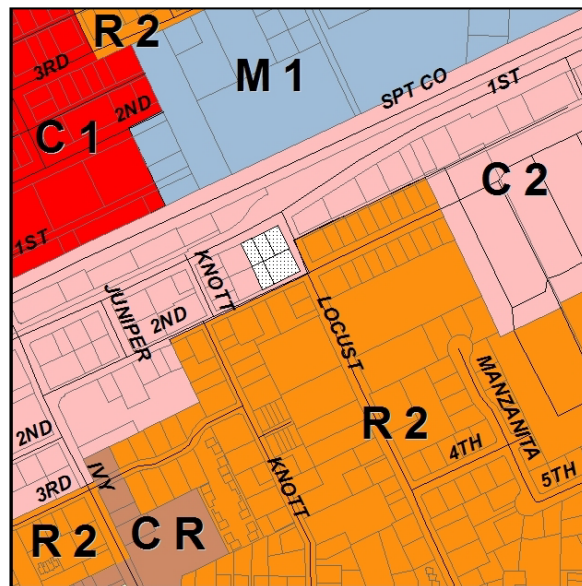
## TEXT AMENDMENT/ZONE CHANGE STAFF REPORT

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

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

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

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



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

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

**OWNER:** Oliver & Lang LLC

**APPLICANT:** Fred Meyers Stores, Inc.

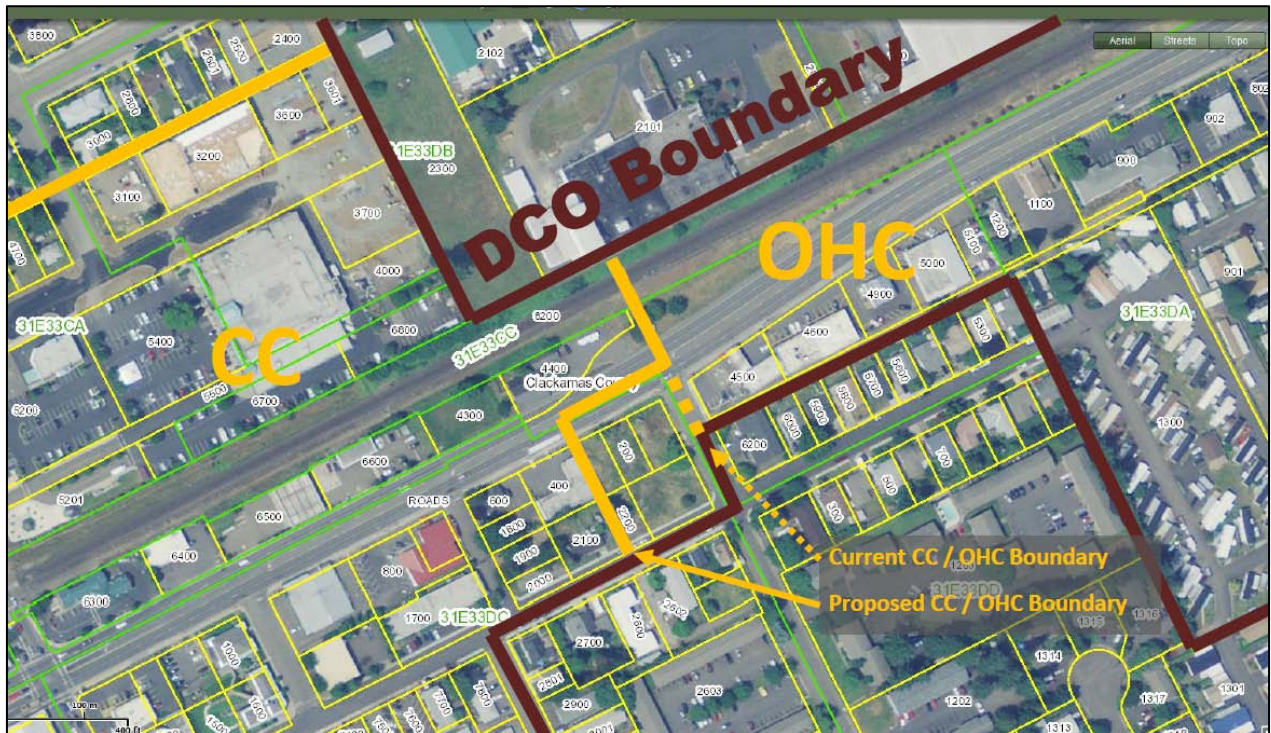
**APPLICATION TYPE:** Text Amendment/Zone Change (Type IV)

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

### I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

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

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



## II. ATTACHMENTS

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

## III. APPLICABLE CRITERIA & FINDINGS

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

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

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



## **Chapter 16.08 General Provisions**

### **16.08.150 Traffic Impact Study (TIS)**

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

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

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

### **16.08.150 Traffic Impact Study (TIS), continued**

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

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

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

The following measures may be used to meet mitigation requirements:

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

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

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

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

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

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

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

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

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

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

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

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

**16.08.160 Safety and Functionality Standards.**

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

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

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

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

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

E. Adequate frontage improvements as follows:

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

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

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

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

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

## **Chapter 16.28 C-2 Highway Commercial Zone**

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### **16.28.010 Uses permitted outright.**

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

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

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

## **16.41 Downtown Overlay Zone**

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### **16.41.010 Purpose.**

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

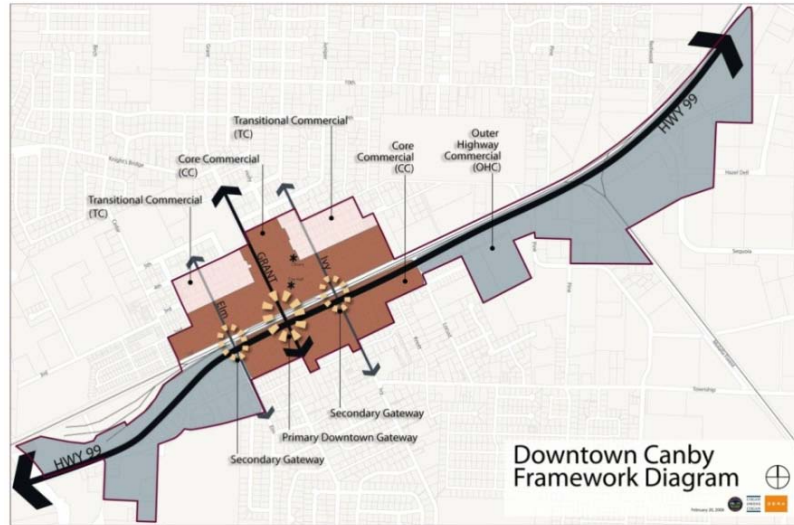
- A.** *Encourage more intense development in the Core Commercial area and allow for more intensive development in the Transitional Commercial area over time. Intensity of development and the relationship between setbacks, lot coverage and floor area ratio address this objective. Floor area ratios (FAR)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

### **16.41.020 Applicability.**

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



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



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

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

## ***16.88 General Standards and Procedures***

**16.88.160 Amendments to text of title.**

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

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

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

- 1.** *The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;*

*Applicable Comprehensive plan Elements and goals:*

**Urban Growth Element**

*Goals:*

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

**Land use element**

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

**Environmental concerns element**

*Goals:*

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

**Transportation element**

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

**Public facilities and services element**

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

**Economic element**

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

**Housing element**

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

**Energy conservation element**

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

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

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

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

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

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

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

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

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

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

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

**5. Statewide planning goals.**

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

**16.88.190 Conformance with Transportation System Plan and Transportation Planning Rule**

- A.** A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with the Transportation Planning Rule (OAR 660-012-0060). A plan or land use regulation amendment significantly affects a transportation facility if it:
1. Changes the functional classification of an existing or planned transportation facility;
  2. Changes standards implementing a functional classification system;
  3. As measured at the end of the planning period identified in the adopted plan:
    - a. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
    - b. Would reduce the performance of the facility below the minimum acceptable performance standard identified in the Transportation System Plan;

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

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

### ***16.89 Application and Review Procedures***

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

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

#### **IV. PUBLIC TESTIMONY**

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

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

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

**V. CONDITIONS OF APPROVAL**

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

**VI. Decision**

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



## **SECTION 2: LUBA FINDINGS**



1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3  
4 SAVE DOWNTOWN CANBY,  
5 *Petitioner,*

6  
7 vs.

8  
9 CITY OF CANBY,  
10 *Respondent,*

11  
12 and

13  
14 GREAT BASIN ENGINEERING,  
15 *Intervenor-Respondent.*

16  
17 LUBA No. 2012-097

18  
19 FINAL OPINION  
20 AND ORDER

21  
22 Appeal from City of Canby.

23  
24 E. Michael Connors, Portland, filed the petition for review and argued on behalf of  
25 petitioner. With him on the brief was Hathaway Koback Connors LLP.

26  
27 Joseph Lindsay, City Attorney, Canby, filed a joint response brief on behalf of  
28 respondent.

29  
30 Steven W. Abel and Elaine R. Albrich, Portland, filed a joint response brief, and  
31 Steven W. Abel argued on behalf of intervenor-respondent. With them on the brief was Stoel  
32 Rives LLP.

33  
34 BASSHAM, Board Member; HOLSTUN, Board Chair; RYAN, Board Member,  
35 participated in the decision.

36  
37 REMANDED

06/04/2013

38  
39 You are entitled to judicial review of this Order. Judicial review is governed by the  
40 provisions of ORS 197.850.

**NATURE OF THE DECISION**

Petitioner appeals an ordinance approving a text and zoning map amendment from one commercial zone to another commercial zone with different site design standards, to facilitate approval of a fuel station.

**FACTS**

The subject property is a .75 acre tract located at the corner of Highway 99E and S Locust Street in the City of Canby. The property's base zone is Highway Commercial (C-2). The property and most of the surrounding land are also subject to the Downtown Canby Overlay (DCO) zone, which has several sub-areas. Each of the DCO sub-areas allow the same uses, which are determined by the base C-2 zone, but each DCO sub-area has slightly different site design review standards.

The DCO sub-area that applies to the subject property is the Core Commercial (CC) sub-area. The CC sub-area is intended to foster pedestrian-oriented development, and its design criteria generally reflect that intent. The subject property is the north-easternmost property from the city center that is zoned CC. Properties farther to the northeast are also within the DCO, but subject to the Outer Highway Commercial (OHC) sub-area, which is generally intended to foster more automobile-oriented development.

On February 28, 2012, intervenor-respondent (intervenor) had a pre-application conference with city staff concerning a site design review application for a proposed Fred Meyer fuel station on the subject property. City staff advised intervenor that placing a fuel station within the CC sub-area would pose problems in demonstrating consistency with the intent of the CC sub-area. City staff suggested that intervenor first apply to rezone the property from CC to OHC, which would basically involve a minor text amendment to the geographic descriptions of the DCO sub-areas, and a map amendment to shift the boundary

1 between the CC and OHC sub-areas approximately 150 feet southwestward to include the  
2 subject property in the OHC sub-area.

3 Intervenor applied to rezone the property from CC to OHC, and for site design review  
4 approval of a six-unit fuel station under the OHC design review criteria. The city planning  
5 commission held a hearing on the proposed text and map amendments, and recommended  
6 denial. Because the site design review application followed a different procedure, and was  
7 dependent on the text and zoning amendments, the planning commission deferred hearings  
8 on the site design review application until the city council reviewed its recommendation on  
9 the text and zoning amendments. The city council held a hearing on the text and map  
10 amendments, and on December 5, 2012, adopted Ordinance No. 1365, which approved the  
11 text and map amendments. This appeal followed.

#### 12 **MOTION TO DISMISS**

13 Intervenor moves to dismiss this appeal, arguing that Ordinance No. 1365 is not a  
14 “final” decision and therefore not subject to LUBA’s jurisdiction.

15 ORS 197.015(10)(a) defines a “land use decision” as a final decision that concerns  
16 the adoption, amendment or application of comprehensive plan provisions or land use  
17 regulations. As noted, the planning commission deferred consideration of the site design  
18 review application. Intervenor contends that the three applications for a text amendment,  
19 map amendment, and site design review approval were consolidated pursuant to ORS  
20 227.175(2), which requires the city to establish a consolidated procedure by which an  
21 applicant may, at its option, seek approval for all permits or zone changes needed for  
22 development approval. Because the three applications were consolidated, intervenor argues,  
23 the adoption of Ordinance No. 1365 approving the text and map amendments was not a final  
24 decision, but rather an interlocutory decision issued in the middle of a consolidated  
25 proceeding on the three applications that has yet to be completed.

1           Petitioner responds, and we agree, that Ordinance No. 1365 is unquestionably a final  
2 decision. The consolidation procedure at ORS 227.175(2) is available at the option of the  
3 applicant, and intervenor consented to the planning commission's intent to process the text  
4 and map amendment applications separately from the site design review application. In any  
5 case, nothing in ORS 227.175(2) or elsewhere cited to our attention suggests that an  
6 otherwise final decision is not final until all consolidated applications are finally decided.<sup>1</sup>  
7 The motion to dismiss is denied.

8       **FIRST ASSIGNMENT OF ERROR**

9           The Transportation Planning Rule (TPR) at OAR 660-012-0060(1) requires local  
10 governments to determine if plan or land use regulation amendments would "significantly  
11 affect" an existing or planned transportation facility. If so, the local government must adopt  
12 one or more measures to prevent or offset impacts on the facility.<sup>2</sup> Canby Municipal Code

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<sup>1</sup> We see no reason under state law why the city could not have issued an interlocutory decision on the text and map amendments and provided that the ordinance approving the text and map amendments would not become final until the city adopted a final decision on the application for site plan approval. But the city did not do so in this case.

<sup>2</sup> OAR 660-012-0060(1) provides, in relevant part:

"If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule\* \* \*. A plan or land use regulation amendment significantly affects a transportation facility if it would:

"\* \* \* \* \*

"(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

"\* \* \* \* \*

1 (CMC) 16.08.150(A) implements the TPR, and sets out a process and standards for  
2 determining whether an amendment significantly affects a transportation facility.

3 In its findings, the city council concluded that CMC 16.08.150 has been satisfied and  
4 the amendments will not significantly affect any transportation facility within the meaning of  
5 the TPR. The city's primary basis for that conclusion is that the "amendments do not change  
6 the underlying base zone or the overlay zone, but rather simply adjust the boundaries  
7 between two design subareas of the [DCO] overlay zone." Record 21. According to the city,  
8 the CC and OHC sub-areas of the DCO overlay zone "simply regulate[] the design of the  
9 uses that are already allowed within the Property's base zone designation." *Id.* The city  
10 concluded that the amendments "would not change the trip generation potential in the C-2  
11 zone (the underlying base zone), so it would not cause any change in the performance of  
12 existing or proposed facilities." *Id.* The city's reasoning on these points was based on a  
13 September 4, 2012 letter from intervenor's attorney, which the city council adopted by  
14 incorporation as additional findings. Record 19, 265-83.

15 Petitioner argues that the findings and record are insufficient to conclude that the  
16 change from CC to OHC sub-areas of the DCO does not "significantly affect" any  
17 transportation facility.

18 Where an amendment is a zoning map amendment, one option a local government has  
19 to determine whether the amendment significantly affects a transportation facility within the  
20 meaning of OAR 660-012-0060(1)(c) is to first evaluate whether the new zone authorizes

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"(B) Degrade the performance of an existing or planned transportation facility  
such that it would not meet the performance standards identified in the TSP  
or comprehensive plan; or

"(C) Degrade the performance of an existing or planned transportation facility  
that is otherwise projected to not meet the performance standards identified  
in the TSP or comprehensive plan."

1 more traffic-intensive uses, compared to the old zone. *Barnes v. City of Hillsboro*, 61 Or  
2 LUBA 375, 399, *aff'd* 239 Or App 73, 243 P3d 139 (2010); *Mason v. City of Corvallis*, 46  
3 Or LUBA 199, 222 (2005). This initial, somewhat hypothetical, inquiry typically involves  
4 comparing the most traffic-generative uses allowed in the two zones that could reasonably be  
5 developed on the property in question. If those most traffic-generative uses allowed in the  
6 two zones are the same, then the local government could easily conclude that new zone will  
7 not generate any more traffic than the old zone and therefore no further inquiry is necessary  
8 under the TPR. However, if the most traffic-generative uses are different, which is typically  
9 the case, and the most traffic-generative use under the new zone would generate more traffic  
10 than under the old zone, then further and more technical analysis is usually necessary to  
11 determine if the amendment significantly affects a transportation facility and, if so, whether  
12 and what measures may be required.

13 In the present case, we understand the city to have concluded that, based on the fact  
14 that the uses allowed in the base C-2 zone are precisely the same both before and after the  
15 change from the CC to OHC sub-area of the DCO overlay zone, the amendment does not  
16 change the traffic-generative capacity of the uses allowed. Therefore, the city found, no  
17 further analysis was necessary under the TPR, in order to conclude that the change did not  
18 “significantly affect” any transportation facility. The only change, the city found, was to the  
19 site design review standards, which differ slightly between the CC and OHC sub-areas, and  
20 which do not affect traffic generative capacity of the uses allowed in the base C-2 zone under  
21 any of the DCO sub-areas. Based on that finding, the city found that the TPR is satisfied,  
22 without the need for further inquiry.

23 However, petitioner disputes that the different site design standards particular to the  
24 OHC sub-area do not increase the traffic generative capacity of the uses allowed, compared  
25 to the CC sub-area. Petitioner notes that under the design standards applicable in the CC  
26 sub-area, the maximum building footprint size is 30,000 square feet, while the maximum

1 building footprint size in the OHC sub-area is 80,000 to 100,000 square feet. CMC  
2 16.41.050(A)(2) (Table 3). According to petitioner, the footprint size of a commercial use  
3 such as the retail uses allowed as permitted uses in the C-2 zone could easily increase its  
4 traffic-generating capacity, compared to the same commercial use with a smaller footprint.

5 Further, petitioner argues, the differential maximum building footprint size in Table 3  
6 is intended to affect the *types* of commercial uses allowed in each sub-area of the DCO.  
7 CMC 16.41.010(C) states that one of the purposes of the different sub-areas in the DCO zone  
8 is to:

9 “Ensure that building sizes reflect desired uses in the Core Commercial and  
10 Transitional Commercial areas. Requirements limit the size of the building  
11 footprint to 40,000 [*sic*] square feet in these areas. For the purpose of  
12 understanding the scale of development, the proposed maximum allows for  
13 the creation of a high end grocery store (e.g. New Seasons, Whole Foods or  
14 Zupans). The proposed maximum differentiates development in this area  
15 from those in the Outer Highway Commercial area. Maximum building  
16 footprints are much larger in the [OHC] area.”

17 The differences in the site design standards between the CC sub-area and the OHC  
18 sub-area almost entirely relate to the appearance of structures, which would seem to have no  
19 apparent effect on traffic-generating capacity. Nonetheless, petitioner is correct that the two  
20 sub-areas have different maximum building footprint sizes, with 30,000 square feet the  
21 maximum in the CC sub-area, while the OHC sub-area allows a maximum building footprint  
22 of between 80,000 to 100,000 square feet. The apparent intent of this difference is to foster  
23 particular types of smaller scale commercial development in the CC sub-area, and allow  
24 larger scale commercial uses in the OHC sub-area. The base C-2 zone allows various  
25 commercial uses in all DCO sub-areas, such as a retail store, but the different maximum  
26 building footprint standards means that in the OHC sub-area building footprints for a retail  
27 store could be up to three times larger than an otherwise identical retail store located in the  
28 CC sub-area.

1           That said, a building footprint size differential does not automatically translate into an  
2 increase in traffic generating capacity. A maximum building footprint does not limit the total  
3 square footage of the building, only its footprint. Multiple buildings, in the CC sub-area  
4 could occupy the same footprint as a larger building in the OHC sub-area. But we note that  
5 the CC sub-area has a maximum building height of 60 feet, while the OHC sub-area has a  
6 maximum building height of 45 feet. The extra height allowed in the CC sub-area could  
7 presumably increase the total square footage for a given footprint size. In addition, there are  
8 different floor area ratio and setback standards between the two sub-areas, which would  
9 presumably affect both the maximum footprint and total square footage practicable on the  
10 subject property.

11           Most traffic engineers and local governments use the Institute of Transportation  
12 Engineers (ITE) *Trip Generation* Manual to calculate the trip generation potential of various  
13 types of uses. In the present case, the applicant's and city's engineers used the ITE Manual  
14 to estimate the trip generation potential of the proposed fuel station. We note that, under the  
15 ITE Manual, trip generation for most commercial use categories is calculated by multiplying  
16 a certain trip rate per square footage. Thus, the total square footage of a building or use  
17 seems to be a critical element in estimating trip generation for present purposes. In turn,  
18 estimating total square footage would seem to require taking into account variables such as  
19 maximum building footprints, maximum building height, floor area ratios, setbacks, etc. that  
20 differ between the two zones being compared.

21           This suggests that one approach to determining whether the rezone from CC to OHC  
22 could generate additional traffic and thus requires further analysis under the TPR would be  
23 evaluate the square footage and hence the traffic generation capacity of the most traffic  
24 intensive use allowed in the C-2 zone that could reasonably be constructed on the subject  
25 property, given the different footprint, height, setback, and floor area ratios that would apply  
26 in the two sub-areas. If that analysis showed that constructing the use under the OHC



1 standards would increase traffic generation compared to constructing the use under the CC  
2 standards, then further analysis is necessary under the TPR. If not, then the city could  
3 conclude that no further analysis is necessary, and the TPR is satisfied.

4 However, the record and the city's findings do not address these questions. The  
5 applicant submitted a traffic impact analysis, but it analyzed only the traffic impacts of the  
6 proposed fuel station under the ITE Manual, and did not purport to compare the different  
7 traffic generating potential between uses allowed under the different CC and OHC sub-area  
8 design standards.<sup>3</sup> The city's conclusion that no further inquiry is necessary under the TPR  
9 rests mainly on its finding that the uses allowed in the base C-2 zone have not changed.  
10 However, that finding is not a sufficient basis for that conclusion, if in fact the different site  
11 design standards that apply in the CC and OHC sub-areas affect the size or type of  
12 development to an extent that would be significant under the ITE Manual. We conclude that  
13 remand is warranted for the city to address this issue.

14 Petitioner also challenges under this assignment of error a finding that appears to  
15 embody an alternative basis for concluding that the TPR is satisfied. The city noted that four  
16 years ago the city adopted an ordinance that applied the DCO and its sub-areas to the  
17 downtown area, and that ordinance was supported by a finding that "all required public  
18 facilities and services either exist or will be provided concurrent with development." Record  
19 21. Based on that referenced finding, the city concludes that "there was no change in  
20 transportation impact by implementing the DCO, meaning there would be no impact in  
21 changing the Property from CC to OHC." *Id.* Petitioner argues, and we agree, that this  
22 finding is not sufficient to demonstrate that the TPR is satisfied. It does not necessarily  
23 follow from the fact that the DCO as a whole complied with the TPR when it was adopted

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<sup>3</sup> The challenged ordinance does not limit or condition the zone change to allow only the proposed fuel station or otherwise limit the size or types of uses allowed on the subject property.

1 four years ago that rezoning property from one DCO sub-area to another will not increase  
2 traffic generation, compared to the prior configuration of sub-areas, if in fact the different  
3 sub-areas have different standards that result in higher traffic generation potential.

4 The only other argument presented in the first assignment of error that warrants  
5 discussion is petitioner's argument that the city's findings regarding the TPR and a "public  
6 need" standard are inconsistent. However, similar issues are raised under the second and  
7 third assignments of error, and we address the inconsistency argument under those  
8 assignments of error.

9 The first assignment of error is sustained.

## 10 **SECOND AND THIRD ASSIGNMENTS OF ERROR**

11 Under these assignments of error, petitioner argues that the city's findings of  
12 compliance with three CMC criteria are inconsistent, and not supported by substantial  
13 evidence.

### 14 **A. Inconsistency**

15 Petitioner contends that the city's findings addressing several criteria characterize the  
16 subject property as essentially undevelopable under the CC sub-area. According to  
17 petitioner, those findings conflict with the city's TPR findings, which as discussed above  
18 conclude that the rezone from CC to OHC will not increase the traffic generative capacity of  
19 the property. Petitioner contends that the city cannot have it both ways: either (1) the subject  
20 property is undevelopable under the CC sub-area, and must be rezoned to OHC in order to be  
21 developed, in which case the rezone will result in a net increase traffic compared to the CC  
22 zone and thus potentially "significantly affect" transportation facilities under the TPR, or (2)  
23 the rezone does not change the development potential of the property at all, in which case the  
24 city's finding that the subject property is undevelopable under the CC sub-area is not  
25 supported by substantial evidence, which undercuts the basis for concluding that the rezone  
26 complies with other criteria.

1 The flaw in petitioner's argument is that the city did not find that the subject property  
2 is "undevelopable" under the CC sub-area or any words to that effect. CMC 16.88.160(D)(2)  
3 is a text amendment standard requiring a finding that there is a "public need for the change."  
4 Petitioner cites to the following finding addressing CMC 16.88.160(D)(2):

5 "The public need for the change is evidenced by the fact that development has  
6 not occurred on the Property over many years. The Property is located away  
7 from the core area of the City and is on the edge of the OHC. The  
8 amendments will make development and private investment on the Property  
9 more attractive, and through private investment and redevelopment of the  
10 Property, the downtown core will be enhanced. Without the amendments, the  
11 attractiveness for the Property is diminished and the parcels are more likely to  
12 remain undeveloped within the DCO, which will diminish the ability of the  
13 downtown core to prosper. Accordingly, there is a public need for the  
14 change." Record 22.

15 Similarly, CMC 16.88.160(D)(4) requires a finding that the text amendment will "preserve  
16 and protect the health, safety and general welfare of the residents in the community." The  
17 city's findings addressing CMC 16.88.160(D)(4) state in relevant part that the change will  
18 "facilitate development of underutilized land." Record 22. In addressing Statewide  
19 Planning Goal 9 (Economic Development), the city found that the amendment will "spur  
20 development and commercial use of the Property, which will contribute to economic  
21 development" of the city. Record 24.

22 However, fairly read, the above findings conclude that the subject property will be  
23 more likely to be developed under the OHC sub-area, not that it is undevelopable under the  
24 CC sub-area. There is no necessary contradiction or inconsistency in finding that the rezone  
25 complies with the TPR, because it does not authorize uses with more traffic generative  
26 capacity compared to the old zone, yet finding that the new zone will make it easier to  
27 actually develop the property.

28 As explained above, where a local government determines that a zone change  
29 complies with the TPR based on a comparison of uses allowed in the two zones, that  
30 comparison is largely a hypothetical one, having little to do with actual development of the

1 property or whether the property is or is not likely to be developed under the old zoning. We  
2 held above that the city's analysis was insufficient to establish that no further inquiry is  
3 necessary under the TPR. However, we disagree with petitioner that the city is on the horns  
4 of a dilemma, and that on remand if it again concludes that the rezone does not increase the  
5 traffic-generative capacity of the subject property that the city will necessarily undercut the  
6 evidentiary basis for concluding that the rezone complies with the "public need" standard at  
7 CMC 16.88.160(D)(2), the "health, safety and general welfare" standard at CMC  
8 16.88.160(D)(4), or Statewide Planning Goal 9.

9 **B. Substantial Evidence regarding Public Need**

10 Under the third assignment of error, petitioner asserts a substantial evidence challenge  
11 to the city's finding that the CMC 16.88.160(D)(2) "public need" criterion is met because  
12 the property "will not develop" under the CC sub-area. Petition for Review 22. According  
13 to petitioner, the DCO with its sub-areas was first applied only four years ago, at the start of a  
14 serious real estate recession. While the rezoning to the OHC sub-area may be useful to  
15 facilitate the proposed fuel station, petitioner argues that there is no evidence or explanation  
16 for why the property cannot be developed with other commercial uses under the CC sub-area.  
17 For these reasons, petitioner contends that remand is necessary for the city to require  
18 substantial evidence that there is a "public need" for the amendment.

19 As explained above, the city did not find that the subject property "will not develop"  
20 under the CC sub-area, only that rezoning the property to OHC would facilitate or make it  
21 easier to develop the property. Those findings are supported by testimony in the record.  
22 Petitioner's arguments are based on a mischaracterization of the city's findings, and  
23 accordingly do not provide a basis for reversal or remand.

24 The second and third assignments of error are denied.

1     **FOURTH ASSIGNMENT OF ERROR**

2             The city's Transportation System Plan (TSP) calls for a future pedestrian crossing of  
3     OR 99E in the vicinity of the subject property. That future pedestrian crossing is included in  
4     TSP Table 5-1, among a list of financially constrained solutions that "can be funded using  
5     existing revenue streams through the year 2030." At the time the city issued its decision, it  
6     was developing but had not yet adopted a OR 99E Corridor and Gateway Design Plan  
7     (Gateway Plan) that identified the specific location of that future pedestrian crossing at S  
8     Locust Street, approximately 100 feet from the subject property. The city's traffic engineer  
9     testified that while the Gateway Plan has not yet been adopted, the location of the pedestrian  
10    crossing identified therein is consistent with and clarifies the TSP. Further, the engineer  
11    stated that when a pedestrian crossing is constructed in this area it would affect site access for  
12    the fuel station and would "trigger the need to convert the proposed site access to right-  
13    in/right-out." Record 346.

14            Petitioner argued below that a future pedestrian crossing at S Locust Street would  
15    conflict with the proposed fuel station. The city's findings do not specifically address the  
16    future pedestrian crossing listed in TSP Table 5-1 or identified in the Gateway Plan.  
17    However, there is a finding under CMC 16.88.160(D)(1), which requires that the city "shall  
18    consider" the comprehensive plan in adopting a text amendment, that the "99E Corridor and  
19    Gateway Design Plan is not yet adopted and is therefore not a criterion for this application."  
20    Record 22.

21            Petitioner argues that even though the Gateway Plan was not adopted and need not be  
22    considered under CMC 16.88.160(D)(1), nonetheless the TSP itself calls for a future  
23    pedestrian crossing in the vicinity of the subject property, and therefore the city is obligated  
24    to consider and explain "why a pedestrian crossing in this area does not undermine the  
25    justification and purpose for seeking the Amendments in the first place." Petition for Review  
26    24.

1 Respondents contend that the CMC 16.88.160(D)(1) obligation to “consider” the  
2 comprehensive plan does not convert a future pedestrian crossing listed in a TSP table into a  
3 mandatory approval consideration or criterion that requires specific findings to explain why  
4 the pedestrian crossing would not undermine the justification of the zone change to OHC. At  
5 best, respondents argue, under CMC 16.88.160(D)(1) the city is required to consider relevant  
6 comprehensive plan language and balance such language against other relevant  
7 considerations.

8 The city’s findings do not appear to “consider” the conflicts, if any, between uses  
9 allowed under the OHC sub-area and a future pedestrian crossing in the area, as  
10 contemplated by the TSP, or explain why such conflicts need not be considered for purposes  
11 of CMC 16.88.160(D)(1). Based on the city engineer’s testimony, the only consequence may  
12 be that when the pedestrian crossing is eventually constructed that access to the station must  
13 be converted sometime in the future to right-in/right-out. However, because the city did not  
14 appear to consider the question at all, and the decision must be remanded in any event under  
15 the first assignment of error, remand is also warranted under this assignment of error for the  
16 city to adopt findings considering the future pedestrian crossing listed in the TSP to the  
17 extent it is relevant to the amendment, and balancing that consideration against other relevant  
18 considerations, or explaining why no such consideration is required under CMC  
19 16.88.160(D)(1).

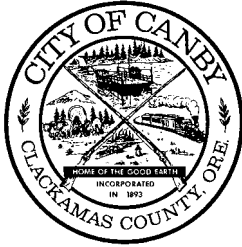
20 The fourth assignment of error is sustained.

21 The city’s decision is remanded.



### **SECTION 3: TA/ZC FINAL FINDINGS & ORDER AND DR FINAL FINDINGS & ORDER**





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

<b>A REQUEST FOR SITE AND DESIGN</b>	)	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER</b>
<b>REVIEW FOR</b>	)	<b>DR 12-03</b>
<b>A NEW FUEL STATION AT 351, 369</b>	)	<b>FRED MEYER STORES, INC.</b>
<b>AND 391 SE 1ST AVENUE</b>	)	
<b>AND 354 &amp; 392 SE 2<sup>ND</sup> AVENUE</b>	)	

**NATURE OF THE APPLICATION**

The Applicant has sought three consolidated approvals from the City of Canby ("City") for (1) Text Amendment #TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone ("DCO") from Core Commercial ("CC") to Outer Highway Commercial ("OHC") ("Text Amendment"); (2) Zoning Map Amendment #ZC 12-02 corresponding to the requested Text Amendment ("Map Amendment"); and (3) Site Design Review #DR 12-03 for construction of the six unit fuel-dispensing station ("SDR"). The approvals involve property described as Tax Lots 100, 200, 300, 2200, and 2300 in Section 33 of Township 3 South, Range 1 East, Clackamas County, Oregon (the "Property"). The Property is zoned Highway Commercial ("C-2") under the Canby Municipal Code ("CMC").

**HEARINGS**

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02. The duly noticed hearing for DR 12-03 was held January 28, 2013 before the Planning Commission at which the Planning Commission unanimously approved DR 12-03. These findings are entered to document the approval.

**CRITERIA AND STANDARDS**

In judging whether or not a Site and Design Review application shall be approved, the Planning Commission determines whether criteria from the Code are met, or can be met by observance of conditions, in accordance with Chapter 16.49.040. Other applicable code criteria and standards were reviewed in the Staff Report dated January 28, 2013 and presented at the January 28, 2013 meeting of the Canby Planning Commission.

**FINDINGS AND REASONS**

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02. The duly noticed hearing for DR 12-03 was held January 28, 2013 before the Planning Commission at which the Planning Commission unanimously approved DR 12-03. These findings are entered to document the approval.

The Staff Report was presented, with the power-point presentation entered as part of the record, and written and oral testimony was received at the public hearing. Staff recommended approval of the Site and Design Review application with Conditions of Approval in order to ensure that the proposed development will meet all required City of Canby Land Development and Planning Ordinance approval criteria. In the course of public testimony, attorney Michael Connors representing Save Downtown Canby delivered written testimony dated January 28, 2013 that supported his oral testimony.

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

- They agreed to approve the findings, conclusion, and final order at the next meeting to be sure staff was able to accurately capture areas of agreement, desired wording, and the conditions applied.
- They determined the Downtown Overlay District clearly authorizes the Commission to evaluate the applicability and suitability of alternative means to meet the intent of the downtown design standards. It was agreed the Commission has discretion to look at the context in which the standards are to be applied to determine their applicability.
- It was concluded that the monument sign as proposed did not fully conform to applicable ordinance standards and should be modified.
- The Fuel Canopy was determined to be a structure and not really a building, allowing flexibility in the application of certain Development Standards that would otherwise not be fully met as applied to the proposed development of this site.
- They accepted a correction staff noted with regards to staff's findings with regard to the point matrix within Table 16.49.040 clarifying that it was determined that the applicant had achieved 29 out of 37 total available points, and 6 out of 10 Low Impact Development points to fully meet the respective 70 and 15 percent requirement without any necessary rounding.
- Signage proposed on the canopy was determined to fall within the overall code allowance for all frontages, for both number and size, based on estimated size calculations for signs as depicted. It was acknowledged that Oregon law requires that all fuel types be advertised if any are, contributing to the size of sign copy on the site. Canopy sign permits are necessary.
- Concern was voiced about the limited on-site parking, recognizing that some employees will be utilizing on-street public parking along 2<sup>nd</sup> Avenue. On street parking is allowed, but existing bus stops on both sides of SE 2<sup>nd</sup> Avenue currently restricts some on street parking. However, it was agreed that the minimum parking standards are based on building square footage, for which the site exceeds the standard by providing 2 parking spaces.
- The Commission concluded that the traffic study provided was properly prepared with reasonable methodology making the findings and recommendations valid. The study could have included additional intersection analysis, and possible different store comparisons, but the scope of work was approved by both the City's transportation engineer and ODOT representatives who would have asked for those items if they thought the additional analysis was necessary to assure whether additional mitigations might be needed to address possible safety or traffic capacity concerns. The applicant's traffic engineer's arguments citing use of site specific data rather than ITE manual data, and why the amount of additional traffic will not be enough to trigger the need for more intersection studies was accepted. The traffic study produced and its recommendations were therefore accepted.
- Consideration of restricting the shared 99E driveway up front with initial construction was finally

dismissed as being potentially harmful in terms of access to both the adjacent common driveway owner, and to other businesses – including across the street - due to the likelihood that such a restriction would be accompanied by a median in the highway.

- It was concluded that the Traffic Impact Analysis presented by the applicants was more convincing and that mitigation measures were adequate and feasible as presented by the applicant in the Traffic Impact Analysis.

#### **CONCLUSION**

In summary, the Planning Commission adopted the findings contained in the Staff Report, concluded that the Site and Design Review application meets all applicable approval criteria, and recommended that File #DR 12-03 be approved with the Conditions of Approval stated below. The Planning Commission decision is reflected in the written Order below.

#### **ORDER**

Approval of this application is based on submitted application materials and all written and oral public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #DR 12-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. The Planning Commission concludes that, with the following conditions, the application will meet the requirements for Site and Design Review approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **DR 12-03** is approved, subject to the following conditions:

##### **A. Design Conditions:**

1. The applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk. Final sidewalk design must be approved by the city prior to construction.
2. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). As a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be determined to be final, with no further rights of appeal. *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
3. *Condition #3 presented in the January 28, 2013 Staff Report concerning the setback of the vehicle maneuvering area was omitted by the Planning Commission because it was determined that the setback in question was not applicable to the development and that the setback called for would not be an ideal configuration for the site.)*
4. The site's signage shall not result in glare onto neighboring properties or onto public right-of-way per the standard of 16.42.040(B) (3). *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*

5. The applicant shall use canopy lights that are recessed up into the canopy or that apply shielding in a manner that prevents light trespass, as defined in 16.43.020. *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
6. The applicant will be required to maintain all landscaping on the site.
7. The applicant shall coordinate this development with the Oregon Department of Transportation (ODOT) and shall obtain all necessary permits from ODOT prior to construction.
8. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility (CU), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.” *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
9. The development shall comply with all applicable City of Canby Public Works Design Standards. *(In order to provide more specificity, this condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report to assure construction plans conform to City standards.)*
10. The development shall comply with design requests from agencies and Canby Public Works representatives that submitted design recommendations; these comments are attached and incorporated into this staff report and include comments from:
  - a. Hassan Ibrahim, Curren McLeod, consulting City of Canby Engineers, items 1-9 in memo dated 1/10/13
  - b. Chris Maciejewski, DKS, consulting City of Canby Traffic Engineers, memorandum dated 7/17/12
  - c. Gary Stockwell, Canby Utility Board, comments dated 1/9/13 with attached site plan markups and comments dated 2/21/12
  - d. Dan Mickelsen, Canby Public Works, comments dated 1/14/13
  - e. Dan Kizer and Jennifer Wood, NW Natural Gas, comments dated 6/25/12 & 1/9/13
  - f. Darvin Tramel, City of Canby Environmental Services Coordinator, comments dated 1/14/13

*(In order to provide more specificity, this condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report.)*
11. Easements for electric service by Canby Utility shall be dedicated along the frontage of SE 2<sup>nd</sup> Avenue and a portion of the Locust Street frontage as indicated in Gary Stockwell’s comments dated 2/21/12 and 1/9/13. *(This condition has been modified from the Condition #9 original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
12. Tree species suitable for planting under overhead lines along the Locust Street frontage, in compliance with the provisions of 16.49.120(F) and as approved by the City Arborist, shall

be specified on the final landscape construction plans. *(This condition was modified from the Condition #10 original version presented in the January 28, 2013 Staff Report in order to provide more specificity and removes mention of SE 2<sup>nd</sup> Avenue as no overhead line exists or will exist.)*

- 13.** On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards, and in particular:
- a. The project shall be required to retain and infiltrate on-site all stormwater generated by the development up to the 25-year, 24-hour storm event (25-year storm) as defined in Section 4.301 of the Canby Public Works Design Standards.
  - b. An emergency overflow shall be designed to direct runoff from storms in excess of the 25-year storm to the street as defined in Section 4.311 (b) of the Canby Public Works Design Standards.

*(This condition has been modified from the Condition #11 original version presented in the January 28, 2013 Staff Report in order to provide more specificity as called for in the public works design standards.)*

- 14.** If future ODOT monitoring, evaluation, or design review of improvements to OR 99E find that the full access to OR 99E has safety issues related to queuing onto the highway, or crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island (e.g., inadequate deceleration space or queuing conflicting with safe crossing conditions for pedestrians), the owner/operator of the site will accept the access being restricted to right-in/right-out maneuvers. This condition shall be placed upon the property such that it carries from one owner to another (to be effective if the property ownership changes in the future with the same use). *(This condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report to emphasize that ODOT may restrict this driveway in the future and to state the Planning Commission's support and desire for ODOT to have the authority to impose a restricted driveway in the future should actual traffic use parameters deem such consideration necessary to protect the safety of the general public and maintain suitable function and level of service of the State Highway.)*

- 15.** The proposed monument sign shall have a distinct base, middle, and top, and the base and top shall be constructed of stone, brick, or wood as specified in 16.42.040(C). The sign shall also be in conformance with the requirements of 16.42.050, Table 3, "Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)". *(This condition was added to the original list of conditions presented in the January 28, 2013 Staff Report at the Planning Commission's request and determination that the monument sign as proposed needed a frame or top cap to more clearly meet the above cited standards.)*

**B. Procedural Conditions:**

Prior to issuance of Building Permits the following must be completed:

- 1.** Submit final construction plans: Final construction plans shall indicate 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, and


emergency service provisions. Construction plans shall be designed and stamped by a professional engineer registered in the State of Oregon.

2. Prior to the issuance of a County Building Permit/City Site Plan Review permit, final construction plans must be approved by the city and all other utility/service providers. The City of Canby may require a pre-construction conference to obtain final approval from utility providers and applicable city departments. This includes, but is not limited to, approval by:
  - a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items. A non-residential wastewater survey must be submitted for review and approval by the city prior to final building occupancy.
  - c. Canby Fire District
  - d. Canby Utility – water and electric service
  - e. Northwest Natural Gas
  - f. Canby Telcom
  - g. Wave Broadband
3. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical plan review and inspection service for this project. The applicable building permits are required prior to construction.

I CERTIFY THAT THIS ORDER approving DR 12-03 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 11 day of Feb., 2013

  
Tyler Smith  
Planning Commission Chair

  
Bryan Brown  
Planning Director

  
Attest

ORAL DECISION: January 28, 2013

Ayes:  
Hensley, Joyce, Kocher,  
Savory, Smith

Noes:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Abstain: \_\_\_\_\_

Absent:  
Proctor  
\_\_\_\_\_  
\_\_\_\_\_

WRITTEN DECISION: February 11, 2013

Ayes:  
Hensley, Kocher, Savory,  
Smith

Noes:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Abstain: \_\_\_\_\_

Absent:  
Proctor & Joyce  
\_\_\_\_\_  
\_\_\_\_\_

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF CANBY**

**In Re:**

<b>Application of Great Basin Engineering,</b>	<b>)</b>	<b>FINDINGS, CONCLUSION &amp;</b>
<b>for Text and Map Amendments</b>	<b>)</b>	<b>FINAL ORDER</b>
	<b>)</b>	
	<b>)</b>	<b>TA 12-01/ZC 12-02/DR 12-03</b>
	<b>)</b>	

**NATURE OF THE APPLICATION**

Great Basin Engineering (“Applicant”) seeks three consolidated approvals from the City of Canby (“City”) for (1) Text Amendment #TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone (“DCO”) from Core Commercial (“CC”) to Outer Highway Commercial (“OHC”) (“Text Amendment”); (2) Zoning Map Amendment #ZC 12-02 corresponding to the requested Text Amendment (“Map Amendment”); and (3) Site Design Review #DR 12-03 for construction of the six unit fuel-dispensing station (“SDR”). The approvals involve property described as Tax Lots 100, 200, 300, 2200, and 2300 in Section 33 of Township 3 South, Range 1 East, Clackamas County, Oregon (the “Property”). The Property is zoned Highway Commercial (“C-2”) under the Canby Municipal Code (“CMC”).

**HEARINGS**

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. These findings and conclusions support the City Council’s decision on TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02, and will be heard by the Planning Commission at a later date.

**CRITERIA AND STANDARDS**

**CMC 16.88.160(D) Amendments to Text of Title**

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

1. The Comprehensive Plan of the City, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development.
2. A public need for the change.



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

#### **CMC 16.88.180(D) Comprehensive Plan Map Amendments**

In judging whether quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments.
2. Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area.

#### **CMC 16.54.040 Zoning Map Amendments**

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

1. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development.
2. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

#### **FINDINGS AND CONCLUSIONS**

After hearing testimony on November 7, 2012 and taking into consideration the Planning Commission's recommendation, the City Council voted to approve the Applicant's request for ZC 12-02 and TA 12-01. In support of its decision, the City Council adopts the findings set forth in this document and incorporates as additional findings the text amendment staff report for File TA 12-01, Supplemental Recommendations and Findings dated July 12, 2012, and the letters containing findings proposed by Stoel Rives LLP dated September 4, 2012, and October 15, 2012. The City Council adopts the findings and reasons set forth in the above-referenced materials to the extent that they do not conflict with the following supplemental findings contained within this document.

The criteria set forth below require the City Council to consider and weigh certain factors when making its decision. These factors are matters for consideration as part of making the land use approval decision. After considering these factors, the City Council approves TA 12-01 and ZC 12-02 as further discussed below.

The City Council makes the following findings and conclusions:

Findings for Compliance with CMC 16.88.160(D) (Text Amendment):

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

1. *The Comprehensive Plan of the City, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development.*

The proposed amendment is limited in scope. The proposal would make the transition from the CC subarea of the DCO to the HC subarea of the DCO approximately 950 feet east of the Ivy Street intersection with Oregon State Highway 99E rather than 1,100 feet. This is a difference of approximately 150 feet over the length of the entire DCO. In the context of the overlays, the amendments are de minimis. It is also located in an area remote from the core of the DCO and thus justifies the amendment. This minor change has a positive effect upon the City's ability to preserve functions and local aspects of land conservation and development and in addition, furthers the objectives of the DCO. To further elaborate, the following findings are made with respect to the City's Comprehensive Plan:

Citizen Involvement: The acknowledged Comprehensive Plan and Zoning Code contain procedures for review and approval of the proposed text and map amendments. The City conducted its review process in accordance with those procedures, including required notices and public hearings, which constitutes compliance with the citizen involvement element. This proposal does not involve any attempt to alter the approved procedures for citizen involvement.

Urban Growth Element: The amendments have no effect upon the urban growth element. The proposal does not redesignate any agricultural or forest land and it simply constitutes an amendment as to the way in which land that is already urbanized is regulated.

Land Use Element: The proposed amendments are consistent with the land use element since they contribute to the orderly and efficient regulation of land. The amendments do not change the underlying zone but simply change the design standards under which development can take place on the Property.

Environmental Concerns Element: The amendments have no effect upon identified natural resources, historical resources or natural hazard areas. They make no change to

the underlying zone and allow for development which is contemplated at the Property by the underlying zone.

Transportation Element: The proposed amendment has no impact upon the transportation demand created by the base zone. It simply regulates the design of the uses that are already allowed within the Property's base zone designation. The CMC provides guidance as to consideration of transportation issues:

*CMC 16.08.150(A)*

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

The amendments do not trigger analysis under the Transportation Planning Rule ("TPR"). The TPR (OAR 660-012-0060) requires analysis and mitigation "[i]f an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility." Here, the amendments do not change the underlying base zone or the overlay zone, but rather simply adjust the boundaries between two design subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change the standards implementing the City's functional classification system for roadways.

It also would not change the trip generation potential in the C-2 zone (the underlying base zone), so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the Property from CC to OHC. Thus, the proposed change from CC to OHC (both of which are design subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation facility.

Applicant provided a Transportation Impact Analysis ("TIA") for the amendments. The requirements of CMC 16.08.150 have been addressed and are satisfied, and in doing so, the City Council has adequately addressed the Transportation Element.

Public Facilities and Services Element: The amendments have no effect upon public facilities and services. The Property is presently served by adequate public facilities and services, including transportation facilities as described above.

Economic Element: The amendments will make the Property more attractive to development and thereby diversify and improve the economy of the City. This element is met.

Housing Element: The amendments have no effect upon the housing element.

Energy Conservation Element: The DCO fosters energy conservation by concentrating pedestrian-oriented uses within the CC subarea; however, the Property is located far enough from the center of the commercial core to be dilutive rather than contributory as a pedestrian destination. The DCO supports the CC design objectives uses by fostering complementary, but more auto-oriented design features in the OHC subarea. The proposed change conserves energy by bringing such complimentary development conveniently adjacent to the CC subarea, reducing travel distances for vehicle trips to meet the needs of the public.

Since the City's Comprehensive Plan is in compliance with the statewide planning goals, the statewide policies have also been satisfied. See also the statewide planning goal findings set forth below. There are no identified county and local district, service district, or school district policies that are applicable to the proposed amendments. The City Council finds that the 99E Corridor and Gateway Design Plan is not yet adopted and is therefore not a criterion for this application.

2. *A public need for the change.*

The public need for the change is evidenced by the fact that development has not occurred on the Property over many years. The Property is located away from the core area of the City and is on the edge of the OHC. The amendments will make development and private investment on the Property more attractive, and through private investment and redevelopment of the Property, the downtown core will be enhanced. Without the amendments, the attractiveness for the Property is diminished and the parcels are more likely to remain undeveloped within the DCO, which will diminish the ability of the downtown core to prosper. Accordingly, there is a public need for the change.

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

The amendments make a minor modification to the existing design subareas within the DCO. It is a small change to facilitate development of underutilized land and it responds to a public need. It is the most appropriately-scaled change to facilitate the Property's development. Thus, the amendments will serve the public better than any other change that might be expected to be made.

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

The Property is located in the DCO, which was adopted to, among other things, promote the health, safety, and welfare of the residents in the community. The amendments make the simple change of allowing for the possibility of additional development on the Property by adjusting the boundaries of the OHC and CC design subareas, which will be to the benefit of the citizens. The change is minor and does not change the underlying uses allowed on the Property, consequently the amendments will have no greater impact than what is already allowed on the land. Therefore, the amendments will preserve and protect the health, safety, and general welfare of the residents of the community. See also the findings for the Statewide Planning Goals and the City's Comprehensive Plan.

5. *Statewide planning goals.*

The City Council has considered the statewide planning goals in making its decision when it addressed the goals and policies of the City Comprehensive Plan. However, to further elaborate, the following findings are made with respect to the statewide planning goals.

Goal 1 Citizen Involvement: The acknowledged Canby Comprehensive Plan and Zoning Code contain procedures for review and approval of the amendments. Conduct of the review process in accordance with those procedures, including required notices and public hearings, constitutes compliance with Statewide Goal 1. This proposal does not involve any attempt to alter the approved procedures for citizen involvement.

Goal 2 Land Use Planning: Applicant has analyzed the amendments against the applicable approval criteria, the mechanism for ensuring that the proposed changes maintain consistency with State and City policy frameworks for land use management. The Property is located in an urban area, within the City Urban Growth Boundary and City Limits. No resource land designations are affected, and so there is no need for an Exception to Statewide Goal 2. The proposal is consistent with Statewide Goal 2.

Goal 3 Agricultural Lands and Goal 4 Forest Lands: Goals 3 and 4 are not applicable because the Property is not designated for resource use. The Property is located in an urban area, within the City Urban Growth Boundary and City Limits.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces: No significant Goal 5 resources have been identified within the Property or its immediate vicinity. The proposed amendments will have no impact with respect to Goal 5 resource protections or policies.

Goal 6 Air, Water and Land Resources Quality: The proposed amendments will affect only the 0.75 acre Property and will not alter the range of commercial uses allowed in the Property's C-2 base zoning. Instead, the amendments will primarily affect the set of design and development standards with which the Property must comply when urban

development occurs. No greater impacts will occur than those allowed under the base zone and therefore, the proposed amendments will have no significant impact on air, water and land resources quality.

Goal 7 Areas Subject to Natural Hazards: The Property is not located in an area with known natural hazards. This Goal is not applicable to the Property and is not affected by the proposed change.

Goal 8 Recreational Needs: The Property does not have suitable characteristics for recreational use or destination resort siting. This Goal is not applicable to the Property and is not affected by the proposed change.

Goal 9 Economic Development: The Property is suitable, and is zoned for, urban commercial use. It is adjacent to the primary road through the City, SE 1st Avenue (Oregon State Highway 99E) at the eastern edge of the designated CC design subarea of the DCO. However, development of the 0.75-acre Property has yet to occur. The proposed amendments to place the Property in the OHC design subarea of the DCO can reasonably be expected to spur development and commercial use of the Property, which will contribute to economic development in the Canby community as well as the State of Oregon.

Goal 10 Housing: This Goal is specifically applicable to urban areas zoned for residential use. It is not applicable to the Property and will not be affected by the proposed change.

Goal 11 Public Facilities and Services: Public services are available to serve the Property. Because the proposed change will primarily affect the design requirements that will apply to development of the Property, rather than altering the set of land uses to which it may be put, it will not alter demand for public facilities and services. The amendments will therefore not affect the City of Canby's compliance with this Goal.

Goal 12 Transportation: The Property is located on the south side of Oregon Highway 99E, at the eastern edge of the City CC design subarea of the DCO. Auto-oriented development, including a fuel station, is located to both the east and west of the Property. It is located approximately 1,700 feet east of the City's designated Primary Gateway intersection (Highway 99E and Grant Street), and over 900 feet east of the nearest City-designated Secondary Gateway intersection (Highway 99E and Ivy Street). The Property is relatively far from these critical pedestrian activity centers. Given the nature of development moving farther east and away from the gateway intersections, it seems unlikely for the Property to be able to support pedestrian-oriented uses. Thus, allowing development of the 0.75-acre Property under OHC design requirements will enable the Property to serve the commercial needs of the public, including motorists, without compromising or diluting the City's aspirations for the CC design subarea. The proposed amendments will have no significant effect on transportation network safety or capacity. As additional findings, see the findings under the Transportation Element of City's Comprehensive Plan above, and the findings for CMC 16.88.190.

Goal 13 Energy Conservation: The 0.75-acre Property is located within a designated urban commercial corridor along busy Oregon State Highway 99E. The amendments will affect its design/development standards rather than the set of land uses allowed in its base zone. Therefore, due to its small size and corridor location, the amendments will positively impact patterns of energy consumption or conservation.

Goal 14 Urbanization: The Property is not designated as an Urban Reserve or as a Rural Reserve. It is located within the urban area of the City of Canby.

Goal 15 Willamette River Greenway: This Goal is not applicable because the Property is not located within or near the Willamette River Greenway.

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

Findings for Compliance with CMC 16.88.180(D) (Comprehensive Plan Map Amendment):

In judging whether quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. *The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments.*

The City Council incorporates the City Comprehensive Plan and Statewide Planning Goals findings set forth above, as well as the findings for CMC 16.88.160(D), to demonstrate that the proposed amendments satisfy CMC 16.88.180(D).

2. *Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area.*

The Property is served by municipal sewer and water services and is supported by an adequate transportation system, as described above in response to CMC 16.18.160 and CMC 16.08.150(A). The proposal does not change the allowed use, only the design standards that apply to the Property. Thus, with the same base zone, the amendments do not impact required public facilities, all of which are available. Appropriate extensions of the public facilities, to the extent necessary, will be required at the time of development.

Findings for Compliance with CMC 16.88.190 (Conformance with Transportation System Plan)

The City finds that CMC 16.88.190 does not apply to the amendments because the proposed amendments would not significantly affect a transportation facility. The City provides the following under CMCM 16.88.190(A) to support its finding.

- A. *A plan or land use regulation amendment significantly affects a transportation facility if it:*
1. *Changes the functional classification of an existing or planned transportation facility;*
  2. *Changes standards implementing a functional classification system;*
  3. *Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility;*  
*or*
  4. *Would reduce the level of service of the facility below that minimum acceptable level identified in the Transportation System Plan.*

As described under the City's findings for CMC 16.88.160(D)(1) and 16.08.150(A), the amendments would not significantly affect an existing or planned transportation facility. The amendments do not change the underlying base zone or the overlay zone, but rather simply adjust the boundaries between two design subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change the standards implementing the City's functional classification system for roadways.

It also would not change the trip generation potential in the C-2 zone (the underlying base zone), so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the Property from CC to OHC. Thus, the proposed change from CC to OHC (both of which are design subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation corridors. Therefore, the City finds that the amendments are not subject to CMC 16.88.190(B) or (C) and no further analysis is required.

Findings for Compliance with CMC 16.54.040 (Zoning Map Amendment):

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

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



The goal of the City's Land Use Element is "to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another." Policy 6 of the Land Use Element requires that the City "recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas." The City identified "Areas of Special Concern" to implement Policy 6. Development proposals, even those that appear to conform with the existing zoning, will be considered to conform with the City Comprehensive Plan only if the proposal also meets the applicable Area of Special Concern requirements. The Property is not located in an Area of Special Concern, therefore only the requirements of the underlying zone control. See Attachment 1 containing the Areas of Special Concern Map from the Comprehensive Plan.

The City incorporates by reference the findings in response to CMC 16.88.160 and 16.88.180 to demonstrate that the amendments comply with the goals and policies of the Comprehensive Plan and Statewide Planning Goals. There are no identified county and local district, service district, or school district policies that are applicable to the proposed amendments. The City Council finds that the 99E Corridor and Gateway Design Plan is not yet adopted and is therefore not a criterion for this application.

- B. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.*

The amendments would not result in a new zoning designation: the Property would remain within the C-2 base zone and subject to the DCO overlay zone. The proposed change would modify the boundaries of the CC and OHC design subareas to include the Property within the OHC design subarea. Regardless, the City finds, as described in CMC 16.88.180(B), that the Property is served by municipal sewer and water services and is supported by an adequate transportation system. With the same base zone, the amendments do not impact required public facilities, all of which are available. Any extension of public facilities, to the extent necessary, will be required at the time of development.

#### Findings regarding CMC 16.54.060 Improvement Conditions

- A. In acting on an application for a zone change, the Planning Commission may recommend and the City Council may impose conditions to be met by the proponents of the change before the proposed change takes effect. Such conditions shall be limited to improvements or physical changes to the property which are directly related to the health, safety or general welfare of those in the area. Further, such conditions shall be limited to improvements which clearly relate to and benefit the area of the proposed zone change. Allowable conditions of approval may include, but are not necessarily limited to:*

- 1. Street and sidewalk construction or improvements;*

2. *Extension of water, sewer, or other forms of utility lines;*
3. *Installation of fire hydrants.*

The City finds that no conditions are warranted under CMC 16.54.060(A) because the amendments will not impact required public facilities, all of which are available to the Property. To the extent that such improvements or extensions may be required, the SDR will address whether conditions for the Property's future development is warranted.

#### **DECISION AND CONDITIONS OF APPROVAL**


The Text Amendment and Map Amendment, as described in TA 12-01 and ZC 12-02, are approved as proposed. No conditions of approval are imposed.

## ORDER

IT IS ORDERED BY THE CITY COUNCIL of the City of Canby that TA 12-01 and ZC 12-02 is approved with no conditions of approval and is implemented through Ordinance 1365.

**I CERTIFY THAT THIS ORDER** for TA 12-01 and ZC 12-02 was presented to and **APPROVED** by the City Council of the City of Canby.

**DATED** this 5th day of December, 2012.

  
Randy Carson  
Mayor

  
Bryan Brown  
Planning Director

## ATTEST:

### ORAL DECISION - November 7, 2012

AYES: Ares, Hensley, Hodson, Parker, Dale

NOES: Daniels

ABSTAIN: None

ABSENT: None

### WRITTEN FINDINGS - December 5, 2012

AYES: Ares, Hensley, Hodson, Daniels, Parker, DAle

NOES: None

ABSTAIN: None

ABSENT: None

## **SECTION 4: ORDINANCE 1365**

## **ORDINANCE NO. 1365**

### **AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.41 OF THE CANBY MUNICIPAL CODE CONCERNING THE SUBAREA BOUNDARY OF THE CANBY DOWNTOWN OVERLAY ZONE**

**WHEREAS**, Great Basin Engineering, representing Fred Meyer Stores, Inc., applied for a text amendment and zone change to alter Chapter 16.41, Downtown Canby Overlay Zone (DCO) in order to change the subarea boundary of the Downtown Overlay Zone on taxlots 3S1E33DC00100, 00200, 00300, 02200 & 02300 from Core Commercial (CC) to Outer Highway Commercial (OHC), as shown in Exhibits "A" and "B", and

**WHEREAS**, the Planning Commission held public hearings on July 23, 2012, September 24, 2012, and October 22, 2012 during which the citizens of Canby and their representatives were given the opportunity to present testimony on these proposed changes; and

**WHEREAS**, the Planning Commission found that the standards and criteria of the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance concerning text amendments and zone changes were not satisfactorily met, and therefore recommended by a vote of 3-1 to forward a recommendation of denial to the City Council, and

**WHEREAS**, the City Council, after reviewing the text amendment and zone change applications, supporting materials, and testimony on November 7, 2012, found that the proposed amendment complies with the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance, and the plans and policies of the county, state, and local districts and will preserve the function and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and therefore

#### **THE CITY OF CANBY ORDAINS AS FOLLOWS:**


- 1) The City Council hereby approves Text Amendment and Zone Change files TA 12-01 and ZC 12-02; and
- 2) Title 16, Chapter 16.41 of the Land Development and Planning Ordinance of the City of Canby, is modified as detailed in Exhibit "A."

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, November 7, 2012 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on December 5, 2012, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 N.W. 2<sup>nd</sup> Avenue, Canby, Oregon.,

  
Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on December 5, 2012 by the following vote:

YEAS 4      NAYS 2

  
Randy Carson  
Mayor

ATTEST:

  
Kimberly Scheafer, MMC  
City Recorder

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

## Chapter 16.41 DOWNTOWN CANBY OVERLAY (DCO) ZONE

### Sections

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

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



**Figure 6**  
Example of high-quality screening design



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

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

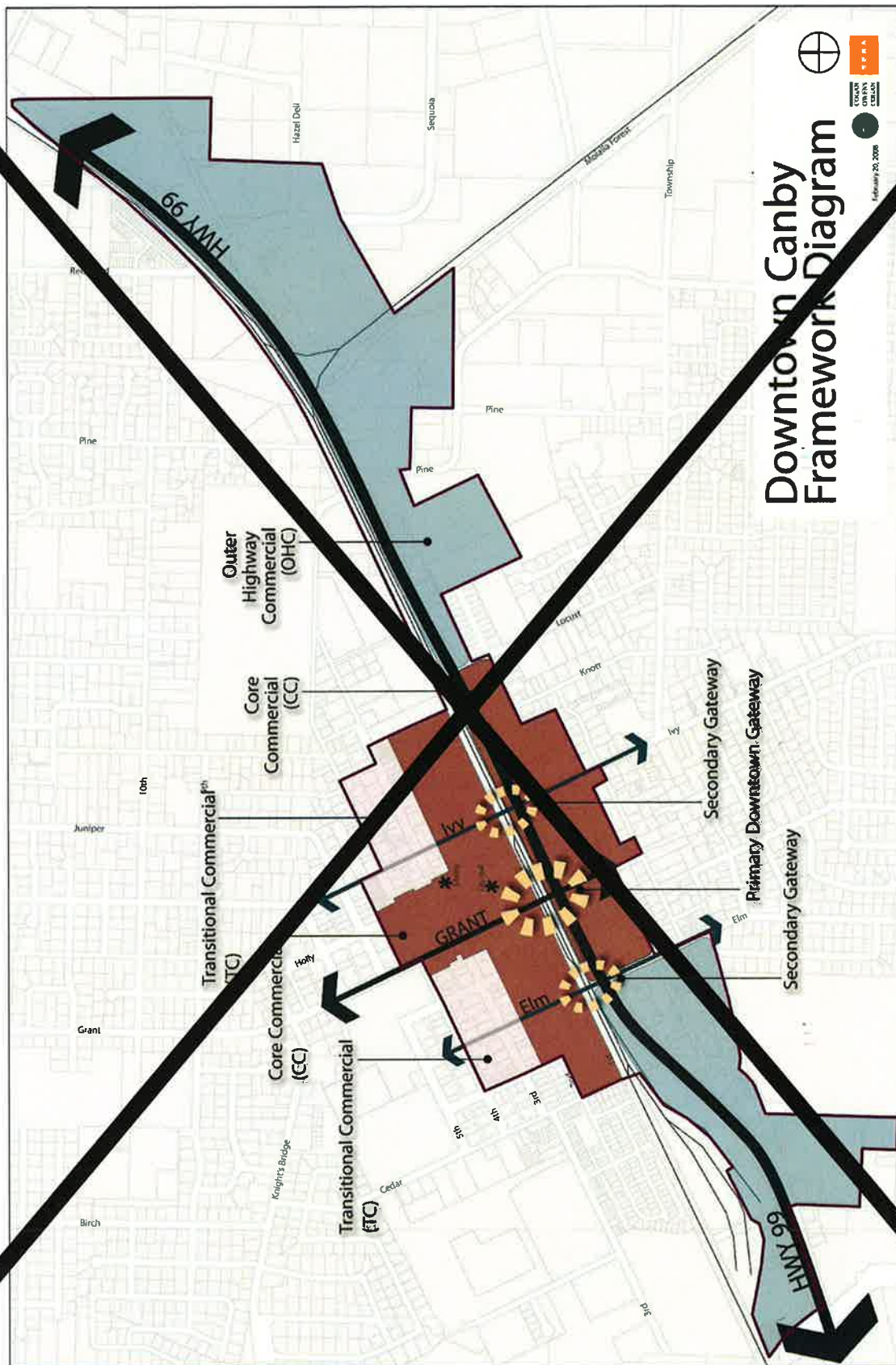
3. Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and mid-block between Knott and north-of Locust Streets. This area is quite different from the Core Commercial and



**Figure 7**  
Example of well-planned landscaping



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



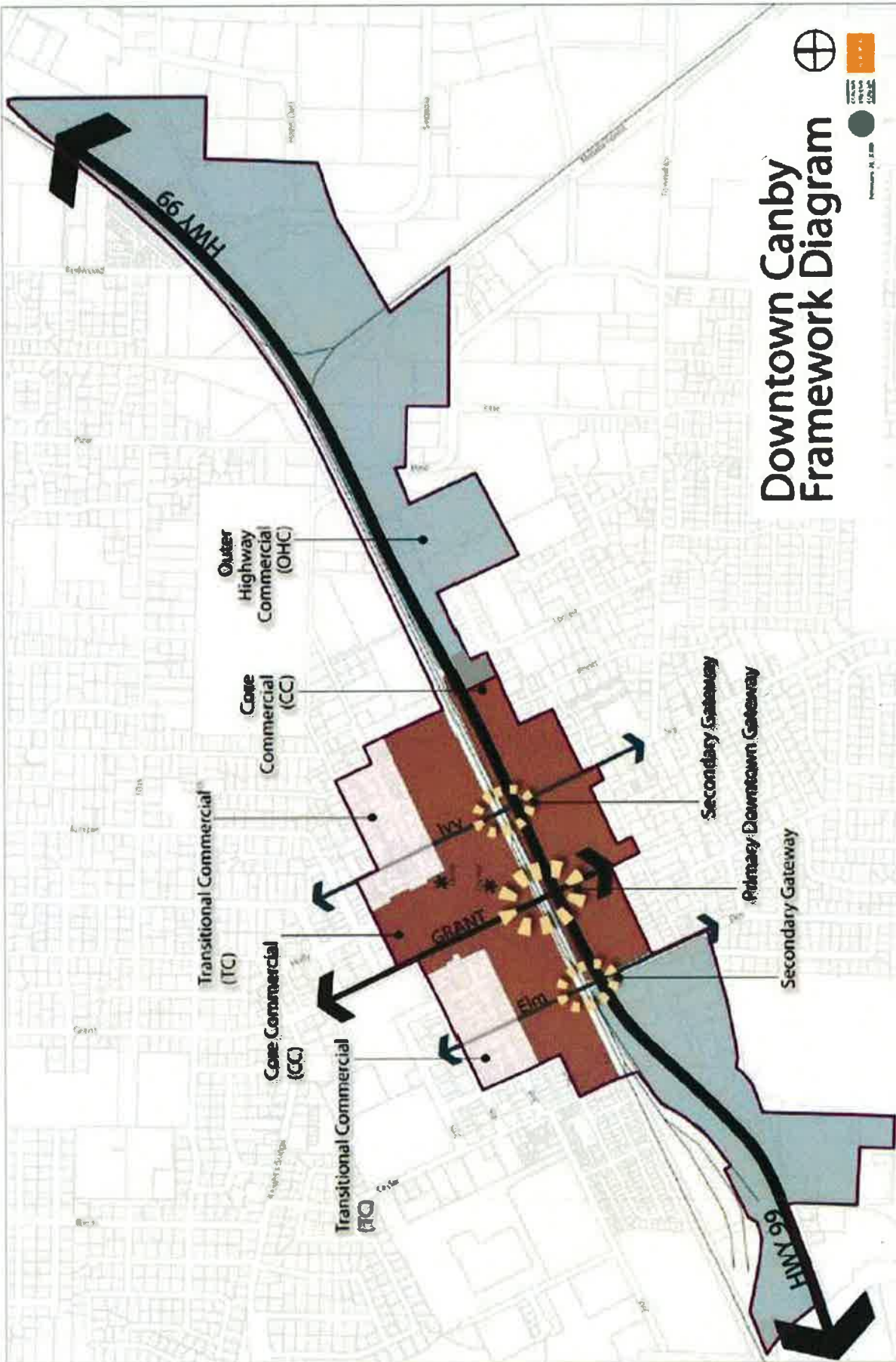


Figure 11 Downtown Canby Overlay Zone





**Figure 21**  
The chamfered entry on this building reinforces the corner



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



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

## 1. General applicability.

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

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

c. Design standards do not apply to the following:

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

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

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

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

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

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

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

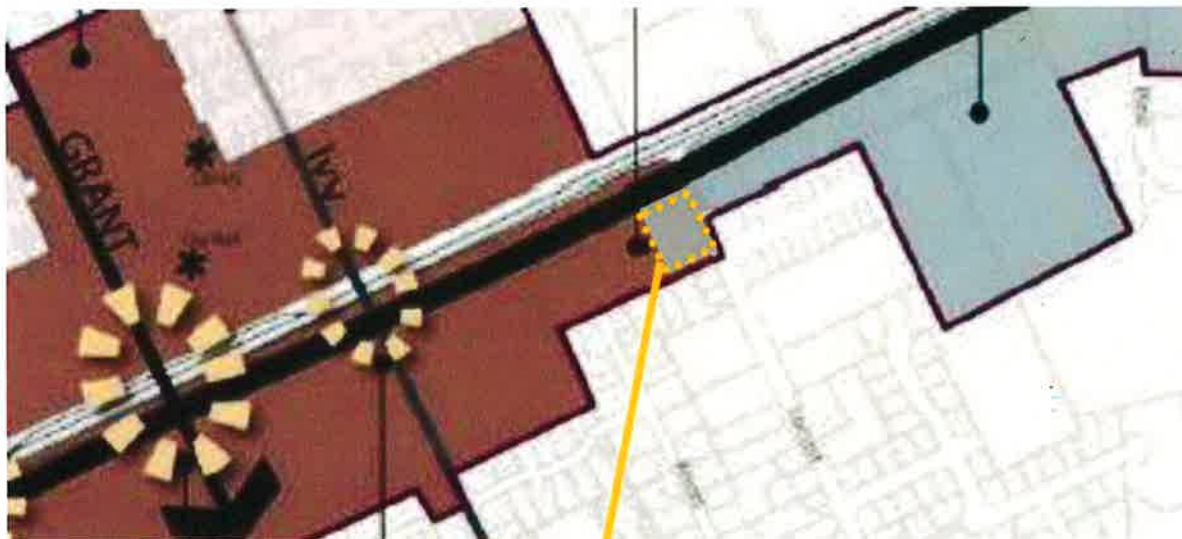
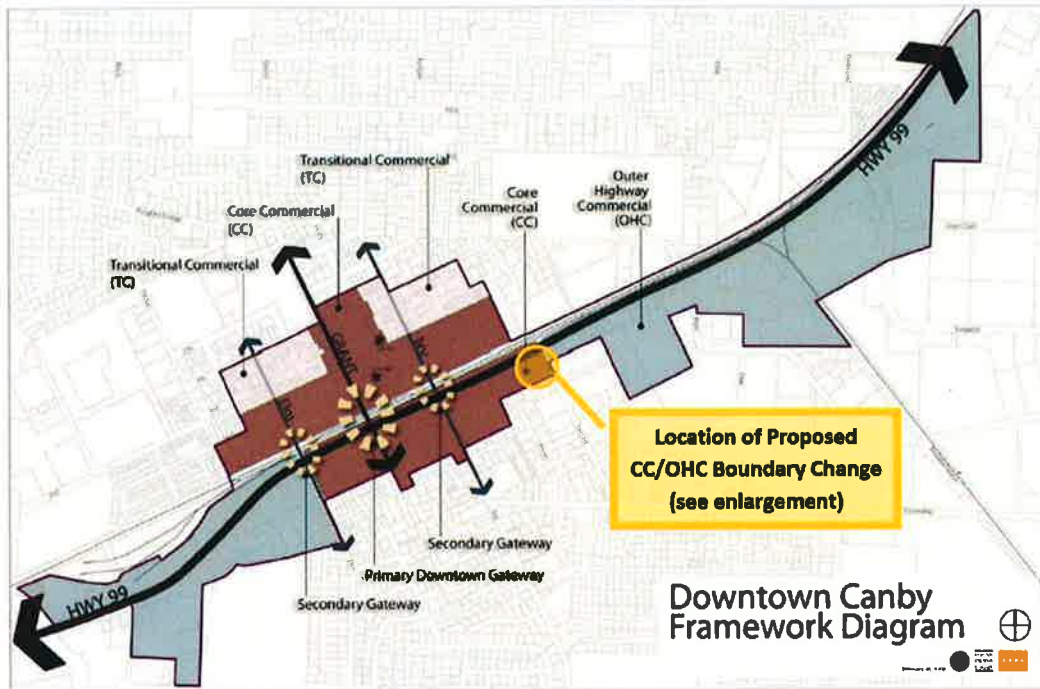


**Figure 24**  
The Canby Herald Building in the commercial core incorporates many good design elements including a recessed entry, sign frieze, engaged



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

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



**Proposed Action**

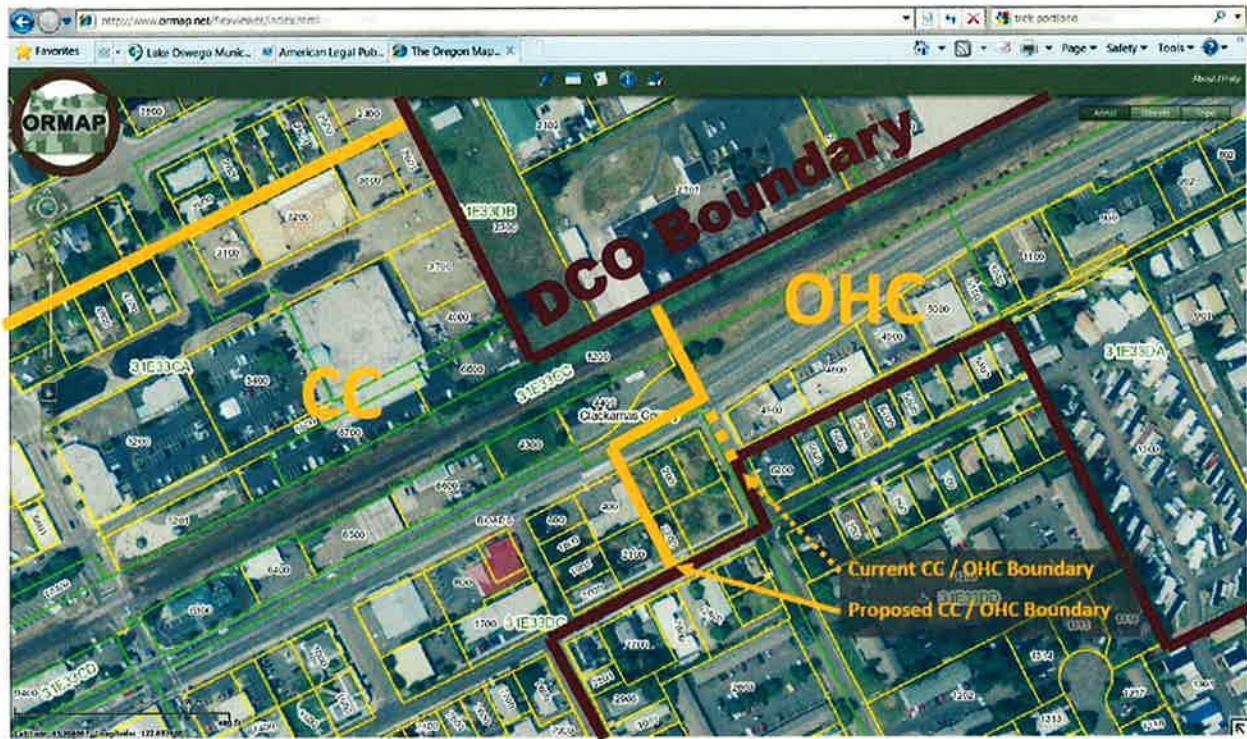
Change the Downtown Canby Overlay (DCO) designation of 0.75 acres, from Core Commercial (CC) to Outer Highway Commercial (OHC), consisting of the following five tax lots:

Tax Map 3S 1E 33DC

Tax Lots

00100, 00200, 00300, 02200 & 02300





## **SECTION 5: PLANNING COMMISSION & COUNCIL MINUTES FROM KEY MEETINGS**



# **MINUTES PLANNING COMMISSION**

October 22, 2012

City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Dan Ewert, Sean Joyce, Charles Kocher, and Tyler Smith

**ABSENT:** Commissioner John Proctor, Misty Slagle, and Randy Tessman

**STAFF:** Bryan Brown, Planning Director, Angie Lehnert, Associate Planner, Laney Fouse, Planning Staff

**OTHERS:** Steve Abel, Jake Tate, Lee Leighton, James S. Coombes, Brent Ahrend, Mike Connors, Ryan Oliver, E. Wayne Oliver, Roger Skoe, Gary Palfrey, Charles L. Burden, Curt Hovland, Vicki Lang, Ashley Danielson, Regan Danielson,

## **1. CALL TO ORDER**

Planning Commission Chair Dan Ewert called the meeting to order at 7:13 pm.

## **2. CITIZEN INPUT ON NON-AGENDA ITEMS: None**

## **3. PUBLIC HEARING**

**a.** Continued from July 23, 2012 applicant is requesting a Text Amendment/Zone Change to shift a subarea boundary of the Downtown Canby Overlay at this site from Core Commercial to Outer Highway Commercial to accommodate a Fred Meyer fuel station to be located at 391 SE 1st Avenue (**TA 12-01, ZC 12-01 FRED MEYER FUEL STATION**)

**b.** Continued from July 23, 2012, applicant is requesting a Site and Design Review for a Fred Meyer fuel station located at 391 SE 1st Avenue (**DR 12-03 FRED MEYER FUEL STATION**)

Chair Ewert closed the public hearing reaffirming the action taken at the close of the previous meeting on this item which had left the record open for 21 days total – 7 days for submittal of additional written evidence, another 7 days for rebuttal, and a final 7 days for closing written argument by the applicant. Commissioner deliberation began regarding the Fred Meyer Fuel Station without any public input taken.

Commissioner Kocher would like to see some building being done on the lot but doesn't like the level of traffic to be introduced nor the change proposed to the Downtown Core Subarea Overlay boundary.

Commissioner Smith thinks the traffic analysis performed was sufficient and the traffic impact is no longer an issue. He said the DCO is an overall guideline and is not intended to be a restriction which could not ever be changed.

Commissioner Joyce has no concerns with traffic analysis but has problems with the driveway if not restricted to right in and right out and with the process of circumventing the DCO because it sets a bad precedent.

Chair Ewert said the traffic analysis fell short and is a recipe for a real bad problem. He said they were trying to create a pedestrian friendly area. He said they had spent a great deal of time working on the DCO and felt that changing it would not better the quality of life in Canby.

Commissioner Smith said he looks at it more legalistically and felt the applicant had met all of the criteria related to what he considered to be a “minor” boundary change.

Commissioner Kocher said changing the overlay subarea boundary still bothers him especially having to change it after they did so much work. He said he might go along with the right in right out driveway but did not support left turns from the highway into this site.

Commissioner Joyce said the biggest thing for him was the timing associated with the vision they have for the 99E corridor and mixing that with safe walk routes in that location.

Commissioner Kocher moved to reject TA 12-01 & ZC 12-02 based on the reasoning included in the discussion they had and to forward this recommendation to the City Council, Commissioner Joyce seconded it. **The motion passed 3/1.**

Chair Ewert said the Planning Commission’s recommendation will be moved to the City Council’s review at a public hearing to be held on Nov. 7, 2012.

**4. NEW BUSINESS -- None**

**5. FINAL DECISIONS – None**

**6. MINUTES**

- a. Approval of the Regular Planning Commission Minutes

**MOTION:**

Commissioner Kocher moved to approve the 9-24-12 minutes as written. The motion was seconded by Commissioner Smith. **The motion passed 4/0.**

- 7. ITEMS OF INTEREST/REPORT FROM STAFF –** City of Canby  
Vision meeting will be held tonight, Tuesday, and Wednesday evenings at  
the Canby Police Facility Community Room at 7:00 p.m.
- 8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING  
COMMISSION - None**
- 9. ADJOURNMENT: 7:39 p.m.**

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
November 7, 2012**

**Presiding:** Mayor Randy Carson

**Council Present:** Rich Ares, Traci Hensley, Brian Hodson, Walt Daniels, Greg Parker, and Tim Dale.

**Staff Present:** Amanda Zeiber, Asst. City Administrator/HR Director; Joseph Lindsay, City Attorney; Kim Scheafer, City Recorder; Angie Lehnert, Associate Planner; Bryan Brown, Planning Director; Julie Wehling, Transit Director; and Jamie Stickel, Main Street Manager.

**Others Present:** Ray Hughey, Wayne Oliver, Ryan Oliver, Bev Doolittle, Bob Cornelius, Ken Rider, Mike Connors, Lee Layton, Charles Burden, Jake Tate, and Steve Abel.

**CALL TO ORDER:** Mayor Carson called the Regular Meeting to order at 7:30 p.m. in the Council Chambers followed by opening ceremonies.

**COMMUNICATIONS:** None.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Bev Doolittle, Executive Director of the Canby Area Chamber of Commerce, discussed the importance of small businesses to the economy. She announced the third annual Small Business Saturday on November 24.

**MAYOR'S BUSINESS:** Mayor Carson attended the Police Department Open House and Ribbon Cutting, C4 meeting, Dragonberry Groundbreaking, and First Friday.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Dale attended the Community and Development Visioning meetings, Sequoia Parkway extension meeting, and Dragonberry Groundbreaking. Regarding Canby Utility, the Knights Bridge substation was still in the permitting process and an increase in water hook-up fees was approved.

Councilor Parker was appreciative of the Main Street volunteers for the Halloween parade.

Councilor Daniels said a historical calendar would be given with every renewal of Historical Society membership. The Volunteer Appreciation and Annual Meeting would be held on November 20. The next Transit Advisory Committee meeting would be November 15. He discussed the new shopping shuttles. There would also be a Visioning meeting on November 15.

Councilor Hodson announced there would be three openings at the end of the year on the Planning Commission. The Light the Night event would be held at the Fairgrounds December 13-17. He also attended the Dragonberry Groundbreaking. The High School's play *Our Town* would be opening on November 9.

Councilor Hensley attended the Community Visioning meetings, Sequoia Parkway extension meeting, Police Department Ribbon Cutting and Open House, Halloween parade, and Main Street Promotions Committee meeting.

Councilor Ares had just returned from a five week trip. He had been in one of the poorest and most dangerous countries in Africa and appreciated living in Canby.

**CONSENT AGENDA: \*\*Councilor Daniels moved to adopt the minutes of the October 17, 2012 City Council Regular Meeting; an Off-Premises Liquor License Application for Willamette Valley Country Club; and a Change of Ownership Liquor License Application for Pacific Northwest Petroleum, Inc. Motion was seconded by Councilor Ares.**

Councilor Ares said he would abstain from the vote as he was a member of the Willamette Valley Country Club.

Councilor Parker would also abstain as he was not in attendance at the October 17 meeting.

**Motion passed 4-0 with Councilors Ares and Parker abstaining.**

**PUBLIC HEARING:** TA12-01/ZC 12-02 Fred Meyers Stores, Inc. – Joe Lindsay, City Attorney, said each Councilor received a 280 page packet of evidence which had also been presented to the Planning Commission. The task before them was a decision on the Planning Commission's recommendation for denial of the text amendment to the business overlay, not the site and design review. He explained how the hearing was both quasi-judicial and legislative.

Mayor Carson read the public hearing format.

#### CONFLICT OF INTEREST:

Councilor Ares – No conflict, plan to participate. At one point he owned a quarter of the subject block at the west end, however it had been a number of years since he owned it.

Councilor Hensley – No conflict, plan to participate.

Councilor Hodson – No conflict, plan to participate. He and the applicant, Ryan Oliver, were on the Chamber of Commerce Board and Mr. Oliver was Councilor Hodson's insurance agent. He and the property owner had not discussed the application. The Chamber Board did receive a presentation on this application, but he recused himself from the meeting and did not hear the presentation.

Mayor Carson – No conflict, plan to participate.

Councilor Daniels – No conflict, plan to participate.

Councilor Parker – No conflict, plan to participate.

Councilor Dale – No conflict, plan to participate.

#### EX PARTE CONTACT:

Councilor Ares – No contact.

Councilor Hensley – Driven by the site, drew no conclusions.

Councilor Hodson – Driven by the site, drew no conclusions.

Mayor Carson – He had received an email from Mr. Lang stating he felt the Planning Commission did not make the right decision. He also received permission from the property owner to put up a political sign on the site.

Councilor Daniels – No contact.

Councilor Parker – No contact. With the permission of the landowner, he put up a political sign on

the property several months ago.

Councilor Dale – Driven by the site, drew no conclusions.

Mayor Carson opened the Public Hearing at 7:52 p.m.

STAFF REPORT: Angie Lehnert, Associate Planner, said if the Council approved the Text Amendment then the Design Review would be decided by the Planning Commission. She gave an overview of the application which was located at 99E and Locust. It was zoned Highway C-2 Commercial. A traffic study was required but not a Transportation Planning Rule (TPR) analysis. The City Traffic Engineer concurred the traffic study was sufficient. Staff did not think the application conflicted with the Zoning Code, Comprehensive Plan, and Statewide goals. There was no comment from Oregon Department of Land Conservation and Development. Notices had been sent to property owners 200 feet from the site, utility agencies, City Engineer, City Traffic Engineer, and ODOT. One comment form was received in favor of the application. The City Engineer and ODOT had recommendations regarding the design, but that would not apply to this decision. The site was in the Downtown Overlay Zone. The C-2 Commercial zone allowed a fuel station, but the overlay Core Commercial would not allow a fuel station. Core Commercial was geared for pedestrian oriented developments, and this proposal conflicted with that. The applicant was requesting changing the boundary so the property could be in the Outer Highway Commercial zone. She gave arguments for and against the proposal. The Planning Commission recommended denial by a 3-1 vote and she summarized the reasons. This was an existing high pedestrian area with zoned R-2 to the south and east. The Council needed to consider where downtown should begin. The Core Commercial required pedestrian oriented designs, and Outer Commercial allowed more auto oriented designs.

Councilor Ares questioned how the boundary was established and if it was arbitrary.

Bryan Brown, Planning Director, said in going through documents and reports, staff could not find why the boundaries were placed where they were. He assumed they placed the Core Commercial boundary near Locust because it was the first point where businesses were seen on both sides of the street. There had also historically always been an entrance sign to the community there that marked the arrival of the downtown area.

Councilor Hodson asked for more clarification on the history of the overlay.

Mr. Brown said this was shifting of a sub boundary in the overlay, and the overlay itself was not affected. It would affect where two different design standards within the sub areas applied.

Councilor Hodson asked if this would affect the Gateway Corridor Plan.

Mr. Brown replied it was not relevant to this consideration because it was not an adopted document. The pedestrian crossing had been adopted in the TSP, but it stated there needed to be an additional crossing somewhere between Ivy and Locust.

Councilor Daniels asked if the intent of the overlay was to protect the zone with certain criteria.

Mr. Brown stated the intent of the regulations was to get the quality of development in this location. It regulated the design more than the use.

APPLICANT: Lee Layton, Westlake Consultants, reviewed material that had been given to the Planning Commission and was in the Council's packet (pages 41-59). He gave a description of the site. In regard to the boundary, he thought it was not that the boundary was arbitrary, but that it was based on the scale of the analysis that the group did at that time. This plan needed fine-tuning in the implementation. The boundaries aligning on both sides of the highway was not relevant as there was no street crossing there. Having businesses on both sides of the street was not significant because they were not interconnected. He referred to a publication by ODOT and DLCD called the *Main Street Handbook*, Chapter 3, Recipe for Success, where it discussed gateway concepts. This site was 900 feet away from the downtown core. He then discussed the ratio of the width of the street to the height of the building. The streetscape was creating a space in the downtown core, but the highway areas was a different ratio and there was no sense of safety and enclosure and it was hard to achieve a pedestrian climate. He questioned how likely it was to create a pedestrian environment at this location. The speed limits also transitioned to lower speeds in the downtown core for safety, attention, and to define it was a different place than the highway. The speed along the highway did not show people they were in the core yet. The site was on the outskirts of the gateway to the City and this environment was better served being in the Outer Highway Commercial district. He showed pictures of the site that showed what was around the intersection and that it was not a place for pedestrians. He thought the focus should be concentrated on the downtown core, and that the restrictions had to tighten and focus on a smaller area to create a sense of place. The highway corridor was not the place to extend the downtown core area.

Steve Abel, Stoel Rives Attorney at Law, spoke about the four reasons that the Planning Commission recommended denial. Regarding the notion that the process that created the overlay also created a precedent that was locked in, he read part of the Comprehensive Plan where it stated the intention was the plan would be improved as more and better data became available. Regarding the question of transportation, a transportation study was all that was required and it had been submitted and found to be adequate. The TPR only triggered when there was going to be a significant effect on existing or planned transportation facility. The use was already allowed on the site and they were only talking about design, there was no impact by this change. The Comprehensive Plan already incorporated the trips for the C-2 zoning. Regarding the reference to the Gateway Corridor Plan, it was not adopted and the Comprehensive Plan said what the uses could be and the Gateway Plan was about how the highway would interact, not how the highway demanded what the uses would be for the properties adjacent to the highway. Regarding the need for the change, he thought there was a public need to get the plan right so the property could develop in that location as it had been vacant for a long time and would create economic vitality. He thought this was an appropriate request to allow for the overlay to be amended and that it met the criteria.

PROPOSERS: Bev Doolittle said the Chamber worked with the City on the committee that put the new design standards together. The committee's directive was to focus on what the sites looked like, the building design, and those related requirements. The line had been drawn there because a building was going to be built on that location and would have been the first building that met the new design standards. No one could foresee the economic downturn and that the building was not going to happen and how it would alter the businesses that could go in there in its place. Once the design standards were completed, the Chamber worked with the Planning Commission to revise the Sign Code to compliment the design standards.

Ryan Oliver, resident of Canby, explained his building was designed for the site and was the

reason the boundary was extended to include the site as it would have met the design standards. The economy changed and the land was still vacant. He gave a handout to the Council that contained letters from people that also were on the Downtown Design Standards Committee that explained the intent of the standards. The intent was to make the buildings nice in the zones. He was unclear who the Save Downtown Canby group was. He thought it was really opposition from other local gas stations. City staff recommended approval of this application.

OPPONENTS: Mike Connors, Hathaway, Koback Connors LLC, represented Save Downtown Canby, a group of local business owners who were concerned about this proposal. The Planning Commission held two hearings on this issue and had reviewed the material that was before Council and went through a thoughtful deliberation. He encouraged the Council to review the transcript of those meetings. There were some Planning Commissioners who were part of the creation of the downtown overlay. He thought this plan was inconsistent and would significantly undermine the downtown overlay and that it would have significant traffic impacts that had not been assessed and no mitigation had been proposed. He gave a history of the downtown overlay that was meant to revitalize downtown and was a two year process to develop. He did not think the boundary was arbitrary and should include the property because of its proximity to downtown, it lined up with ODOT's Station Area Plan, its proximity to the welcome sign, and a high pedestrian area. A pedestrian crossing was recommended in the Gateway Plan for this location. A Commercial Core Overlay was a pedestrian oriented zone and Outer Highway was an auto oriented zone and was the only way a gas station could meet the regulations. He did not think the entire plan should be rethought at the recommendation of the consultants hired by Fred Meyer. He thought Council should be careful about setting aside a deliberative, precise process. If it was set aside, it would be setting a precedent for future changes to the plan. He thought any changes should be done through a process similar to the process that was used to create it instead of a single application supporting a single use and reviewing the record in a single night. He thought the site was designated not just because of Mr. Oliver's building, but for many reasons. He then discussed the TPR Rule that required anytime there was an amendment to the Comprehensive Plan or land use regulations, they had to provide a TPR analysis. The focus was on the most intensive use allowed and looked 20 years out. This had not been done. There were current problems in the transportation network and 20 years in the future there would be multiple failing intersections and no funding to fix them. He thought the developers should contribute to the solutions. It was stated the analysis was not required because this particular change would not cause any more traffic because it was a use allowed in the underlying zone. Changing a zone from pedestrian oriented uses to auto oriented uses would create more traffic. A service station would have significant traffic impacts. He asked the Council to adopt the Planning Commission's recommendation for denial. Mr. Connors had not been given a copy of the letters that Mr. Oliver handed out and they could be considered new evidence. He wanted it on the record that Fred Meyer had provided a written extension of the 120 day rule.

Mr. Brown confirmed they had.

Mr. Lindsay provided Mr. Connors with a copy of the letters that Mr. Oliver handed out.

Mayor Carson recessed the meeting at 9:23 p.m. and reconvened at 9:30 p.m.

Mr. Connors asked the Council to strike the letters from the record as it was new evidence. If Council accepted them, he wanted Council to recognize they were support letters, not any indication of what the task force did or was intended to do or any evidence in the record.



Council consensus was to strike the handouts from the record.

REBUTTAL: Mr. Abel explained Mr. Layton was a professional with the expertise of explaining the need for fine-tuning that made good planning sense for the City. Mr. Connors was not a planning expert. The property was remote from the central core and had sat virgin for quite some time. There were reasons why the site would not develop with the current overlay. The Comprehensive Plan said it was an appropriate process for the amendment. There was a design review that would occur if this amendment was approved. He disagreed with what the law required regarding the TPR analysis. He read from State law about when a TPR analysis was required. The trips were already accounted for under the C-2 zone and the C-2 zone had a wide variety of uses and traffic impact. The C-2 zone allowed this use. Group McKenzie, Transportation Engineers, agreed the TPR analysis was not necessary and the transportation study provided was adequate. The City's Transportation Engineers also agreed. He thought the criteria for the application had been met.

Councilor Parker asked if the applicant would be opposed to Council postponing the decision.

Mr. Abel said the extension deadline was November 22. He requested the record be closed if the hearing was continued.

Mayor Carson closed the Public Hearing at 9:38 p.m.

DISCUSSION: Councilor Ares said when the plan was adopted the City's long range planner wasn't heavily involved in it. This was not a detailed plan like a Zoning Map, but a broad brushed concept plan where the lines were not necessarily drawn with an eye toward detail. He understood this zone as being a pedestrian oriented use, and he knew the pedestrians came down Juniper and 2<sup>nd</sup> Avenue to walk, not 99E. It was not a pedestrian neighborhood, but a commerce truck route. The Gateway Plan was not finalized. He did not want to encourage pedestrian use on 99E, but on the sidestreets. Even reducing speed limits would not encourage pedestrian use. Except for Hulberts, all the other businesses in the area were auto oriented. He thought this was a reasonable request.

Councilor Hensley concurred with Councilor Ares' comments. The gateway sign did not really indicate they were coming into downtown. It wasn't downtown, it was highway. She did not think they wanted to encourage pedestrian traffic in that area. They were moving a line that there was some debate about how it was created. She questioned moving the line mid-block. It was not the role of government to pick and choose commerce. She did not support putting pedestrian areas on 99E.

Councilor Hodson said there was a question about where they wanted to start the identity of the City. There was not a lot of pedestrian activity around this site. The decision was in regard to the boundary of a design standard overlay, not whether or not a gas station could be placed there. If they were going for a certain look for coming into Canby, did this design standard meet that, and could Fred Meyer design a gas station that met that design standard. If they moved the boundary line, they would change what that design standard was going to be. He was not in favor of changing the design standard. If they wanted to change the tone of 99E, the overlay needed to be left where it was. He thought it would create a precedent for every other application within this design area. He agreed many people walked 2<sup>nd</sup> Avenue as opposed to 99E.

Councilor Daniels said there was a reason the overlay was put in place and it would cause more traffic with all of the other businesses nearby. If the application was turned down in Design Review, the boundary would still be changed and would not be protected. The intent was for improvement on 99E and he would rather leave it the way it was.

Councilor Parker asked what the criteria was by which they should make the decision.

Mr. Brown explained the criteria. He suggested the Council consider if changing the design standards applicable to this property and removing the sub area boundary as was being proposed, would those new design standards harm the intent of the downtown overlay district.

Councilor Dale asked what the City's position was about the TPR analysis. Did they need one or not.

Mr. Brown replied the City hired a Traffic Engineer whose professional opinion was there was no significant impact being proposed with a sub area boundary change that would demand a TPR analysis be done. The Transportation Plan had already taken into account a reasonable worst case scenario when the transportation analysis was done for the potential 20 year impact of the various intersections. This would be one of the design issues the Planning Commission would address if this was approved.

Councilor Dale asked if the overlay was changed, did it impact how the Planning Commission had to deal with the design.

Mr. Brown did not think it would not bind the Planning Commission in any way. Changing the boundary did not set a direction other than to go forward with the design that met the code that was applicable to the new sub area boundary. A change to the boundary would not relegate the property to less quality, but would relegate it to application of different design standards to achieve a different look.

Ms. Lehnert said the purpose of the Core Commercial was pedestrian, and Outer Highway Commercial was auto. There was still the requirement to have higher quality material, landscaping, and lighting standards. This proposal was auto oriented, not pedestrian oriented. The Council had to consider the objectives of the downtown overlay and Comprehensive Plan for this portion of the highway. Would it be detrimental to change this one lot or not.

Councilor Dale would rather change the policy and have a clean process than doing exceptions. However, it was a 150 foot move on a perimeter and he could be persuaded to change it as long as they did not give up their ability to keep the look and feel that they wanted. A pedestrian friendly fueling station was not compatible with Fred Meyer's business plan as it did not give the revenue stream they needed.

**Ordinance 1365 – \*\*Councilor Ares moved to approve Ordinance 1365, AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.41 OF THE CANBY MUNICIPAL CODE CONCERNING THE SUBAREA BOUNDARY OF THE CANBY DOWNTOWN OVERLAY ZONE to come up for second reading on November 21, 2012. Motion was seconded by Councilor Parker.**

Councilor Parker was frustrated there was not a clearer reason for why this was put in place. He thought this would create a better looking fueling station on 99E.

Councilor Daniels said the area had always been an entry to the City and there was a reason for the overlay zone.

Councilor Ares said a pedestrian oriented zone on 99E did not work due to the closeness of the highway to the sidewalks. He encouraged Fred Meyer to not just meet the intent, but go the extra mile in the spirit of the design standards and make a good design.

**Motion passed on first reading 5-1 with Councilor Daniels opposed.**

Mr. Brown clarified the 120 day rule for the Site and Design Review had been extended to January 31, 2013.

**RESOLUTIONS & ORDINANCES: Ordinance 1364 – **\*\*Councilor Dale moved to adopt Ordinance 1364, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH HUBBARD CHEVROLET OF HUBBARD, OREGON; WILSONVILLE CHRYSLER JEEP DODGE OF WILSONVILLE, OREGON; WIRE WORKS OF SALEM, OREGON; AND FORD MOTOR CREDIT CORPORATION FOR THE LEASE / PURCHASE OF ONE (1) 2013 CHEVROLET TAHOE AND ONE (1) 2013 DODGE CHARGER WITH POLICE EQUIPMENT PACKAGES FOR THE CANBY POLICE DEPARTMENT; AND DECLARING AN EMERGENCY. Motion was seconded by Councilor Hensley and passed 6-0 by roll call vote.****

Ordinance 1366 – Jamie Stickel, Main Street Manager, said the Main Street Promotions Committee had brought up fundraising through special events with the key money maker the selling of alcohol. The Code did not allow alcohol at a special event. This would be a case by case basis and for each event there would be the requirement to get a special license through OLCC, to have appropriate security, and appropriate insurance.

Councilor Parker had come back from the National Main Street Conference with this idea. His vision and promise was to move the Main Street program off of City funding to be its own 501c3. The ordinance was general so that the permitting process could be changed if needed without having to come back to the Council. Staff and the Police Chief would be working on the process. The Police Chief had no issue with it.

Mayor Carson confirmed this would allow drinking in the City parks. Mr. Lindsay said it would not require changing the Code as it had to be a qualifying event.

Councilor Parker suggested staff bring back to the Council a report on the permit requirements and how the process was working.

**\*\*Councilor Hensley moved to approve Ordinance 1366, AN ORDINANCE AMENDING CANBY MUNICIPAL CODE SECTION 09.24.060 REGARDING DRINKING IN PUBLIC PLACES to come up for second reading on November 21, 2012. Motion was seconded by Councilor Parker and passed 6-0 on first reading.**

**NEW BUSINESS:** Update on Business Energy Tax Credit (BETC) Pass Through Partners – Julie Wehling, Transit Director, gave an update on the status of the outstanding BETC credits. Canby Area Transit started applying for these funds in 2003 through 2010. In the beginning the Department of Energy found the pass through partners. In January 2011, the Department of Energy said the program would sunset and they would not find pass through partners. This created a 33% reduction in CAT services. CAT contracted with a corporation that proposed to find partners, and they were found within 90 days. The total revenue that would be received was \$658,150. This would pay the shortfall that they had experienced in 2011 and provide operating revenue to carry them through dry spells when they were waiting for reimbursement grants. The Sewer Fund had made a \$500,000 loan to CAT with an agreement for CAT to pay it back in 5 years. She thought it would be best to wait before paying the money back in full due to changes in the federal transportation funding streams. The decisions would be made in the spring for how the funding was going to be changed. There were other unknowns regarding the contract rate with MV Transportation, State funds that were expected to be down slightly, and impact of the new fare on ridership. However, payroll tax revenue was up and they had collected more fares than expected.

There was discussion regarding re-establishing local fixed route service.

The Council praised Ms. Wehling for her positive attitude during adversity and for her innovation.

Completion of Metro 2035 Regional Forecast – Implications for Canby – Mr. Brown said Metro had reached outside their boundary to do their regional forecast recognizing the importance of the land capacity of surrounding cities and their effect on predictions where population, housing, and employment might distribute itself. Metro projected potential for a higher growth rate than the past 50 years for Canby. With the current Urban Growth Boundary, the City was projected to be built out by 2030 or 2035.

**CITY ADMINISTRATOR’S BUSINESS & STAFF REPORTS:** None.

**CITIZEN INPUT:** None.

**ACTION REVIEW:**

1. Approved the Consent Agenda.
2. Adopted Ordinance 1364.
3. Approved Ordinance 1365 to come up for second reading on November 21, 2012.
4. Approved Ordinance 1366 to come up for second reading on November 21, 2012.

There was no Executive Session.

Mayor Carson adjourned the Regular Meeting at 10:55 p.m.

Kimberly Scheafer, MMC  
City Recorder

Randy Carson  
Mayor

Assisted with Preparation of Minutes - Susan Wood

**CANBY CITY COUNCIL  
REGULAR MEETING MINUTES  
December 5, 2012**

**Presiding:** Mayor Randy Carson

**Council Present:** Rich Ares, Traci Hensley, Brian Hodson, Walt Daniels, Greg Parker, and Tim Dale.

**Staff Present:** Greg Ellis, City Administrator; Joseph Lindsay; City Attorney; Sue Ryan, Deputy City Recorder; Bryan Brown, Planning Director; Darvin Tramel, Environmental Services Manager; and Matilda Deas, Senior Planner.

**Others Present:** Ken Rider, Bob Cornelius, Bob Hill, Sonya Kazen, and Bev Doolittle.

**CALL TO ORDER:** Mayor Carson called the Regular Meeting to order at 7:30 p.m. in the Council Chambers followed by opening ceremonies.

Community Food & Toy Drive Sponsored by Canby Kiwanis Proclamation – Mayor Carson presented Bob Hill, Canby Kiwanis Secretary, with a proclamation proclaiming December 9-15, 2012, as Canby Community Food & Toy Drive Week sponsored by Canby Kiwanis.

Mr. Hill said the toy and food drive would celebrate its 75<sup>th</sup> anniversary next year which served over 400 families and children in the community. He thanked the many people who donated and volunteered.

Councilor Ares said Rotary chose to partner with Kiwanis because of their excellent work.

Mayor & Council Election Proclamation – Mayor Carson read the certification of the November 6, 2012 General Election regarding the Mayor and City Council election. The official count of votes from Clackamas County was:

**MAYOR**

Brian D. Hodson – 3,545, Randy Carson – 2,826, Write-In – 40, Over Votes – 7, Under Votes – 789.

**CITY COUNCIL**

Tim Dale – 3,969, Traci Hensley – 3,935, Ken Rider – 3,403, Write-In – 308, Over Votes – 1, Under Votes – 10,003.

Measure 3-408 Proclamation – Mayor Carson read the certification of the November 6, 2012 General Election regarding Measure 3-408. The official count of votes from Clackamas County was: Yes – 5,418, No – 1,396, Over Votes – 1, and Under Votes – 392.

Findings, Conclusion & Final Order TA 12-01/ZC 12-02 – Bryan Brown, Planning Director, said the Findings for this land use decision had been prepared by the applicant's attorney. Staff had reviewed them, and they were acceptable. The findings looked at the Code requirements and how those were met to make sure the Council's decision was not overturned were it to be appealed to LUBA.

**\*\*Councilor Ares moved to adopt the Findings, Conclusion & Final Order TA 12-01/ZC 12-02/DR 12-03. Motion was seconded by Councilor Parker.**

Councilor Dale questioned adopting a document not prepared by the City. He wasn't comfortable with it and would vote no.

Mr. Brown said it was being adopted by the method under the City Code which stated findings shall be prepared by the prevailing attorney on a land use action. The minutes of the meeting stood as a separate record documenting the discussion that took place during the hearing.

Councilor Parker would vote yes as it was the method in the Code, but he wanted it noted that this document was prepared by outside counsel and a true record was prepared by the deputy City Recorder in the minutes, should this be appealed.

Councilor Ares said if it was the City's practice, then it was not out of the ordinary. If they wanted to change it, they would have to go through the process to change the ordinance.

Councilor Hodson thought the findings matched with the dialogue from that evening. He suggested when outside counsel prepared these things that a thorough review be done by staff.

Councilor Ares said he had read every word of the findings and it matched what was discussed.

**The motion passed 6-0.**

**COMMUNICATIONS:** None.

**CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS:** Sonya Kazen, Senior Planner with ODOT, was retiring in one month and wanted to acknowledge Matilda Deas, Senior Planner, for her work on projects and her contributions.

Bev Doolittle, Executive Director of the Canby Chamber of Commerce, gave the Chamber's annual ornament to the City. She announced the "Light the Night" event at the Clackamas County Event Center December 13-17. There was a VIP evening on December 12 that the Council was invited to.

**MAYOR'S BUSINESS:** Mayor Carson announced First Friday and the tree lighting ceremony at Wait Park on December 7.

**COUNCILOR COMMENTS & LIAISON REPORTS:** Councilor Ares said the Adult Center brought it to the City's attention that the building needed evaluation and care. The Adult Center was also in need of volunteers especially for Meals on Wheels drivers.

Councilor Hensley attended the First Avenue reopening and Small Business Saturday, Visioning meetings, and Library Christmas Party. The Library's Volunteer of the Year was Tracie Heidt and the Employee of the Year was Lori Fitzgerald.

Councilor Hodson said the Planning Commission would be discussing text amendments at their next meeting. There was one remaining open position on the Planning Commission. He spoke to Cub Scout Pack 503 about volunteer opportunities in the City.

Councilor Daniels said the Historical Society members' Christmas Party would be held on December 18. On Friday there would be CAT shuttles to the tree lighting ceremony at Wait Park. The Depot Museum would be closed in January and February for maintenance. The historic calendars were on sale. The Depot would be open during the Light the Night festival. He also promoted the City's email newsletter.

Councilor Parker said the Bike and Pedestrian Committee met and discussed some of the best routes to connect the City to the larger bike touring areas as well as the issue of having access on or off the Logging Road Bridge. He said questions came up about how to develop bicycle tourism and possibly camp at the Event Center. He encouraged citizens to attend the tree lighting at Wait Park. He stopped in at the Swim Center and saw a brand new boiler was being installed.

Councilor Dale attended the 1<sup>st</sup> Avenue reopening. Canby Utility Board did not meet but he went to the CUB Christmas party.

**CONSENT AGENDA: \*\*Councilor Daniels moved to adopt minutes of the November 7, 2012 City Council Regular Meeting; Minutes of the November 21, 2012 City Council Regular Meeting; appointments of Shawn Hensley and John Savory to the Planning Commission for terms to end on December 31, 2015; and a Change of Ownership Liquor License Application for 76 Food Mart of Canby. Motion was seconded by Councilor Hodson and passed 6-0.**

**PUBLIC HEARING:** CPA 12-02/TA 12-03 OR 99E Corridor & Gateway Design Plan –

Mayor Carson opened the public hearing at 8:15 p.m.

STAFF REPORT: Matilda Deas, Senior Planner, presented the staff report. The Planning Commission held a public hearing on November 13 where the plan was approved with recommendations. She summarized the history, intent, funding, public input, and major design elements of the plan. She then discussed the changes recommended by the Planning Commission.

Councilor Ares asked about the pedestrian crossing at Locust Street. He said Knott and Juniper had far more pedestrian activity than Locust. The safety area was better suited to Knott Street.

Ms. Deas said Locust was a suggestion. The public input was to have something between Ivy and Pine.

Councilor Hodson asked about the status of the boom arms for the traffic lights.

Ms. Deas said ODOT worked with the property owners regarding the easements needed for moving the boom arms. She said the work would be happening soon.

Councilor Hodson asked if there had been discussion on cleaning up the powerline issue and undergrounding lines.

Mayor Carson said the big lines were PGE lines and couldn't be moved.

Councilor Parker thanked Ms. Doolittle for her input on the plan.

PUBLIC COMMENT: Ms. Kazen discussed how the projects for 99E/Gateway might be funded in the future. She explained the ODOT and federal funding programs which had been greatly reduced. She encouraged the City to apply in the next cycle for ODOT's Enhancement Program. It was important to show they had a plan, political support, and a match.

Mayor Carson closed the public hearing at 8:53 p.m.

Ordinance 1368 – **\*\*Councilor Ares moved to approve Ordinance 1368, AN ORDINANCE ADOPTING THE CANBY OR99E CORRIDOR AND GATEWAY PLAN, AMENDING CANBY'S COMPREHENSIVE PLAN TEXT, TRANSPORTATION SYSTEM PLAN, AND TITLE 16 OF THE CANBY MUNICIPAL CODE to come up for second reading on January 2, 2013. Motion was seconded by Councilor Parker and passed 6-0 on first reading.**

**RESOLUTIONS & ORDINANCES: Resolution 1146 – \*\*Councilor Daniels moved to adopt Resolution 1146, A RESOLUTION ACCEPTING THE RESULTS OF NOVEMBER 6, 2012 ELECTION, PROCLAIMING ANNEXATION INTO THE CITY OF 0.79 ACRES DESCRIBED AS TAX LOTS 1100 and 1101 OF TAX MAP 4S-1E-4D LOCATED ADJACENT TO AND WEST OF THE 1600 BLOCK OF S. IVY STREET AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CITY LIMITS. Motion was seconded by Councilor Hensley and passed 6-0.**

Resolution 1147 – **\*\*Councilor Hodson moved to adopt Resolution 1147, A RESOLUTION ADOPTING AN INTERAGENCY AGREEMENT BETWEEN THE CITY OF CANBY AND THE CANBY SWIM CLUB, INC. Motion was seconded by Councilor Hensley and passed 6-0.**

Ordinance 1365 – **\*\*Councilor Ares moved to adopt Ordinance 1365, AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.41 OF THE CANBY MUNICIPAL CODE CONCERNING THE SUBAREA BOUNDARY OF THE CANBY DOWNTOWN OVERLAY ZONE. Motion was seconded by Councilor Dale.**

Councilor Daniels read a statement where he believed the Council was not given information on the Planning Commission's denial of the business overlay, but on design review, which was not for Council decision (Exhibit A). He did not think the Council had a basis for overruling the Planning Commission's decision. He said they had to decide where downtown began and thought this was not a pedestrian area, but auto oriented. He urged the Council to vote no on the Ordinance and remand the issue back to the Planning Commission.

**The motion passed 4-2 by roll call vote with Councilors Daniels and Parker opposed.**

Councilor Hodson stated appreciation for Councilor Daniels' point of view.

Ordinance 1367 – Darwin Tramel, Environmental Services Manager, said the last master plan was done in 1994 and there had been an increase in the regulations for stormwater. Four proposals were received for the project. They had to consider a firm with experience in Underground Injection Control devices. He was comfortable with Kennedy/Jenks ability.



There was a discussion on the new regulations and the burden of those on the City's resources and how stormwater issues could be addressed.

Mr. Tramel said the project would take six months to complete. Staff would be doing a lot of the work to save money.

**\*\*Councilor Dale moved to approve Ordinance 1367, AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH KENNEDY/JENKS CONSULTANTS IN THE AMOUNT OF \$104,000.00 FOR ENGINEERING AND CONSULTING SERVICES TO COMPLETE THE 2013 CITY OF CANBY STORMWATER MASTER PLAN; AND DECLARING AN EMERGENCY to come up for second reading on January 2, 2013. Motion was seconded by Councilor Hodson and passed 6-0 on first reading.**

**NEW BUSINESS:** Cancellation of December 19, 2012 Meeting – **\*\*Councilor Daniels moved to cancel the December 19, 2012 City Council Meeting. Motion was seconded by Councilor Hodson and passed 6-0.**

**CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS:** Greg Ellis, City Administrator, said the Planning Department had received a grant recently that was the work of Ms. Deas. He handed out a net proceeds sheet on the bonds being sold for various projects. He explained the proceeds and expenses.

There was discussion regarding the cost savings and insurance rate.

**CITIZEN INPUT:** Bob Cornelius, resident of Canby, thanked all of the City officials and staff who made Canby the wonderful City it was and wished everyone Merry Christmas and Happy New Year.

#### **ACTION REVIEW:**

1. Approved the Consent Agenda.
2. Adopted Resolution 1146.
3. Adopted Resolution 1147.
4. Adopted Ordinance 1365.
5. Approved Ordinance 1367 to come up for second reading on January 2, 2013.
6. Approved Ordinance 1368 to come up for second reading on January 2, 2013.
7. Cancelled December 19, 2012 City Council Meeting.

There was no Executive Session.

Mayor Carson adjourned the Regular Meeting at 9:30 p.m.

Sue Ryan, CMC  
Deputy City Recorder

Randy Carson  
Mayor

Assisted with Preparation of Minutes - Susan Wood

**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – January 28, 2013  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Shawn Hensley, Sean Joyce, Charles Kocher, John Savory, Tyler Smith, and (Vacant)

**ABSENT:** John Proctor

**STAFF:** Bryan Brown, Planning Director; Angie Lehnert, Associate Planner and Laney Fouse, Planning Staff

**OTHERS:** Steve Abel, Mike Connors, Jim Coombes, Lee Leighton, Brent Ahrend, Jake Tate, Curt Hovland, Wayne Oliver, Ryan Oliver, Mike Arb, Roger Skoe

**1. CALL TO ORDER**

Chairman Smith called the meeting to order at 7:00 pm.

There was a request by Commissioner Proctor to participate by video conferencing. Commissioner Savory moved to allow Commissioner Proctor to participate by video conferencing. The Motion was seconded by Commissioner Kocher. The motion passed 5/0.

**2. CITIZEN INPUT – None**

**3. PUBLIC HEARINGS – None**

Chairman Smith opened the public hearing and read the public hearing format.

All five Commissioners stated they had no conflict of interest.

Angie Lehnert, Associate Planner entered the staff report with the PowerPoint presentation into the record. Ms. Lehnert said the previous Type IV application which received final approval from the City Council regarding the Downtown Overlay Boundary is currently under appeal to Land Use Board of Appeals.

Ms. Lehnert presented the conditions of approval recommended by staff and said that staff had some proposed rewording of some of the conditions for specificity. Ms. Lehnert said the conditions of approval include the following:

1. The applicant shall demolish the existing driveway along Locust Street and replace is with a new curb and sidewalk that matches the existing curb and sidewalk and the final sidewalk design must be approved by the city prior to construction.

Chair Smith asked for clarification on who recommended the condition of approval for the demolition of the driveway. Ms. Lehnert said both the City and the applicant but the City had not received engineering construction drawings for the driveway and wanted to have the City engineer look at the final construction drawings.

2. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). As a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be determined to be final, with no further rights of appeal.
3. The site's vehicle maneuvering area shall be set back an average of 15 feet from the front lot line; this setback shall comply with the landscaping standards of 16.49.080.100 and 16.49.120.
4. The site's signage shall not result in glare onto neighboring properties or onto public right-of-way per the standard of 16.42.040(B) (3).
5. The proposed canopy lights shall be recessed up into the canopy or apply shielding in a manner that prevents light trespass, as defined in 16.43.020.
6. The applicant will be required to maintain all landscaping on the site.
7. The applicant shall coordinate this development with the Oregon Department of Transportation (ODOT) and shall obtain all necessary permits from ODOT prior to construction.
8. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility (CUB), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County."
9. The development shall comply with all applicable City of Canby Public Works Design Standards.
10. The development shall comply with design requests from agencies and Canby Public Works representatives that submitted design recommendations; these comments are attached and incorporated into this staff report and include comments from Hassan Ibrahim, Curren McLeod, consulting City of Canby Engineers, items 1-9 in memo dated 1/10/13; Chris Maciejewski, DKS, consulting City of Canby Traffic Engineers, memorandum dated 7/17/12; Gary Stockwell, Canby Utility Board, comments dated 1/9/13 with attached site plan markups and comments dated 2/21/12; Dan Mickelsen, Canby Public Works, comments dated 1/14/13; Dan Kizer and Jennifer Wood, NW Natural Gas, comments dated 6/25/12 & 1/9/13, and Darvin Tramel, City of Canby Environmental Services Coordinator, comments dated 1/14/1.

Chair Smith asked for some clarification on the design requests from agencies and noted that it sounded like a blank check for what the agencies might request. Mr. Brown suggested language stating the applicant shall comply with the design statements within the comment forms. Chair Smith said the Commissioners could work that out during their discussion.

11. Easements for electric service by Canby Utility shall be dedicated along the 2<sup>nd</sup>

Avenue and Locust Street frontages as indicated in Gary Stockwell's comments dated 2/21/12.

12. Tree species suitable for planting under overhead lines along the Locust Street frontage, in compliance with the provisions of 16.49.120(F) and as approved by the City Arborist, shall be specified on the final landscape construction plans.
13. On-site storm water management shall be designed in compliance with the Canby Public Works Design Standards, and in particular:
  - a. The project shall be required to retain and infiltrate on-site all stormwater generated by the development up to the 25-year, 24-hour storm event (25-year storm) as defined in Section 4.301 of the Canby Public Works Design Standards.
  - b. An emergency overflow shall be designed to direct runoff from storms in excess of the 25-year storm to the street as defined in Section 4.311 (b) of the Canby Public Works Design Standards.
14. New condition concerning right-in/right-out only restriction, use city traffic engineer's wording. Condition the site so that if future ODOT monitoring, evaluation, or design review of improvements to OR 99E find that the full access to OR 99E has safety issues related to queuing onto the highway, or crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island (e.g., inadequate deceleration space or queuing conflicting with safe crossing conditions for pedestrians), the owner/operator of the site will accept the access being restricted to right-in/right-out manoeuvres. This condition should be placed upon the property such that it carries from one owner to another (to be effective if the property ownership changes in the future).

Commissioner Joyce asked if CAT was still considering re-doing the bus routes and bus stops.

Mr. Brown said there is always an ongoing evaluation but due to the recent significant downsizing the routes have been set and this new set of routes includes stops both ways on 2<sup>nd</sup> Ave. and at the intersection of Hwy 99E and Locust. He said the bus will not be able to stop where the driveway exists onto 2<sup>nd</sup> Avenue and additional conflicts with on-street parking may occur.

Ms. Lehnert suggested the Commissioners change the wording from "should" to "shall" in order to be certain the condition placed upon the property will carry from one owner to the next.

Ms. Lehnert said there were some procedural conditions the applicant would need to complete like getting a building permit prior to the start of construction.

15. The proposed monument sign shall have a distinct base, middle, and top, and the base and top shall be constructed of stone, brick, or wood as specified in 16.42.040(C). The sign shall also be in conformance with the requirements of 16.42.050, Table 3, "Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)". *(This condition was added to the original list of conditions presented in the January 28, 2013 Staff Report at the Planning Commission's request and determination that the monument sign as proposed needed a frame or top cap to more*

*clearly meet the above cited standards.)*

Ms. Lehnert said there were two potential conditions the Commissioners could consider which included the requirement of a frame around the sign as well as decreasing the size of the signs.

### **COMMISSIONERS DISCUSSION:**

Chair Smith asked if the sign sizes were calculated from the ground up or just based on the actual wall face of the canopy. Ms. Lehnert said she used just the size of the canopy in her calculations. She said if the measurements started at ground level than the size of the signs would be okay.

### **PROPOSERS**

Lee Leighton, Westlake Consultants, gave a recap of the previous application for a Text Amendment/Zone Change to alter the subarea boundaries of the Downtown Canby Overlay Zone.

Jake Tate, Great Basin Engineer, Design Engineer, pointed out the main design features of the fuel station site design.

Commissioners voiced concern about the limited on-site parking although they recognized that employees would be using public on-street parking along 2<sup>nd</sup> Avenue.

Commissioner Savory said he was concerned about the restrooms not being made available to the public. Mr. Tate said the lack of a public restroom was mainly due to maintenance issues and that the restrooms would be provided only for employees.

Mr. Tate explained the preferred setback option of 5 to 6 foot versus the 15 foot setback requirement next to Hwy 99E which is called for in Condition #3 and how the smaller setback would allow improved circulation on the site and making it more auto customer friendly.

Chair Smith asked if the applicant would be able to move forward if they were to go with the 15 foot setback.

Mr. Tate said the 15 foot setback creates a bottleneck for vehicles during peak times but it can be done although they would prefer the much narrower 5 to 6 foot landscape buffer.

Mr. Tate also noted that fuel stations must also meet the State of Oregon requirements when it comes to their signs, which requires them to post all fuel prices and thus their bigger sign conflict with City's sign regulations. He asked the Commission to take the State's extra requirement into consideration.

Chair Smith asked Mr. Tate where he thought the measurements for the canopy sign should be taken

Mr. Tate said that if the canopy face was considered a building the sign would be within the allowed limits because it would be measured from the ground up. He said he had seen it done by measuring just the canopy section as well as from the ground up, depending on the jurisdiction.

Chair Smith asked Mr. Tate if he was aware of any City or State code provisions which specifically said that a canopy was a building. Mr. Tate said he did not and the way he interpreted it as a structure whereas a building has to do with habitation.

Commissioner Joyce asked to revisit the parking issue and asked how the minimum number of parking stalls was determined for this site.

Mr. Tate said they were determined by the square footage of the two kiosks which totaled only about 330 square feet and would require only one parking stall although they added an additional ADA parking stall.

Commissioner Joyce said his biggest concern is the on street parking that the employees might need to utilize and how that might affect the existing bus stops on SE 2<sup>nd</sup> Avenue.

Brent Ahrend, Traffic Engineer, Group Mackenzie talked about key points of the Traffic Analysis and said that now is the time to address the impacts of the proposed fuel facility and to talk about the Traffic Study requirements and what it found. He said the scope of the Traffic Study is determined by the City and their consultant traffic engineer DKS.

Mr. Ahrend said an approach application was submitted to ODOT for full movement access which ODOT approved. He said ODOT was agreeable to what is currently proposed allowing a right in/right out restriction and a median would probably be installed at that time.

Mr. Ahrend said that DKS reviewed and accepted the Traffic Impact Analysis and made their recommendations in a July 17, 2012 memo which was a part of the Planning Commission packet and stated their trip generation was based upon surveys taken at two Fred Meyer facilities; one at Oak Grove and one at Sandy. He said DKS used the higher AM/PM trip generation numbers as a worst case scenario in their analysis. Mr. Ahrend said ODOT reviewed and approved the left turns onto Hwy. 99E and DKS had noted that left turn conflicts would be infrequent. He said that the City has a plan for a pedestrian refuge sometime in the future and that it would also restrict traffic to right in/right out.

Mr. Ahrend said there were some questions whether a neighborhood through trip study was needed on 2<sup>nd</sup> Avenue. He said he didn't think one was needed because 2<sup>nd</sup> Avenue is the boundary between residential and commercial and that 2<sup>nd</sup> Avenue has to serve both uses.

Commissioner Kocher said he had a problem with traffic that will be added to 2<sup>nd</sup> Avenue because it is bordered by a neighborhood which is full of apartments. He also said there would be a problem for drivers trying to turn left onto Hwy. 99E from Locust Street, who would now travel down 2<sup>nd</sup> Avenue to Ivy Street which would create an even greater problem for an already congested street.

Mr. Ahrend said compared to today it would not be as many trips as some people think.

Lee Leighton talked about the landscape widths and how the alternative “wavy” landscape pattern would appear to be wider to those traveling along Hwy. 99E. Mr. Leighton also noted that Mr. Ahrend’s surveys were based on actual customers at Fred Meyers fuel stations who buy their fuel on the same trip as when they are visiting the Fred Meyer Store making them shared trips. He said that restrooms are available at the stores and not really needed at the fuel islands.

**OPPONENTS:**

Mike Connors, Hathaway, Koback, Connors, the attorney for Save Downtown Canby, submitted a six-page letter to the Planning Commission listing concerns raised about the proposed fuel facility and how it does not meet several development approval standards.

Mr. Connors said when this started out they were under the impression they were addressing two consolidated applications but then the applications were separated and the Text Amendment/Zone Change application was the first one to be addressed. He said that three of his previous letters were introduced during the Text Amendment/Zone Change process and formally requested they be entered into the Site and Design Review record.

Mr. Connors said Fred Meyer has responded only to issues raised during the Text Amendment/Zone Change portion and took the position that the Site Plan process had not begun and they would deal with it later.

He said they were surprised that nothing had been submitted by Fred Meyer in response to issues raised in particular about traffic.

Mr. Connors said that when the Text Amendment/Zone Change vote took place, a number of the Commissioners expressed concern regarding the traffic and had serious doubts about the methodology with the conclusion of the traffic impact analysis and the applicant had yet to respond to the serious flaws in the TIA.

Mr. Connors said the January 28<sup>th</sup> Staff Report incorrectly concludes that certain approval standards do not apply and provided the Commissioners with a list of those issues.

Mr. Connors said the issues raised regarding the applicant’s traffic analysis never received a response.

Chair Smith said that the City code requires mitigation measures of any impacts to be adequate and feasible but that he had not yet heard that addressed.

Mr. Connors said basically there had been little or no mitigation proposed and before mitigation is determined you have to evaluate all of the impacts making sure the amount of traffic is accurate and the scope of the area being studied includes the whole one half mile area.

Ms. Lehnert said that Staff goes with the hired traffic engineer’s conclusion.

Mike Ard, PE, transportation engineer, Lancaster Engineering talked about the detailed

review of the Group Mackenzie Transportation Impact Analysis. He said there are safety and capacity concerns on Hwy 99E in the vicinity of this site, especially at Ivy St. Mr. Ard shared information on trip generation and that the TIA needs to be corrected to reflect a more accurate estimate of traffic which will be generated by the development.

Mr. Ard told the Commissioners there were a number of questions they should be asking of the applicant including if the trip generation the applicant used was typical for Fred Meyer sites; what is the impact on the local streets like SE 2<sup>nd</sup> Avenue and at Pine and Ivy Streets.

Commissioner Joyce asked for clarifications about trip generation to which Mr. Ard referred to the distribution diagram in the traffic study to explain trip generation.

Commissioner Smith asked if Mr. Ard had previously argued that the shared trips were overestimated by the applicant. Mr. Ard said he had. Commissioner Smith asked if the amount of shared trips went down then the amount of pass-by trips would be increased which in turn would lessen the impacts.

There was some discussion about whether the internal reductions would apply to the site if it was not located next to a Fred Meyer store. Mr. Connors directed attention to the emails from the City's traffic engineer and ODOT both having concerns whether the internal trip reductions would apply for this site.

Curt Hovland, owner of Hulbert's Flowers, pointed out the major problems he sees with the increased flow in traffic to the fuel station when drivers will be utilizing the center lane which also provides the left turn lane into Hulbert's Flowers.

### **REBUTTAL:**

Steve Abel, Stoel Rives, attorney for Fred Meyer, addressed some material Mr. Connors presented regarding development standards. He said the City's 16.41 code allows for alteration by the Commission's discretion to better meet the purposes of the code. He said he thinks staff responses to 16.49 standards as they relate to the site and design review are accurate.

Mr. Ahrend rebutted testimony given by Mike Ard and explained how trips were counted. He said they had adequately addressed the impacts of this particular project. Mr. Ahrend said that if there are significant traffic problems in the future that ODOT could come in and install a median which could impact all of the driveways. He said that should a pedestrian refuge be put in it would restrict left turns in both directions.

Commissioner Hensley said he took part in the meetings where the idea for a pedestrian refuge came up. He said he thought it was being taken out of context here.

Chair Smith closed the public hearing.

### **DELIBERATIONS:**

Chair Smith asked that the Commission accept the three letters referenced by Mr. Connors into record.



Chair Smith said he agreed with the proponent that the Commission would have more leniency on interpretation to fulfill the intent of the code. He said the reason he brought up the interpretation on the frontage is because the code makes it clear that it should be measured from the ground up and he did not think they needed to fulfill any intent. He said if they required the right in/right out as a mandatory condition they would be remiss as it could impact both businesses so he thinks that condition should be left out. He said it makes sense to have more than one parking spot but the code calls for one parking spot and they meet the criteria. Chair Smith said as a condition of approval they should require the applicant to submit and use a revised lighting plan. He said he had mixed feelings on what the applicant called the “wavy” setback line versus the straight across 15’ line and although he leaned toward the 15’ setback he could go either way. Chair Smith said the elephant in the room was the traffic issue and agreed with Mr. Abel that it had come down to a battle of the experts. He said he has not seen any tangible impacts that had not been dealt with.

Commissioner Savory said he preferred the 15’ straight across setback because it would lessen the bottleneck in traffic flow but could be persuaded to go with the wavy design setback. He said he is concerned with the traffic impact on residents on 2<sup>nd</sup> Avenue.

Commissioner Hensley said he prefers the 15’ setback but could be persuaded to go with the wavy design if the traffic flowed through the site better. He said he does not feel there would be a major issue with Ivy Street because a lot of people bypass it and use Knott Street instead. Commissioner Hensley said he does not see any traffic impact at Pine Street.

Commissioner Kocher said he does not have any preference in the landscape design, but struggles with the traffic problem. He said the parking for only one employee means others will be parking out on the street, and because the station will not be located near Fred Meyers, not having a public restroom on the site is still an area of concern for him.

Chair Smith pointed out some procedural steps for when they make decisions. He said he wants to be sure they address the factual questions like, were mitigation efforts enough and the legal questions – if there are any interpretations they are making. He said the Commission can adopt staff findings or modify them, do a combination of the two or even reject them. He said they would want to make sure they make findings about the various issues so everyone will know why we make the decision we make.

Commissioner Joyce said he thinks they should stick with the sign code provisions called for because there is a specific design the City is trying to accomplish and they should not waver from that. He said he is struggling with the parking and the definition of a structure.

There was discussion about the whether the canopy was considered a structure or a building and more discussion about parking and maneuvering but because the applicant is not proposing substantial buildings the standard which is called for in the code is not applicable.

Mr. Brown said he thinks the wavy design for landscaping would function better because it would allow for more onsite maneuvering and less traffic being stacked up on Hwy.

99E.

Commissioners voiced their concerns about the limited on-site parking and Chair Smith said that unless they amended the code there was no way to require them to have more on-site parking because they had already met the minimum parking standards based on building square footage.

**MOTION:**

Commissioner Joyce made a motion to approve the Fred Meyer DR 12-03 with the following conditions as submitted in the PowerPoint addendum presented at tonight's meeting: Condition #1, the applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk; Condition #2 will stay the same; Condition #3 stay the same; Condition #4 stay the same; Condition #5 stay the same; Condition #6 stay the same; Condition #7 stay the same; Condition #8 stay the same; Condition #9 stay the same; Condition #10 stay the same; Condition #11 stay the same; Condition #12 stay the same; Condition #13 stay the same; Condition #14 will stay the same with additional language at the bottom to read: "with the same use"; Condition #15 will stay the same with the following added: "the monument sign will comply with our City for monument signs of that sort." Commissioner Savory seconded motion.

**Discussion on Motion:**

Chair Smith asked that the motion be amended to state "it is our interpretation that the canopy is not a building for purposes of the sign code provision"; add "and use" to Staff's proposed findings on Page 18 and Page 20 on the lighting plan; and we add to the findings that "the Traffic Impact Analysis presented by the applicants was more convincing and that mitigation measures were adequate and feasible as presented by the applicant in the Traffic Impact Analysis."

Commissioner Joyce said he would second the changes made to his motion.

Commissioners discussed Condition #14 which would restrict access to the site to right-in/right-out depending upon safety issues relating to queuing onto Hwy. 99E or if crash frequency increases.

Mr. Brown said the condition is written to give ODOT more support and ability to go in and restrict an existing driveway if necessary in the future.

Commissioners discussed the 15' setback requirement and determined the setback was not applicable to this development at all and would not be an ideal configuration for the site.

Commissioner Joyce said he would drop Condition #3 from his motion.

Motion passes 5/0.

**4. NEW BUSINESS - None**

**5. MINUTES**

- a. Commissioner Joyce moved to approve the December 10, 2012 Regular Planning Commission Meeting Minutes as submitted, Commissioner Kocher seconded.  
**Motion passed 3/0 with 2 abstentions.**
- b. Commissioner Kocher moved to approve the January 14, 2013 Regular Planning Commission Meeting Minutes as submitted, Commissioner Savory seconded.  
**Motion passed 5/0.**

**6. ITEMS OF INTEREST FROM STAFF**

- a. Mr. Brown said the Commissioners now had access to the Planners Website.

**7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

- a. Commissioners discussed parking standards

**8. ADJOURNMENT: 10:25 PM.**

Minutes Approved on:

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*Tyler Smith, Planning Commission Chair*

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*Laney Fouse, Preparer's Signature*

**MINUTES**  
**CANBY PLANNING COMMISSION**  
**February 11, 2013 at 7:00 PM**  
**City Council Chambers – 155 NW 2<sup>nd</sup> Avenue**

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**PRESENT:** Commissioners Shawn Hensley, Charles Kocher, John Savory, Tyler Smith

**ABSENT:** Commissioners John Proctor and Sean Joyce

**STAFF:** Bryan Brown, Planning Director, Angie Lehnert, Associate  
Planning, Laney Fouse, Planning Staff

**OTHERS:** Lee Leighton, Councilor Ken Rider

**1. CALL TO ORDER**

Chair Smith called the meeting to order at 7 pm.

**2. CITIZEN INPUT ON NON-AGENDA ITEMS - None**

**3. PUBLIC HEARINGS – None**

**4. NEW BUSINESS - None**

**5. FINAL DECISIONS**

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

a) Site and Design Review, Fred Meyer, DR 12-03

Bryan Brown, Planning Director talked about the editing process of the final, written version of the findings. He said bullet six in the findings had been corrected to read as follows "...6) Signage proposed on the canopy was determined to fall within the overall code allowance for all frontages for both number and size based on estimated size calculations for signs as depicted...."

Chair Smith asked staff to add the Commission's conclusion regarding the traffic study to the Final Findings.

**MOTION:**

Commissioner Savory made a motion to approve the findings as amended, Commissioner Hensley seconded. Motion passed: 4/0

## **6. MINUTES**

- a. Regular Planning Commission Minutes, January 28, 2013.

### **MOTION:**

Commissioner Savory made a motion to approve the minutes as presented, Commissioner Kocher seconded. Motion passed: 4/0.

## **7. ITEMS OF INTEREST/REPORT FROM STAFF**

- a. Mr. Brown and the Commission reviewed the *Planning Commission Policies and Procedures*.
- b. Mr. Brown said City policy for publishing agendas is 10 days prior to meeting and staff reports are available 10 days prior to meetings.
- c. Chair Smith said he would like staff to strongly discourage applicants and opponents from presenting large packets of materials to the Commission during their testimony time at meetings. He said this does not allow the Commission the ability to fully digest what is being presented.
- d. Chair Smith said the terminology in the *Planning Commission Policies and Procedures* stating that the “concurrence of the majority of Commission members qualified to vote shall be necessary to decide any question before the Commission,” could be interpreted in different ways and there needs to be some clarification on what it means.
- e. Chair Smith suggested sending a letter of inquiry to the Council asking if three out of four Commissioners who are qualified to vote would be enough to decide any question before the Commission.
- f. Mr. Brown said the next Planning Commission scheduled for Monday, February 25, 2013 will be cancelled.
- g. Commissioners discussed the Planner’s Web made available for their use.
- h. Ms. Lehnert said some upcoming items will include the new Library and renovated City Hall as well as an application for 12,000 square foot addition to a sports warehouse. Mr. Brown said there may an application to rebuild McDonalds coming in.

## **8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

- a. Commissioner Kocher asked about the Village on the Lochs application approved last year because he had not seen any building started. Mr. Brown said the applicant needed to apply for approval from the Corp of Engineers for a Letter of Map Amendment and could not move forward without it. He said those kind of applications can take a long time to obtain. Mr. Brown said the Planning Commission’s approval was based on the property being out of the flood zone.

Mr. Brown said staff would follow up on the Village of the Lochs' application.

**9. ADJOURNMENT**

**MOTION:**

Commissioner Kocher made a motion to adjourn the meeting,  
Commissioner Savory seconded. Motion passed 4/0.  
Meeting was adjourned at 7:46 pm.



## **SECTION 6: APPEAL APPLICATION**





520 SW Yamhill St.  
Suite 235  
Portland, OR 97204

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

[mikeconnors@hkcllp.com](mailto:mikeconnors@hkcllp.com)

February 19, 2013

**VIA EXPRESS MAIL**

Bryan Brown,  
Planning Director  
Development Services  
City of Canby  
111 NW 2<sup>ND</sup> Avenue  
PO Box 930  
Canby, OR 97013

Re: Save Downtown Canby  
Appeal of Planning Commission's Decision  
Fred Meyer Stores, Inc. - Site and Design Review Application No. DR 12-03

Dear Mr. Brown:

Enclosed for filing is Save Downtown Canby's appeal of the Planning Commission's decision in the above-referenced matter. We included a completed appeal form, written statement of appeal and check for the filing fee in the amount of \$1,920. We completed the appeal form per your instructions set forth in your February 13, 2013 email. If you have any questions or believe that additional information is required, please advise us as soon as possible. Thank you for your assistance.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in dark ink, appearing to read 'E. Michael Connors', is written over the printed name.

E. Michael Connors

EMC/df

Enclosures

cc: Save Downtown Canby



City of Canby  
Planning Department  
111 NW 2<sup>nd</sup> Avenue  
P.O. Box 930  
Canby, OR 97013  
Ph: 503-266-7001  
Fax: 503-266-1574

## LAND USE APPLICATION

### Appeal of Planning Commission Decision Process Type III

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

☐ Applicant Name: Save Downtown Canby Phone: 503-205-8401  
Address: c/o 520 SW Yamhill St., Suite 235 Email: mikeconnors@hkcllp.com  
City/State: Portland, OR Zip: 97204

☒ Representative Name: E. Michael Connors Phone: 503-205-8401  
Address: 520 SW Yamhill St., Suite 235 Email: mikeconnors@hkcllp.com  
City/State: Portland, OR Zip: 97204

☐ Property Owner Name: Oliver Lange, LLC, c/o E. Wayne Oliver Phone: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Address: 1010 W. Ivy St. Email: \_\_\_\_\_  
City/State: Canby, OR 97013 Zip: \_\_\_\_\_

**FILE NUMBER OF DEVELOPMENT BEING APPEALED:** \_\_\_\_\_ DR 12-03

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

### APPEAL OF PLANNING COMMISSION DECISION – TYPE III Instructions to Appellant

**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 page 1 of this application packet. The City may request further information at any time before deeming the application complete.
- ☒ ☐ Payment of appropriate fees – cash, credit card or check only. Refer to the city's Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.

Applicant City  
Check Check

- ☒ ☐ A written statement of appeal shall clearly state the nature of the decision being appealed and the reasons why the appellant is aggrieved. The reasons why the appellant is aggrieved shall be provided in regards to the criteria and standards in 16.89.050 (I) (2) (c).

## **APPEAL OF A PLANNING COMMISSION DECISION—APPLICATION PROCESS**

**Appeal.** The Planning Commission's decision on a Type III decision or Type II appeal may be appealed to the City Council as follows:

1. The following have legal standing to appeal:
  - a. The applicant;
  - b. Any person who was mailed notice of the decision;
  - c. Any other person who participated in the proceeding by testifying or submitting written comments; and
  - d. The City Council, on its own motion.
2. Procedure.
  - a. A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.
  - b. The Notice of Appeal shall be accompanied by all required information and fees.
  - c. The appeal shall be limited to the specific issues raised during the comment period and public hearing process unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of appeals by encouraging persons to be involved in the public hearing. Only in extraordinary circumstances should new issues be considered by the hearings body on an appeal.
3. The City Council shall overturn the decision of the Planning Commission only when one or more of the following findings are made:
  - a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;
  - b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or
  - c. That the Commission did not adequately consider all of the information which was pertinent to the case.
4. The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application.

Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title. The decision of the City Council regarding a Type IV decision, appeal of a Planning Commission decision, or any other process contained within this title, is the final decision of the City.

## **WRITTEN STATEMENT OF APPEAL**

Appellant Save Downtown Canby (the “Appellant”), a group of local business owners concerned about Fred Meyer Stores, Inc.’s (the “Applicant”) Site and Design Review Application No. DR 12-03 (the “Application”) for a new Fred Meyer fuel station, appeals the Planning Commission’s Findings, Conclusions & Final Order approving the Application. The Planning Commission’s decision misinterprets the applicable law and is not supported by adequate findings or substantial evidence in the record. The Planning Commission’s decision is flawed for the following specific reasons:

1. The Planning Commission erred in concluding that the Applicant’s Transportation Impact Analysis, dated May 17, 2012 (the “TIA”) is adequate, credible and demonstrates compliance with the applicable approval standards and criteria. Appellant’s traffic engineer, Lancaster Engineering, demonstrated that the TIA’s methodology is flawed in numerous respects and is inconsistent with ODOT and the City’s traffic engineer’s instructions for preparing the TIA. The TIA significantly underestimates the traffic impacts of the proposed fuel station by relying on data and assumptions from fuel stations located on the same site as the Fred Meyer store. The TIA’s assumed traffic impacts are significantly less than the data from the Fred Meyer fuel station in Cornelius, Oregon. The TIA scope is inconsistent with CMC 16.08.150(E)(1) because it failed to use a study area of one-half mile radius from the site. The Applicant failed to provide a neighborhood through-trip study as required by CMC 16.08.150(H) since it will add more than 30 through-vehicles in a peak hour and 300 through-vehicles per day to the adjacent residential local streets. The Appellant’s traffic engineer demonstrated that it is critical that the Applicant provide a credible and accurate traffic impact analysis consistent with the City’s requirements because nearby intersections, in particular Highway 99/Ivy Street and Highway 99/Pine Street, will likely exceed capacity and have existing safety problems. The City cannot accurately assess the traffic impacts of the proposed fuel station and determine the required mitigation measures without such a traffic impact analysis.
2. The Planning Commission erred by failing to take into account Ordinance No. 1368, approving the Canby OR 99E Corridor and Gateway Design Plan. The Canby OR 99E Corridor and Gateway Design Plan confirms that a pedestrian refuge island will be provided at Locust Street. The Applicant failed to account for the pedestrian refuge island at Locust Street and demonstrate that the high levels of traffic associated with the fuel station will not conflict with the heavy pedestrian use as a result of the pedestrian refuge island consistent with CMC 16.08.150(C)(5), 16.08.150(I), 16.08.150(J)(1)-(2).
3. The Planning Commission erred in concluding that the Application complies with the development standards set forth in CMC 16.41.050. The Planning Commission erred by concluding that the fuel canopy is not a building and therefore is not required to comply with all of the development standards. The fuel canopy qualifies as a “building” under the plain language definition of that term. Regardless, the development standards apply to all development within the Downtown Canby Overlay (“DCO”) notwithstanding its size or if it qualifies as a building. The Application does not comply with: (a) the minimum floor-area-ratio standard in CMC 16.41.050(A)(2) and Table 3; (b) the street lot minimum setback requirements set forth in CMC 16.41.050(A)(1)(b) and Tables 1-2; (c) the parking site maneuvering area

setback standards set forth in CMC 16.41.050(A)(4)(b)(1); and (d) the parking and maneuvering area lot frontage requirement in CMC 16.41.050(A)(4)(b)(3).

4. The Planning Commission erred in concluding that the Application complies with the site and design review standards set forth in CMC 16.41.070. The Planning Commission erred in concluding that the proposed development is so small that it qualifies for an exception to certain site and design review standards. The proposed development qualifies as a “building” under the plain language definition of that term. Regardless, the site and design review standards apply to all development within the DCO notwithstanding its size or if it qualifies as a building. The Planning Commission failed to demonstrate that the Application complies with the intent of the site and design review standards. The Planning Commission failed to address CMC 16.49.040(1)(A)-(D) even though they are mandatory standards. The Application does not comply with the window coverage, building entrance/orientation and architectural standards set forth in CMC 16.41.070(A)(2), Standards (1)-(3). The Planning Commission erred in determining compliance with CMC Table 16.49.040 because it: (a) erroneously assumed that some of the standards are not applicable, in particular the Low Impact Development (“LID”) standards regarding parking; (b) relies on several scoring errors, such as the required parking spaces, pedestrian walkways and open space for public use scores, and therefore the Application would be well below the 70 percent/15 percent thresholds; and (c) incorrectly concludes that the required points can be rounded down to the benefit of the Applicant. It also relies on the City Staff’s revised point matrix which is flawed and inaccurate.

5. The Planning Commission erred in concluding that the Application complies with the sign standards. The proposed signs exceed the maximum square footage and maximum number of signs allowed per frontage. The Planning Commission erred in concluding that the Applicant could exceed the allowed number of signs per frontage simply because the overall number of signs is allowed. The Planning Commission erred in concluding that compliance with the City’s sign standards will violate State standards and that proposed signs are required to satisfy the minimum State law standards. The Planning Commission erred by improperly deferring compliance with CMC 16.42.040(C) pursuant to condition 15.

6. The Planning Commission erred by improperly deferring compliance with the design requirements of the City public works representatives and other agencies pursuant to condition 10. The Applicant is required to demonstrate compliance with these requirements as part of this process.

7. The Planning Commission erred by failing to require the Applicant to provide the required stormwater discharge plan and onsite disposal. The Planning Commission improperly deferred compliance with this requirement pursuant to condition 13. The Applicant is required to demonstrate compliance with these requirements as part of this process.

8. The Planning Commission erred by relying on the Text and Zoning Map Amendments for purposes of reviewing the Application. The Text and Zoning Map Amendments were not in effect when the Application was filed and the Applicant chose to process the Application separately from these Amendments. Pursuant to the fixed goal-post rule, the Application must be reviewed under the CC subarea standards in effect when the Application

was filed. Since the Application does not comply with the CC subarea standards, it must be denied.

9. The Planning Commission erred by failing to address the Applications compliance with the Statewide Planning Goals. The City's Text and Zoning Map Amendments are not yet acknowledged and therefore the City must adopt findings of compliance with the statewide planning goals.

10. The Planning Commission erred by considering the Application. The Site and Design Review Board, not the Planning Commission, is required to review the Application pursuant to CMC 16.49.020(A)(1); 16.49.025(A)(1); 16.49.035(B) and 16.49.040. The City's failure to have the Site and Design Review Board review the application is a procedural error that prejudices the Appellants' substantial rights because only the Board has the necessary expertise to review these types of applications.

11. The Appellant hereby incorporates as part of this appeal its letters with attachments, dated July 23, 2012, September 24, 2012, October 1, 2012 and January 28, 2013, and relies on all of the issues and arguments raised in these letters.



## **SECTION 7: REVISED SUBMITTAL FROM FRED MEYER STORES**



***369 SE 1st Avenue  
Canby, Oregon 97013***



<b>BOL</b>	<b>Bollard</b>	<b>PP</b>	<b>Power Pole</b>
<b>BRW</b>	<b>Finish Grade — Bottom of Retaining Wall</b>	<b>PVC</b>	<b>Poly Vinyl Chloride</b>
<b>CATV</b>	<b>Cable Television Box</b>	<b>RCP</b>	<b>Reinforced Concrete Pipe</b>
<b>CB</b>	<b>Catch Basin</b>	<b>RD</b>	<b>Roof Drain</b>
<b>CMP</b>	<b>Corrugated Metal Pipe</b>	<b>SB</b>	<b>Signal Box</b>
<b>COB</b>	<b>Cleanout Box</b>	<b>SD</b>	<b>Storm Drain</b>
<b>COTG</b>	<b>Cleanout to Grade</b>	<b>SDMH</b>	<b>Storm Drain Manhole</b>
<b>EA</b>	<b>Edge of Asphalt</b>	<b>SMH</b>	<b>Sanitary Sewer Manhole</b>
<b>EB</b>	<b>Electrical Box</b>	<b>SP</b>	<b>Signal Pole</b>
<b>ECAB</b>	<b>Electrical Cabinet</b>	<b>SS</b>	<b>Sanitary Sewer</b>
<b>EMH</b>	<b>Electrical Manhole</b>	<b>SVZ</b>	<b>Sight Visibility Zone</b>
<b>FH</b>	<b>Fire Hydrant</b>	<b>SW</b>	<b>Secondary Water</b>
<b>FL</b>	<b>Flowline</b>	<b>TA</b>	<b>Top of Asphalt</b>
<b>G</b>	<b>Ground</b>	<b>TB</b>	<b>Telephone Box</b>
<b>GB</b>	<b>Grade Break</b>	<b>TBC</b>	<b>Top Back of Curb</b>
<b>GM</b>	<b>Gas Meter</b>	<b>TG</b>	<b>Top of Grate</b>
<b>HB</b>	<b>Hose Bib</b>	<b>TMH</b>	<b>Telephone Manhole</b>
<b>I</b>	<b>Irrigation Line</b>	<b>TP</b>	<b>Top of Concrete</b>
<b>ICB</b>	<b>Irrigation Control Box</b>	<b>TRW</b>	<b>Finish Grade — Top of Retaining Wall</b>
<b>Lip</b>	<b>Lip of Gutter</b>	<b>TW</b>	<b>Top of Walk</b>
<b>LP</b>	<b>Light Pole</b>	<b>WL</b>	<b>Waterline</b>
<b>MH</b>	<b>Manhole</b>	<b>WP</b>	<b>Working Point</b>
<b>Mon</b>	<b>Monument</b>	<b>WV</b>	<b>Water Valve</b>
<b>PM</b>	<b>Power Meter</b>		

Proposed Curb & Gutter		Existing Improvements	
Proposed Open Face C & G		Existing Asphalt	
Proposed Asphalt		Existing Concrete	
Proposed Concrete		Existing Inlet Box	
Proposed Truncated Domes		Existing Catch Basin	
Proposed Inlet Box		Existing Manhole	
Proposed Catch Basin		Existing Fire Hydrant	
Proposed Manhole		Existing Water Valve	
Proposed Transformer		Existing Overhead Power Line	
Proposed Meter Box		Existing Water	
Proposed Water Meter		Existing Secondary Water	
Proposed Combo Box		Existing Sewer	
Proposed Fire Hydrant		Existing Storm Drain	
Proposed Water Valve		Existing Gas	
Proposed Water Line		Existing Power	
Proposed Sanitary Sewer		Existing Telephone	
Proposed Storm Drain		Existing Fence	
Proposed Conduit Line		Rightline	
Proposed Power Line		Centerline	
Proposed Gas Line		Existing Contour	
Proposed Secondary Water Line		Existing Spot	
Proposed Road Drain		Existing Light Pole	
Proposed Fence		Existing Street Light	
Ridge line		Existing Building	
Grade Break		Existing Telephone Box	
Proposed Contour		Existing Power Meter	
Direction of Drainage		Existing Electrical Box	
Proposed Spot		Existing Electrical Cabinet	
ADA Accessible Route		Existing Gas Meter	
Property Line		Existing Water Meter	
Sawcut Line		Existing Irrig. Control Box	
Proposed Light Pole		Existing Ballard	
Proposed Street Light		Existing Hose Bib	
Proposed Building		Working Point	
Existing Power Pole		Existing Deciduous Tree	
Existing Power Pole w/ Guy		Existing Coniferous Tree	
Existing Utility Marker			
Existing Post			
Detail Number			
Sheet Number			

<b>CV</b>	<b>Cover Sheet</b>
<b>C0.1</b>	<b>Demolition Plan</b>
<b>C1.1</b>	<b>Site Plan</b>
<b>C2.1</b>	<b>Grading Plan</b>
<b>C3.1</b>	<b>Utility Plan</b>
<b>L1.1</b>	<b>Landscape Plan</b>
<b>L2.1</b>	<b>Irrigation Plan</b>
<b>L3.1</b>	<b>Installation Details</b>
<b>A1</b>	<b>Exterior Elevations and Signage (Color)</b>
<b>A2</b>	<b>Exterior Elevations with Enclosure Wall (Color)</b>

*This property lies entirely within Flood Zone X as designated on FEMA Flood Insurance Rate Map for Clackamas County, Oregon and Incorporated Areas Community Map No. 41005C0264D dated June 17, 2008. Flood Zone X is defined as "Areas determined to be outside the 0.2% annual floodplain." (No Shading)*

The basis of bearings for this project is N 27°00'00" W between a found 5/8" iron rod and a found 3/4" iron pipe per PS 18904, Clackamas County Survey Records, as shown on the ALTA Survey.

NGS Benchmark A-14.

156.54 feet (NAVD 88, Published)  
(47.713 meters)

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

*Lots 3, 12, 13 and 14 Albert Lees Second addition to Canby, in  
the City of Canby, County of Clackamas and State of Oregon.*

*Lots 1 and 2, Albert Lees Second Addition to Canby, in the City  
of Canby, County of Clackamas and State of Oregon.*

*Contains: 32,457 Sq. Ft. ±  
or 0.75 Acres ±*

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

**# 651**  
**Canby, Oregon**

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801)521-8629 Ogden (801)394-7288 Fax (801)521-9551

# Preliminary Cover Sheet

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

*12 Apr, 2013*

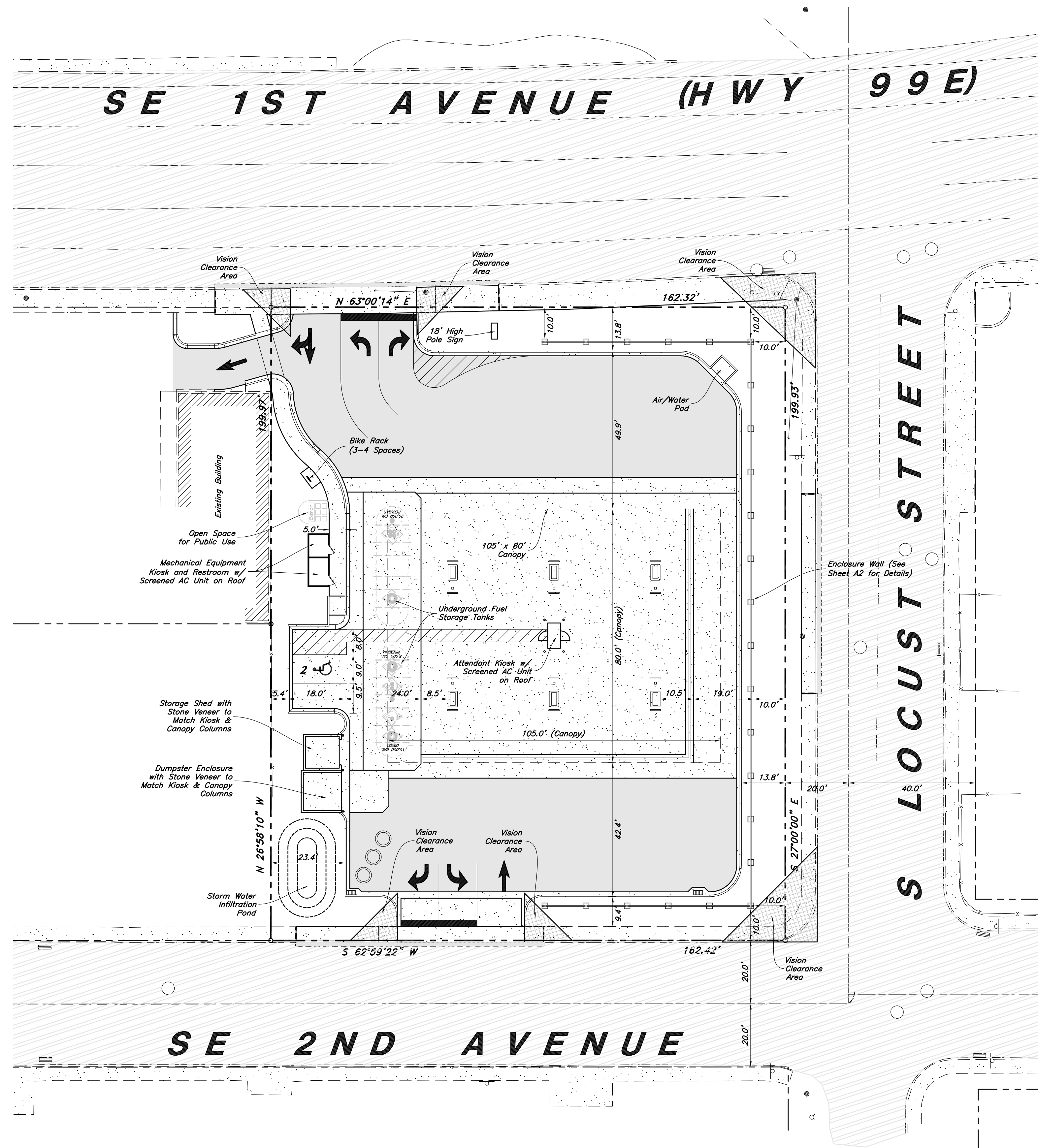
**SHEET NO.**

CV









**Site Data**

Site Area = 32,457 s.f. (0.745 ac.)  
Roof Area = 8,543 s.f. (26.3%)  
Canopy = 8,400 s.f.  
Kiosk, Mech. & Restroom = 143 s.f.  
Landscape Area = 7,178 s.f. (22.1%)  
Impervious Area = 16,736 s.f. (51.6%)  
Parking Required = 1/550 s.f. = 1 Stall + 1 ADA Stall = 2 Total  
(143 s.f. Kiosk Mech. & Restroom)  
Parking Provided = 2 Stalls

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**#651**  
Canby, Oregon

Preliminary Site Plan

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

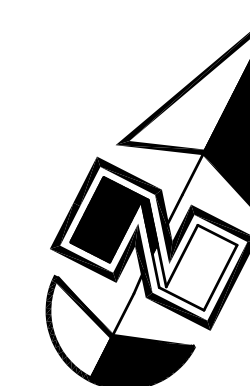
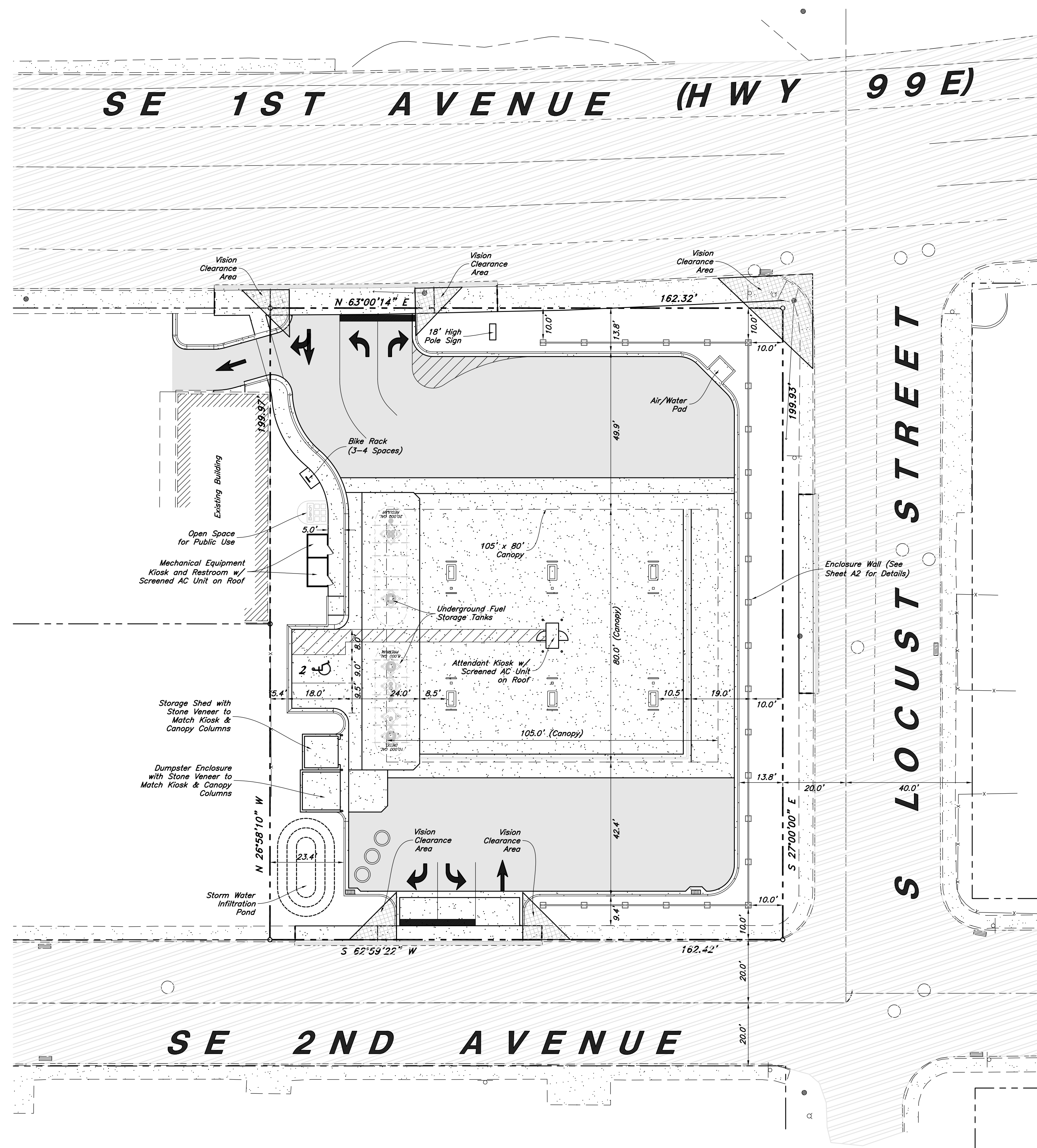
12 Apr, 2013

SHEET NO.  
**C1.1**

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Salt Lake City (801)551-8529 Ogden (801)394-7288 Fax (801)521-9551

Designed by: JT  
Drafted by: JT  
Client Name: Fred Meyer  
FM651-SP

REV	DATE	DESCRIPTION



Scale : 1" = 20'



#### Site Data

Site Area = 32,457 s.f. (0.745 ac.)

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**Preliminary Site Plan**

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369 SE 1st Avenue  
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**Fred Meyer**

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**#651**

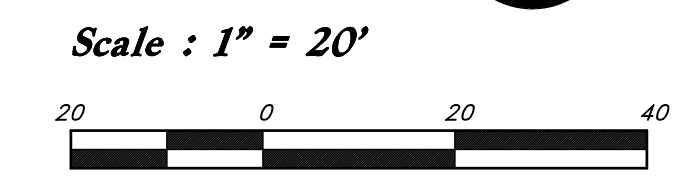
**Canby, Oregon**

12 Apr, 2013

SHEET NO.

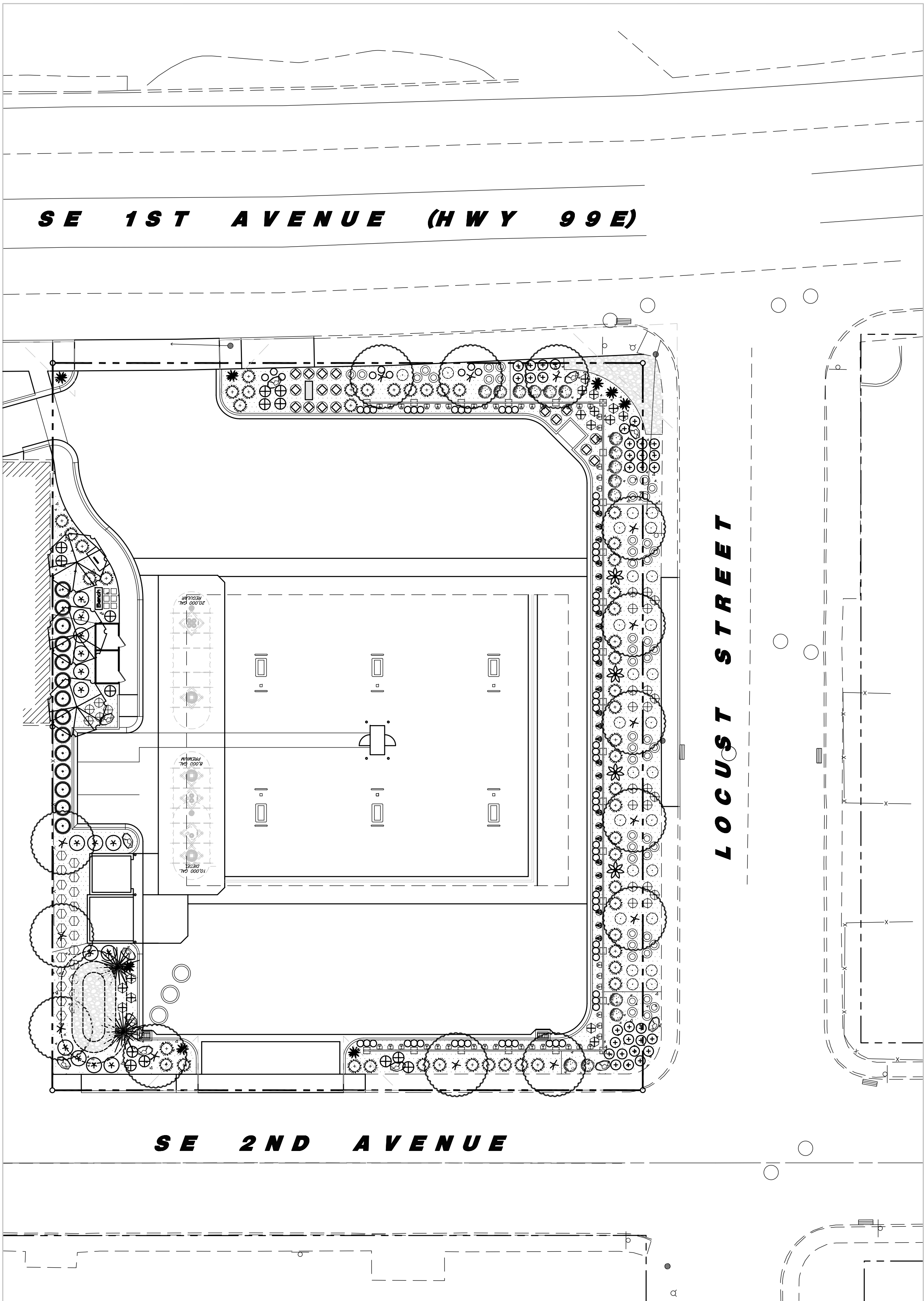
**C1.1**











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

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

Plant List (SHRUBS)					
Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
51		<i>Buxus microphylla</i> 'Winter Gem'	Winter Gem Boxwood	5 Gallon	15"-18" Spread
15		<i>Euonymus alatus</i> 'Compacta'	Dwarf Burning Bush	5 Gallon	18"-24" Height
26		<i>Mahonia aquifolium</i> 'Compacta'	Compact Oregon Grape	5 Gallon	15"-18" Height
14		<i>Photinia fraserii</i>	Fraser's Photinia	5 Gallon	18"-24" Height
4		<i>Physocarpus opul.</i> 'Diablo'	Diablor Ninebark	5 Gallon	18"-24" Height
32		<i>Spiraea bumalda</i> 'Goldmound'	Goldmound Spiraea	5 Gallon	15"-18" Height
17		<i>Spiraea japonica</i> 'Neon Flash'	Neon Flash Spiraea	5 Gallon	15"-18" Height
15		<i>Syringa patula</i> 'Miss Kim'	Miss Kim Lilac	5 Gallon	15"-18" Height
8		<i>Yucca filamen.</i> 'Golden Sword'	Golden Sword Yucca	5 Gallon	15"-18" Height

Plant List (ORNAMENTAL GRASSES)					
Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
23		<i>Calamagrostis a.</i> 'Foerster'	Foerster Feather Grass	5 Gallon	24"-30" Height
15		<i>Calamagrostis a.</i> 'Overdam'	Overdam Feather Grass	5 Gallon	18"-24" Height
69		<i>Festuca ovina</i> 'Elijah Blue'	Elijah Blue Fescue	2 Gallon	12"-15" Height
25		<i>Helictotrichon sempervirens</i>	Blue Oat Grass	2 Gallon	15"-18" Height
14		<i>Miscanthus sinensis</i> 'Gracillimus'	Gracillimus Maiden Grass	5 Gallon	24"-30" Height
49		<i>Pennisetum alopec.</i> 'Hansin'	Dwarf Fountain Grass	2 Gallon	12"-15" Height

Plant List (Vines)					
Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
42		<i>Jasmine officinale</i>	Common Jasmine	2 Gallon	12'-15' Spread
27		<i>Jasmine floridum</i>	Showy Jasmine	2 Gallon	12'-15' Spread

### Tree Selection & Description Statement

- COLUMNAR BLUE ATLAS CEDAR** - colder environments. This tree produces no noticeable fruit, is drought tolerant, and has a low moisture requirement, especially following the initial establishment period.
- CRIMEAN LINDEN** - This deciduous tree is mentioned for hardiness zones 3-8. It produces small 1/2"-3" ovoid fruit, which is non-persistent. This tree is tolerant of wind, salt and air pollution, which makes it a good selection for city street use. It has a medium moisture requirement, and is more drought tolerant following the initial establishment period.
- MUSASHINO ZELCOVA** - is drought tolerant. It has a low moisture requirement, especially following the initial establishment period. It is a good selection for city use, and due to it's more upright columnar habit, can be used in tighter spaces.

### Planting Notes

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

### General Notes

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

### Submittal Requirements

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

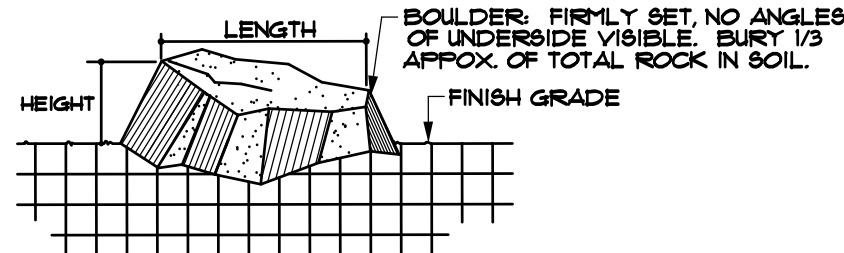
### Stone Surfacing

#### APPLICATION PROCEDURE :

- Place pre-emergent herbicide on fine grade layer.
- Place weed barrier fabric.
- Place 4" minimum decorative stone to finish grade.
- Place pre-emergent herbicide on finish grade.

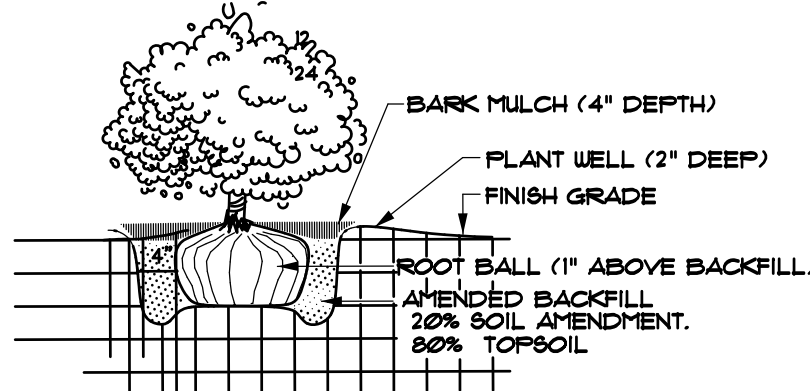
### Sub-Grade Requirements

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

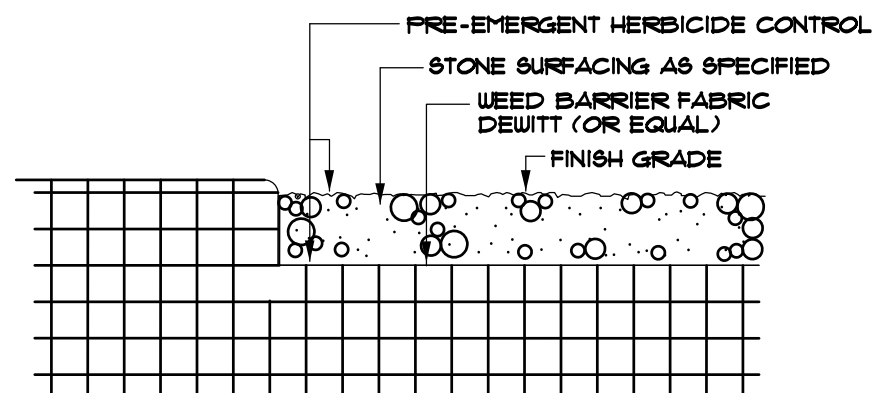


NOTE: USE CARE TO MINIMIZE MARRING & SCRATCHING.

1	Decorative Boulder
L1.1	N. T. S.

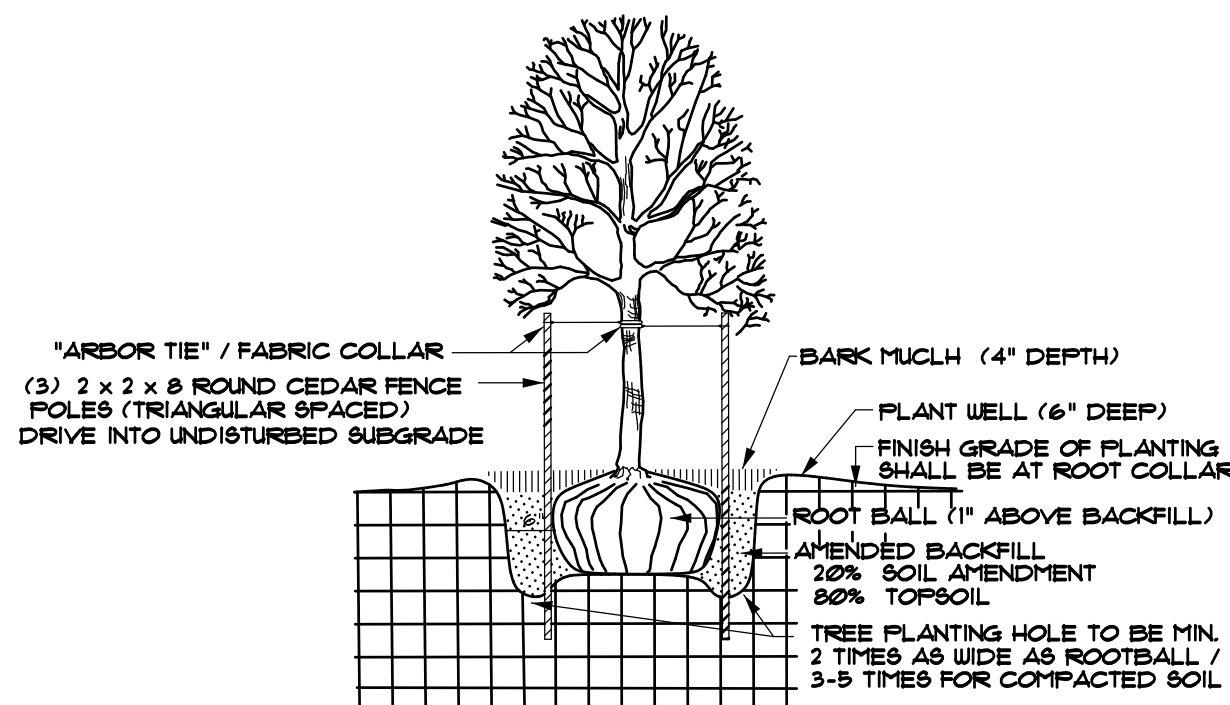


2	Shrub Planting
L1.1	N. T. S.



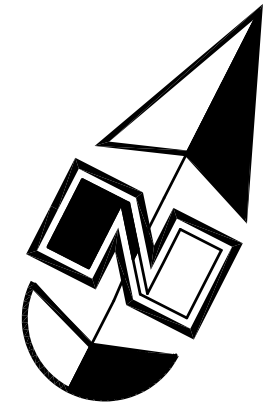
NOTE: SMOOTH GRADE ENTIRE AREA PRIOR TO PLACEMENT.

3	Stone Surfacing
L1.1	N. T. S.



4	Tree Planting
L1.1	N. T. S.

Scale : 1" = 20'



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**Landscape Plan**

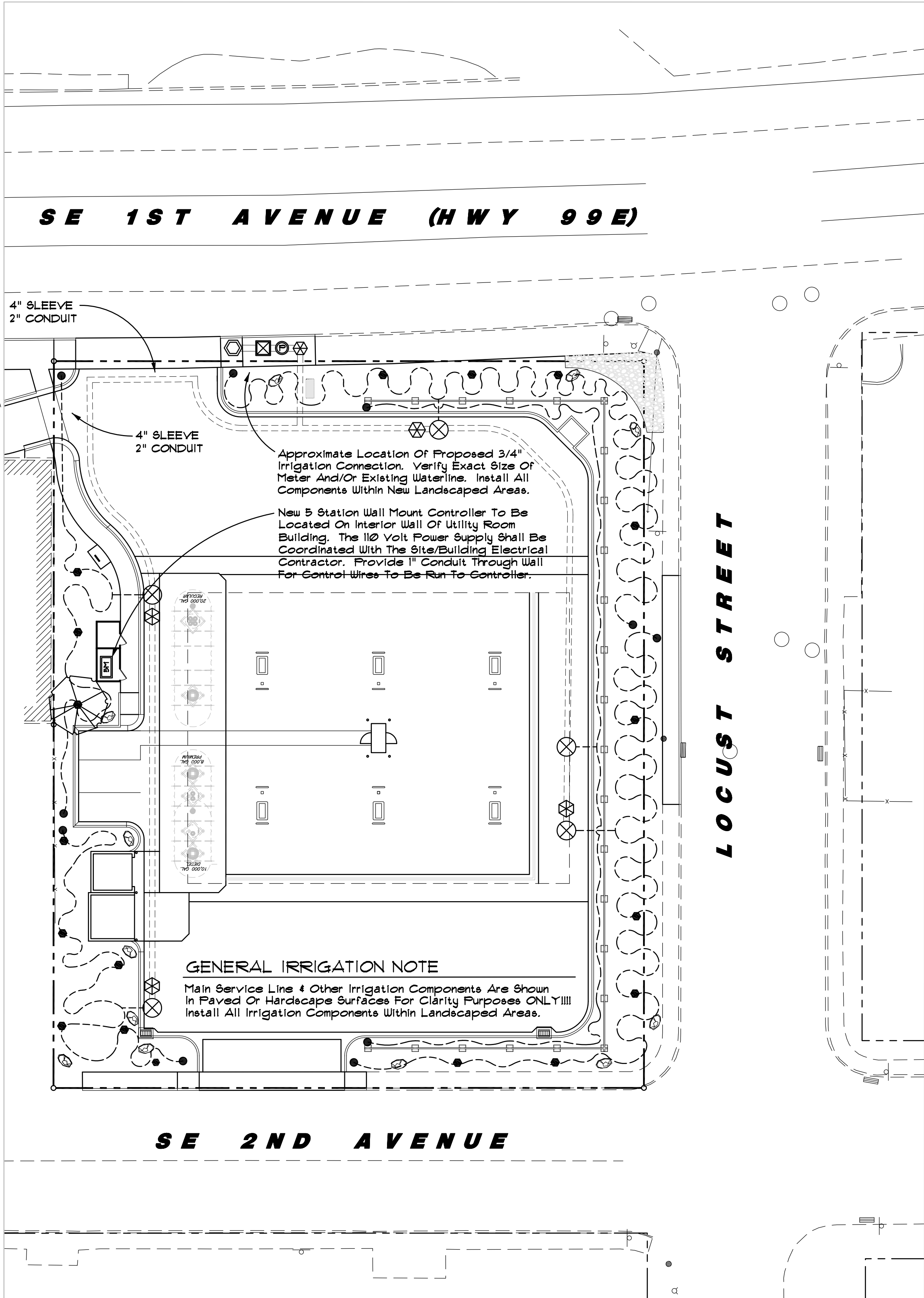
**Fred Meyer Fuel - #651**  
369 SE 1st Avenue  
Canby, Oregon 97013

12 Apr, 2013

SHEET NO.

**L1.1**





Irrigation Controller Valve Schedule

VALVE DATA				HYDRAULIC DATA			
*	Size	Sta. *	Head Type	Landscape Zone	Prec. Rate-inch/hr	GPM	F&I
1	.75"	1	Drip	Misc. Plantings	Drip	4.0	30
2	.75"	2	Drip	Misc. Plantings	Drip	4.0	30
3	.75"	3	Drip	Misc. Plantings	Drip	4.0	30
4	.75"	4	Drip	Misc. Plantings	Drip	4.0	30
5	.75"	5	Drip	Misc. Plantings	Drip	4.0	30

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

Symbol	Model-Number	Description	Remarks
●	New Tree Location	Provide Added Emitters	Added Emitters For Tree Type Specified
⊗	Rainbird XGZ-075-PRF	Drip Control Zone Kit	3/4" Size In Control Valve Box With Gravel Sump
⊗	Rainbird 33DLRC	Quick Coupler Valve	3/4" Size In Control Valve Box With Gravel Sump
⊗	Rainbird ESP-4M Rainbird ESP-SH3	Solid State Controller 3 Station Exp. Module	Multi-Program / 4 Station Modular Exterior Mount w/ Exp. Module
⊗	Mueller Orisael Mark II	Stop & Waste Valve	3/4" Size / Install Inside Cast Iron Curb Box
⊗	Fabco 825Y Series	3/4" RPA Backflow Preventer	Install Above Grade Per All Local Codes
⊗	Watts 223-HP Series	Pressure Regulator	3/4" Size Installed Per Detail
●	Rainbird ARV	Air Relief Valve (As Needed)	Install In Control Valve Box With Gravel Sump
—	Schedule 40 PVC	Irrigation Slewing	Sizes As Noted On Plan / 24" Bury Across Asphalt
---	Schedule 40 PVC	Main Service Line	1" Size Throughout/Rated ASTM D 1784
---	Schedule 40 PVC	Lateral Circuit Line	Pipe Size As Required Per Guide / 1" Min. / Run Laterals To All Individual Planting Areas
---	125 P.S.I. Low Density Polyethylene Pipe	For Distribution To All Non-Tree Plantings	Size As Required For Flow / 3/4" Min. Size / After PVC Laterals To Be Run To All Planting Areas

Sleeving Installation Notes

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

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

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

Sprinkler Notes

- All main service lines and pipe sleeving shall be buried minimum 18 inches below finish grade, all lateral circuit lines minimum 12 inches below finish grade. Backfill all lines with sand or lump free soil. All clean material shall be settled and compacted to proper finish grade. All piping shall be capable of winterization by the use of compressed air / "Blow Out".
- All control valves and quick coupler valves shall be installed in fiberglass control boxes with bolt down lids. Washed gravel shall be installed in the bottom to a depth of 8 inches.
- All sprayheads (if used) shall be installed using (2) 1/2" barbed ell, (1) 1/2" marlex ell, and 1/2" swing pipe cut to the appropriate length (12" min.-24" max.). Quick coupler valves shall be installed using the appropriate sized joint assembly, including 3 marlex ell, and (1) 12 inch schedule 80 pvc riser.
- The design and layout of all sprayheads shall provide for a minimum 60% DU (distribution uniformity).
- All sprayheads adjacent to hardscape paving shall be spaced 1 to 3 inches away from paving.
- Control valve wire shall be #14 single conductor white for the common wire, and #14 single conductor for the hot wire. Use red for the hot wire on all lawn control valve zones and blue (2) as spares along the entire main service line. Spare wires shall be 'home run' to the controller. All wiring shall be UF UL rated. All connections shall be made with watertight connectors, and contained in control valve boxes. Provide 36" extra wire length at each remote control valve in valve box. Install control wiring with service line where possible, taped to the underside of the pipe at regular intervals. Provide slack in control wires at all changes in direction.
- Coordinate the exact location of the irrigation controller with Owner and/or contractor. The 110 volt power supply shall be provided by others. Any exposed controller wiring shall be contained in steel rigid conduit.
- Install 3/4" manual drain valves at all low points along the main service line. Use a 2 inch schedule 40 pvc sleeve over the valve with a valve marker cap. Install a two cubic foot gravel sump at the valve bottom.
- All sprinkler lines passing under paved and other hard surfaces shall be installed in schedule 40 pvc sleeveing a minimum of two sizes larger than the pipe size to pass through it. The sleeve depth shall be the same as the deepest pipe to pass through.
- Upon completion of the installation, provide the Owner with a complete set of "As-Built" drawings showing any and all deviations from the original plans. It shall also show the locations of main service lines, control valves, wire routes and manual drain valves.
- It shall be the responsibility of the sprinkler contractor to demonstrate to the Owner the proper winterization and start-up procedures for the entire system prior to final payment.
- The contractor shall comply with all state and local plumbing codes, and shall honor all warranties and guarantees set forth by the Owner.

General Notes

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

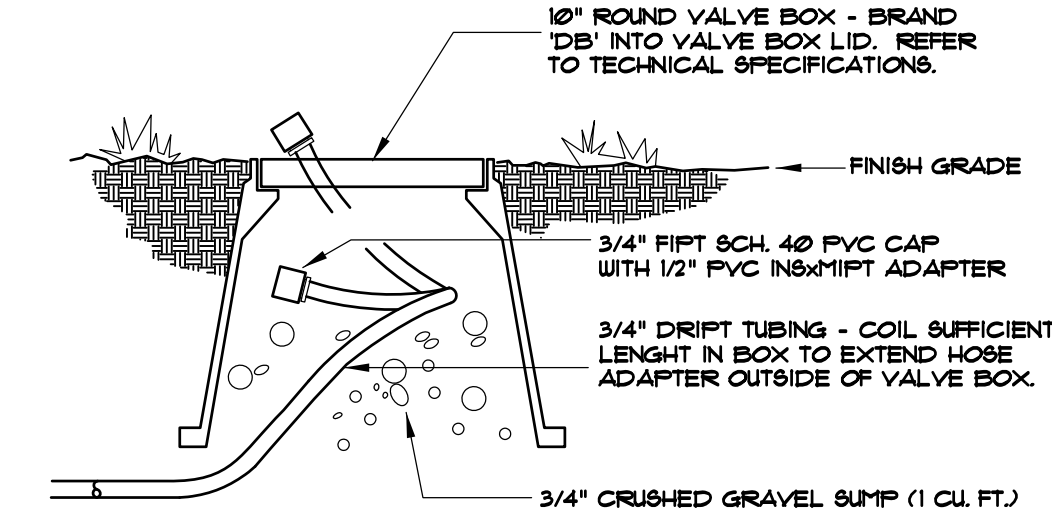
Submittal Requirements

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

Emitter Installtion Guide

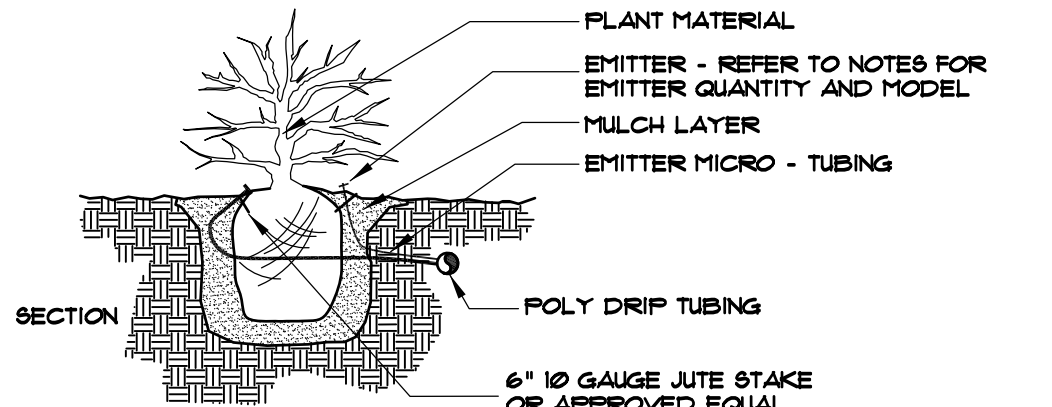
PLANT SIZE	EMITTER DEVICE	QUANTITY
1 Gallon Material	XB-10 (1 Gal/Hr.)	One Each
5 Gallon Material	XB-10 (1 Gal/Hr.)	Two Each
15 Gallon Material	XB-10 (1 Gal/Hr.)	Three Each
24" Box/2" Calliper	XB-10 (1 Gal/Hr.)	Four Each

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



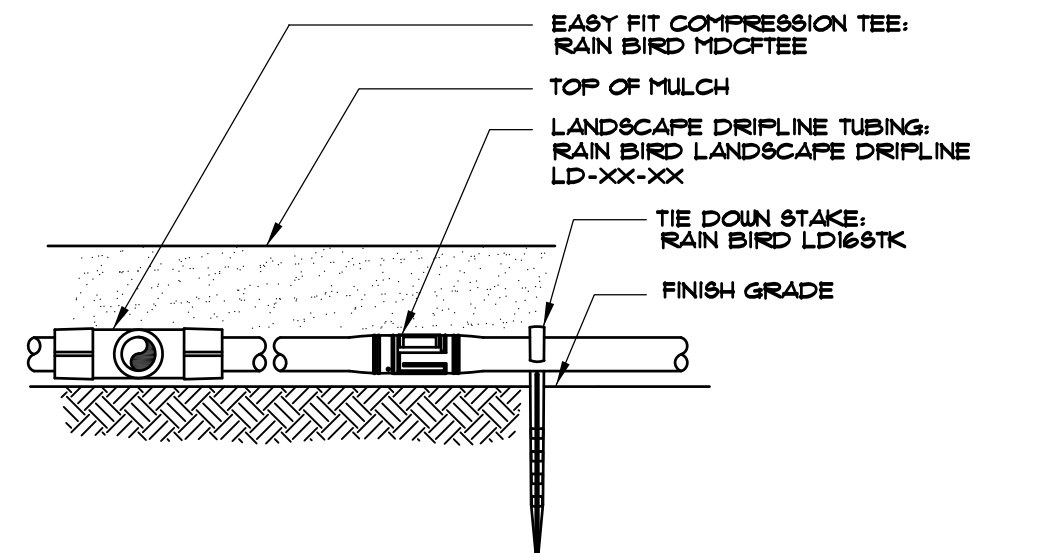
1 Compression Flush Cap

N. T. S.



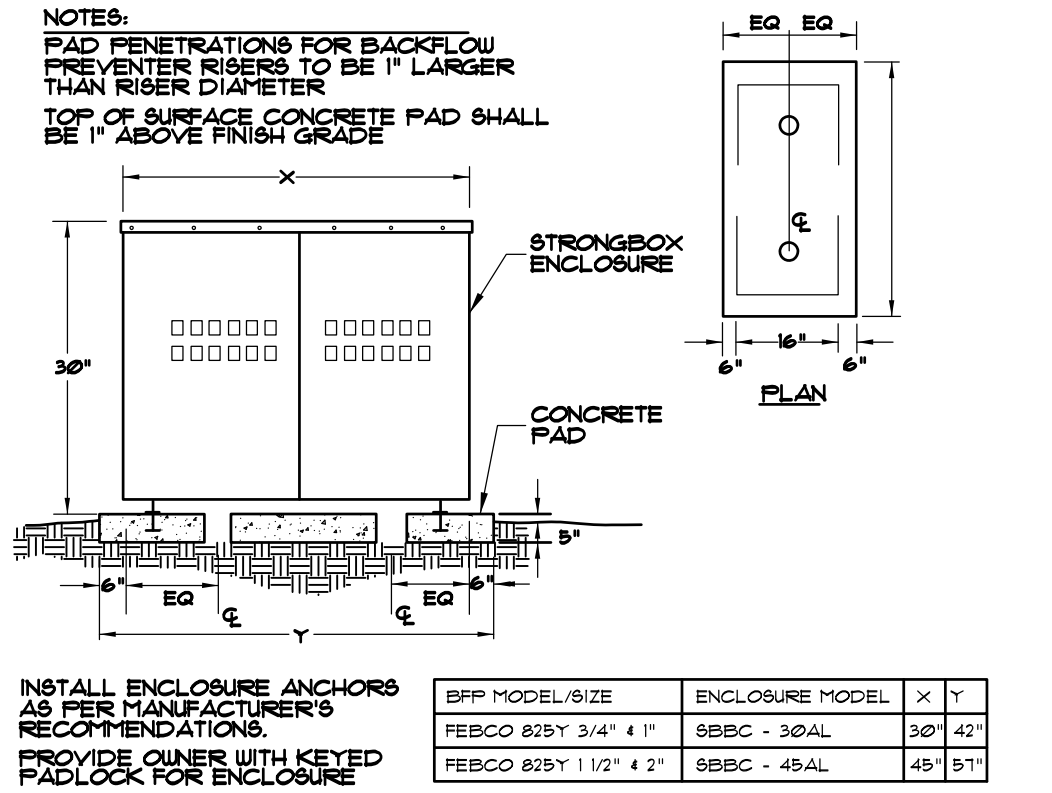
2 Drip Emitter

N. T. S.



3 Landscape Dripline On Grade

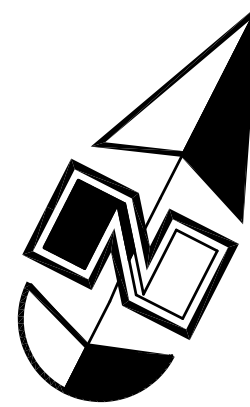
N. T. S.



4 Backflow Preventer Enclosure

N. T. S.

Scale : 1" = 20'



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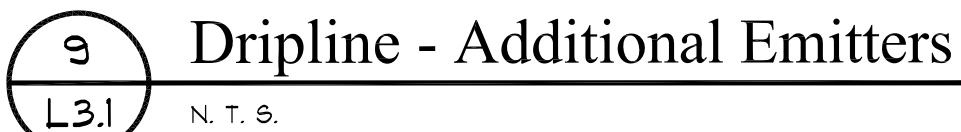
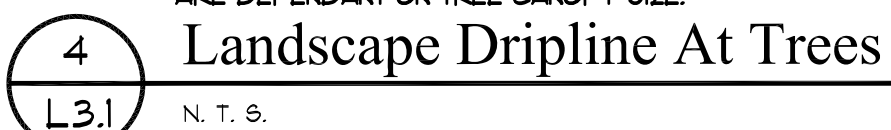
**Irrigation Plan**  
**Fred Meyer Fuel - #651**  
369 SE 1st Avenue  
Canby, Oregon 97013

12 Apr, 2013

SHEET NO.

**L2.1**





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**# 651**  
**Canby, Oregon**

## Installation Details

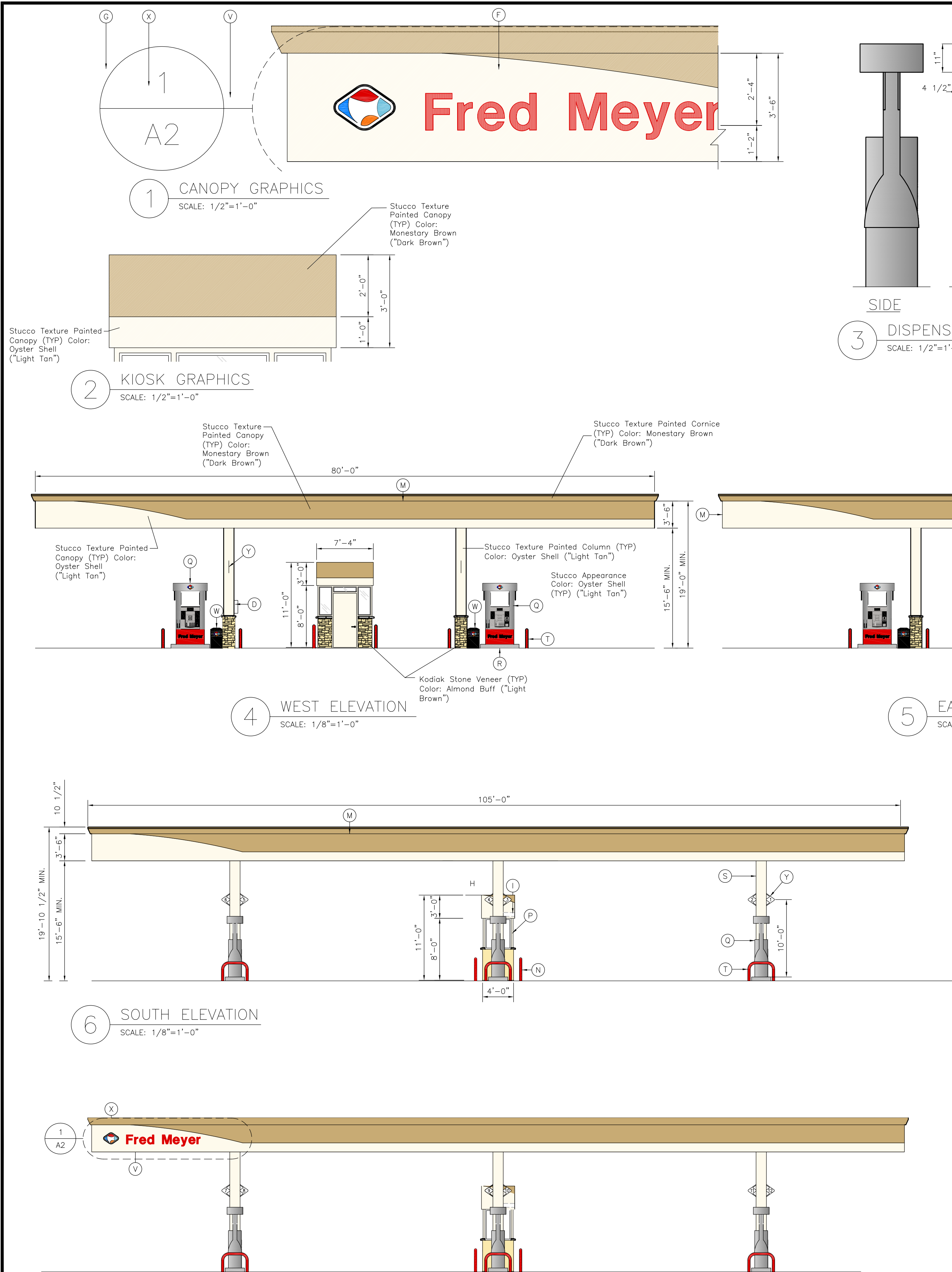
**Fred Meyer Fuel - #651**  
369 SE 1st Avenue  
Canby, Oregon 97013

*12 Apr, 2013*

**SHEET NO.**

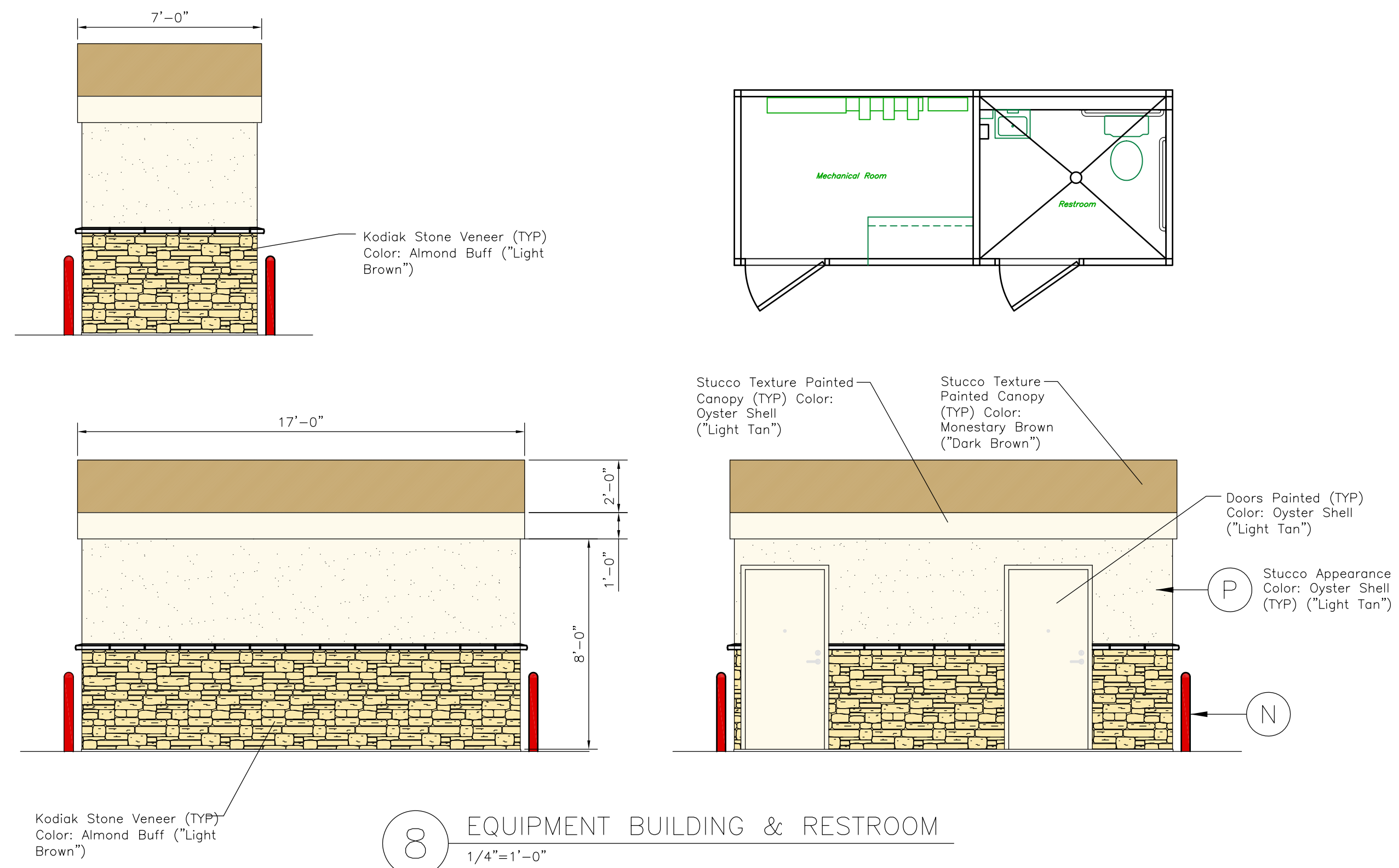
### ***L3.1***





## EQUIPMENT SCHEDULE

ITEM	DESCRIPTION	COLOR	MANUFACTURER	MODEL	FURNISHED BY	INSTALLED BY
A	INTERNALLY ILLUMINATED IDENTIFICATION SIGN		DUALITE		OWNER	SIGN INSTALLER
B	INTERNALLY ILLUMINATED REMOTE CONTROL PRICE SIGN		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
C	STATIC WARNING DECAL		WAYNE		DISPENSER MANUFACTURER	DISPENSER MANUFACTURER
D	REMOTE PRICE SIGN CONTROL BOX		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
E	SIGN POLE - G.C. TO PAINT	BLACK	DUALITE		OWNER	SIGN INSTALLER
F	CANOPY FASCIA (STUCCO TEXTURE)	Monestary Brown			CANOPY FABRICATOR	CANOPY FABRICATOR
G	CANOPY FASCIA (STUCCO TEXTURE)	OYESTER SHELL			CANOPY FABRICATOR	CANOPY FABRICATOR
H	LOGO - NON-ILLUMINATED (28" H x 37 1/2" W)		DUALITE		OWNER	GENERAL CONTRACTOR
I	PRE-CUT BLACK VINYL ADDRESS DECALS PER LOCAL AUTHORITY SPECIFICATIONS, IF REQUIRED				GENERAL CONTRACTOR	GENERAL CONTRACTOR
J	DISPENSER DOOR GRAPHICS	RED WITH WHITE LETTERS	WAYNE		DISPENSER MANUFACTURER	DISPENSER MANUFACTURER
K	KIOSK FASCIA (STUCCO TEXTURE)	Monestary Brown			OWNER	GENERAL CONTRACTOR
L	KIOSK FASCIA (STUCCO TEXTURE)	OYESTER SHELL			OWNER	GENERAL CONTRACTOR
M	CANOPY				CANOPY FABRICATOR	CANOPY FABRICATOR
N	6" DIAMETER BOLLARD - G.C. TO PAINT	SAFETY RED			GENERAL CONTRACTOR	GENERAL CONTRACTOR
O	HEALTH AND SAFETY DECALS		WAYNE		DISPENSER MANUFACTURER	GENERAL CONTRACTOR
P	KIOSK (STUCCO APPEARANCE)	OYESTER SHELL			KIOSK FABRICATOR	GENERAL CONTRACTOR
Q	DISPENSER		WAYNE		OWNER	GENERAL CONTRACTOR
R	ISLAND FORMS - G.C. TO PAINT	GRAPHITE SW4017	OPW		OWNER	GENERAL CONTRACTOR
S	CANOPY COLUMNS - G.C. TO PAINT	ESSENTIAL GRAY SW6002			CANOPY FABRICATOR	CANOPY FABRICATOR
T	U-SHAPED BOLLARD - G.C. TO PAINT	SAFETY RED	RIVERSIDE		OWNER	GENERAL CONTRACTOR
U	PRICE SIGN, SEE DETAIL 8, THIS SHEET		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
V	ILLUMINATED CHANNEL LETTERS		DUALITE		OWNER	SIGN INSTALLER
W	WASTE RECEPTACLE/WINDSHIELD SERVICE CENTER		DCI MARKETING		OWNER	GENERAL CONTRACTOR
X	ILLUMINATED LOGO SIGN		DUALITE		OWNER	SIGN INSTALLER
Y	PUMP NUMBER FLAG				CANOPY FABRICATOR	GENERAL CONTRACTOR



THIS DRAWING IS AND SHALL REMAIN THE PROPERTY OF THE KROGER COMPANY REPRODUCTION OR ALTERATION OF THIS DRAWING WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE KROGER COMPANY IS PROHIBITED. (NOT PUBLISHED; ALL RIGHTS RESERVED)

NOTE TO CONTRACTOR:  
THIS SET OF DRAWINGS AND DOCUMENTS IS INTENDED AS A SET OF GUIDELINES FOR THE PROJECT AND ARE INTENDED TO BE USED IN CONJUNCTION WITH A SET OF CONSTRUCTION SPECIFICATIONS TO BE SUPPLIED BY OWNER. THEY MUST BE READ TO INCORPORATE ALL APPLICABLE FEDERAL, STATE, AND LOCAL CODES INCLUDING FEDERAL A.D.A. REQUIREMENTS. THIS SET ASSUMES THAT THERE ARE NO UNUSUAL SOIL CONDITIONS OR WIND LOADS. THE FAILURE OF THIS CONDITION MAY REQUIRE SIGNIFICANT CHANGES TO THESE DOCUMENTS. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO CONFORM TO ALL APPLICABLE CODES AND TO INFORM THE OWNERS/ARCHITECTS OF ANY QUESTIONS OR CLARIFICATIONS WHICH ARE DESIRED. CONTRACTORS SHALL ALSO VISIT THE SITE BEFORE BIDDING. CONTRACTORS ARE REQUIRED TO KNOW ALL OBSERVABLE CONDITIONS AND APPLICABLE CODES.

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801)521-8529 Ogden (801)284-7268 Fax (801)521-8551

**Fred Meyer**

**Kroger**  
The Kroger Co.  
Denver, CO 80239  
Phone (303) 733-5917  
Fax (303) 715-5958

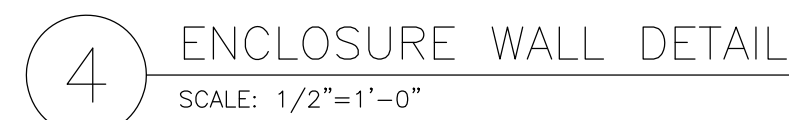
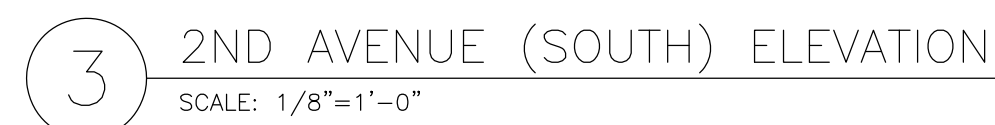
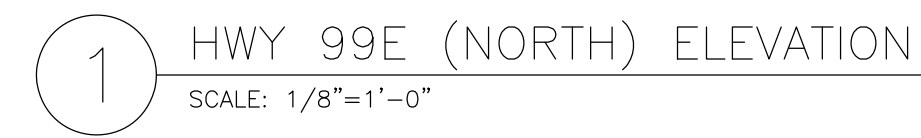
REVISIONS		DATE
DES. BY	DRAWN BY	
No.	DESCRIPTION	

Project #: #651 - Canby  
Designed By: DLJ  
Drawn By: JMG  
Checked By: DLJ  
Date: 11 May 2012  
Scale: FULL  
Disk File: FM651 Canby.dwg  
Model: Oregon 6  
Address: SWC of HWY 99E & S Locust St.  
Canby, Oregon

EXTERIOR ELEVATIONS AND SIGNAGE

Drawing No.: A1





EXTERIOR ELEVATIONS  
WITH ENCLOSURE WALL

Drawing No.: A2





**SECTION 8: SUBMITTAL FROM FRED MEYER STORES RESPONDING TO LUBA  
REMAND ISSUES (7.8.13 TRAFFIC STUDY SEPARATE)**



900 S.W. Fifth Avenue, Suite 2600  
Portland, Oregon 97204  
main 503.224.3380  
fax 503.220.2480  
www.stoel.com

July 10, 2013

STEVEN W. ABEL  
Direct (503) 294-9599  
swabel@stoel.com

**VIA HAND DELIVERY**

Planning Commission  
City of Canby  
c/o Bryan Brown  
111 NW 2nd Avenue  
Canby, OR 97013

**Re: Fred Meyer Applications (TA 12-01/ZC 12-02/DR 12-03)**

Dear Members of the Planning Commission:

Enclosed please find the following:

1. Revised Transportation Impact Assessment ("TIA") dated July 8, 2013 prepared by Group Mackenzie.
2. Letter dated July 9, 2013 to the City of Canby addressing issues related to the Transportation Planning Rule (TPR), from Group Mackenzie.

These materials are submitted in anticipation of the upcoming hearing scheduled for July 22, 2013.

The consolidated hearing on July 22, 2013, has been set to review the site design review components of the proposal and consider the limited remand issues spelled out by LUBA in its June 4, 2013 Final Opinion and Order. Following the original Commission approval of the applicant's proposal, the applicant modified the site plan to address concerns raised by Save Downtown Canby. The applicant believes that the changes made to the site plan create a more satisfactory aesthetic design for the proposed fueling facility. At the hearing, the applicant will make a presentation outlining the changes that have been made to the fueling facility.

As set forth above, the July 22 hearing is a consolidated hearing not only to consider the site design components as now proposed, but in addition, address the two limited remand issues which LUBA outlined in its opinion. Let me discuss those briefly.



Planning Commission  
City of Canby  
c/o Bryan Brown  
July 10, 2013  
Page 2

1. The first issue relates to whether the TPR applies to the zone and map amendment approved by the Planning Commission and City Council. As LUBA set forth the issue:

“[The city decision] requires further analysis under the TPR . . . [to] evaluate the square footage and hence the generation capacity of the most traffic intensive use allowed in the C-2 zone that could reasonably constructed on the subject property, given the different footprint, height, setback, and floor area ratios that would apply to the two sub-areas. If that analysis showed that constructing the use under the OHC standards would increase traffic generation compared to constructing the use under the CC standards, then further analysis is necessary under the TPR. If not, then the City could conclude that no further analysis is necessary and the TPR is satisfied.” Final Opinion and Order p. 8-9.

Included as an attached is a supplemental letter to the City of Canby prepared by Group Mackenzie. That letter and the analysis contained therein make clear that, in accordance with LUBA’s direction, the change of the overlay from CC to OHC in fact decreases the amount of potential development on the subject site. Very simply, considering the allowable footprint and height in the OHC and CC zones, it is clear that the CC zone allows for a greater building area than does the proposed OHC zone. Further, when parking requirements and reasonable expectations for realistic development are added to the equation on the site, the effect is further compounded. As Group Mackenzie points out, these square footage numbers drive the calculation for the transportation demands and thus, the reduction in square footage allowable in the OHC zone results in a commensurate reduction in trip generation from the existing CC designation. Based upon this evidence and the LUBA’s direction set forth in the Final Opinion and Order it is clear that the applicant has appropriately addressed any TPR requirements.

2. LUBA also requested that the City consider the impact of the potential future pedestrian crossing identified in the Transportation System Plan (TSP). As LUBA said:

“The City’s findings do not appear to consider the conflicts, if any, between uses allowed under the OHC subarea and a future pedestrian crossing in the area, as contemplated by the TSP, or explain why such conflicts need to be considered for purposes of CMC 16.88.160(D)(1).

\* \* \*





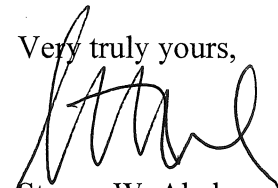
Planning Commission  
City of Canby  
c/o Bryan Brown  
July 10, 2013  
Page 3

“Because the City did not appear to consider the question at all, and the decision must be remanded in any event under the first assignment, remand is also warranted under this assignment of error for the City to adopt findings considering the future pedestrian crossing listed in the TSP to the extent it is relevant to the amendment, and balancing that consideration against other relevant considerations, or explaining why no such consideration is required under CMC 16.88.160(D)(1).”

The revised TIA addresses the issues related to the crosswalk. While it is unclear whether the requirement in the TSP has any applicability to the subject application, the applicant requested Group Mackenzie to prepare a response to the LUBA's request to have more information about the impact of the crosswalk. Group Mackenzie's analysis demonstrates that the addition of the crosswalk across Hwy 99, in the proximity to the subject site, would present no future problems. It does not change the conclusion that all intersections and site driveways will operate within acceptable capacity standards for all analysis scenarios, including scenarios with full access, limited access (right in-right out), and no access to Hwy 99E. Group Mackenzie Report at p. 18.

The applicant and its consultant team look forward to presenting these materials to the Commission and answering any questions the Commission may have.

Very truly yours,



Steven W. Abel

Enclosures

cc w/encl.: Michael Connors (Attorney for Save Downtown Canby) *via regular mail*

# MACKENZIE.

DESIGN DRIVEN | CLIENT FOCUSED

July 9, 2013

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

Re: **Fred Meyer Map and Text Amendment TA 12-01/ZC 12-02**  
*TPR Analysis Response*  
Project Number 2120130.00

Dear Mr. Brown:

This letter has been prepared to provide additional information related to the Transportation Planning Rule (TPR) requirements as noted in the Land Use Board of Appeals (LUBA) Final Opinion and Order, dated June 4, 2013. Because the trip generation potential of a site is based on the use and building size, further review of the allowed building sizes is provided along with the trip generation potential.

Specifically, we have addressed the differences in the Core Commercial (CC) and Outer Highway Commercial (OHC) design overlay zones. The underlying zoning remains C-2, so the allowed uses are the same in the CC and OHC overlay zones. As noted in the LUBA decision, the design elements don't affect trip generation potential, but the allowable building footprints in each overlay zone, as well as differences in setbacks, building heights, and floor area ratios, may affect the maximum building size.

For purposes of this analysis, we have assumed buildings will be multiple floors. While it is unlikely some uses, such as grocery stores and retail lease space, would have more than one floor at this location, this assumption would apply to both overlay zones.

The subject site is 32,466 sf in size, with approximately 162 feet of frontage along Hwy 99E and SE 2nd Avenue, and 200 feet along Locust Street. Under the C-2 zone, the maximum lot coverage of 60% would allow a building footprint of up to 19,480 sf.

Under the existing CC overlay, 60% of each frontage must be a building, the minimum setback is zero, and the height limit is 60 feet (approximately 4 floors). The maximum building footprint allowed in the CC overlay is 30,000 sf, which cannot be met at the site given its small size and the maximum lot coverage limit of 60%. The frontage requirements would imply a rectangular building with a 19,480 sf footprint (assumes 200 feet along Locust and 97 feet along Hwy 99E and SE 2nd Avenues), which is at the maximum allowed.

In the OHC overlay zone, only 40% of public street frontage is required to have a building abutting it, the minimum setback is 10 feet and the height limit 45 feet (3 floors). The maximum building footprint is 80,000 sf which cannot be



P 503.224.9560 ▪ F 503.228.1285 ▪ W MCKNZE.COM ▪ RiverEast Center, 1515 SE Water Avenue, #100, Portland, OR 97214  
ARCHITECTURE ▪ INTERIORS ▪ STRUCTURAL ENGINEERING ▪ CIVIL ENGINEERING ▪ LAND USE PLANNING ▪ TRANSPORTATION PLANNING ▪ LANDSCAPE ARCHITECTURE  
Portland, Oregon ▪ Vancouver, Washington ▪ Seattle, Washington

Planning Commission Packet Page 163 of 448

achieved because the site itself is smaller. The frontage requirements would imply a 17,700 sf footprint for a rectangular building.

For purposes of this analysis, we have assumed the minimum parking requirements are met on the site. Parking requirements for both office and retail uses are two spaces per 1000 sf, but three spaces per 1000 sf for medical office uses.

The attached proforma sheets outline the parameters regarding achievable building areas. In general the maximum building area is either determined by the 60% maximum footprint, or parking requirements. We have assumed 300 sf per parking stall on average, including the area necessary for circulation, i.e., driveways and drive aisles. The first three proforma sheets compare maximum building area in the CC and OHC overlay zones with the retail/office parking requirement of two spaces per 1,000 sf, for buildings of one, two, and the maximum number of floors. The last proforma sheet assumes use of the building as a medical office with the higher parking requirement of three spaces per 1,000 sf. In all cases, the existing CC overlay zone allows for a larger building than the proposed OHC zone.

In the case of fuel facilities, the number of fueling positions that could be located at the site would only depend on the setback requirements of the CC and OHC design overlay zones. With a minimum 10 foot setback in the proposed OHC overlay zone, less area would be available for fuel dispensers and vehicle queuing than in the current CC zone with no minimum setback. It is unlikely that eliminating the 10 foot setback would allow sufficient area for additional fuel dispenser lanes, so we have assumed no change between the two overlay zones.

The allowed uses are not dependent on the overlays, but are determined by the underlying C-2 zone, and include uses such as hotel, motel, department store, office, retail, theater, and fuel facilities.

Trip generation potential, when based on a building size, would clearly be less in the proposed OHC overlay zone than in the existing CC overlay zone. The following table provides a summary of the total trip generation potential for the two overlay zones and a number of different uses. Trip rates from the Institute of Transportation Engineers' (ITE) *Trip Generation*, have been used in this comparison for office and retail uses, but the higher observed rate at Fred Meyer fuel facilities, as presented in the Traffic Impact Analysis Report, have been used for a fuel facility. The trip comparison is based on new trips only. Pass-by trips are not included as these trips are from vehicles already on the adjacent streets and do not create additional impact on the transportation system. Pass-by trip percentages were estimated from the ITE Trip Generation Handbook and from the fuel facility surveys referenced in the project TIA. Office and medical office uses are assumed to have no pass-by trips, while the fuel facility use is assumed to have 30% pass-by trips (consistent with the TIA prepared for the project) and retail uses have 34% pass-by trips.

Trip Generation Comparison – PM Peak Hour							
Use	Source	Trip Rate		CC Overlay		OHC Overlay	
		Total	New (less pass-by)	Size/units	New Trips	Size/units	New Trips
Fuel	Survey	20.46/position	14.32/position	12 Positions	172	12 Positions	172
Office	ITE 710	1.49/1000 SF	1.49/1000 SF	54,000 SF +/-	80	39,000 SF +/-	58
Medical Office	ITE 720	3.57/1000 SF	3.57/1000 SF	36,000 SF +/-	129	31,700 SF +/-	113
Retail	ITE 820	3.71/1000 SF	2.45/1000 SF	54,000 SF +/-	132	39,000 SF +/-	95
Department Store	ITE 875	1.87/1000 SF	1.23/1000 SF	54,000 SF +/-	67	39,000 SF +/-	48

As noted in the table, trip generation potential is highest for a fuel facility use, which is no different in the existing CC overlay zone or the proposed OHC overlay zone. For all other uses, the trip potential is higher in the existing CC overlay zone due to the larger allowed building size.

Because the change in design overlay zones will not result in increased trip generation potential, there is no significant transportation impact, and no further TPR analysis is required.

Sincerely,



Brent Ahrend, PE  
Senior Associate | Traffic Engineer

Enclosure: Building Area Summary Sheets

c: Steve Abel – Stoel Rives  
James Coombes – Fred Meyer  
Jake Tate – Great Basin Engineering  
Lee Leighton – Westlake



**Canby FM Fuel Site**  
**Alternative Land Use Capacity Calculations by Overlay Zone**

**I. Comparative Yield Calculation: 1-Story Building with Surface Parking, Retail or Office**

	<u>CC</u>		<u>OHC</u>
Site Area	32466		32466
Site Length (N-S)	200		200
Site Width (E-W)	162		162
Assumed # of Floors	1		1
Bldg Footprint (Max. 60% site area)	19480		17700
Assumed East Wall Length	200		180
Calculated Bldg Width	97		98
Min. ROW Setback, feet	0		10
Site Remainder Width (E-W)	65		54
Site Remainder Length (N-S)	200		200
Site Remainder Area, SF	13000		10800
Avg Area per Parking Space	300		300
Max. Pot'l Exterior Parking Spaces	43		36
Min. # Parking Spaces/ksf (Retail/Office)	2		2
Max Parkable Bldg SF (exterior parking only)	21500	limit due to parking capacity >	<b>18000</b>
Max. Area in Building	<b>19480</b>	< limit due to max. building coverage	17700

A single-story building in the CC Overlay could be built at the 60% maximum site coverage ratio (19,480 sf) and provide more than the minimum required number of parking spaces (2.0 spaces per square foot of building floor area).

A single-story building in the OHC Overlay could not be built larger than about 17,700 sf because the remaining site area would not be able to accommodate enough parking spaces to meet the minimum parking requirement.

**Canby FM Fuel Site**  
**Alternative Land Use Capacity Calculations by Overlay Zone**

**II. Comparative Yield Calculation: 2-Story Building with Surface Parking, Retail or Office**

	<u>CC</u>		<u>OHC</u>
Site Area (162' x 200' +/-)	32466		32466
Site Length (N-S)	200		200
Site Width (E-W)	162		162
Assumed # of Floors	2		2
Bldg Footprint	14650		13000
Assumed East Wall Length	200		180
Calculated Bldg Width	73		72
Min. ROW Setback, feet	0		10
Site Remainder Width (E-W)	89		80
Site Remainder Length (N-S)	200		200
Site Remainder Area, SF	17800		16000
Avg Area per Parking Space	300		300
Max. Pot'l Exterior Parking Spaces	59		53
Min. # Parking Spaces/ksf (Retail/Office)	2		2
Max Parkable Bldg SF (exterior parking only)	<b>29500</b>	< limit due to parking capacity >	<b>26500</b>
Max. Area in Building	29300		26000

A two-story building in the CC Overlay could not be built larger than about 14,650 sf because the remaining site area would not be able to accommodate enough parking spaces to meet the minimum parking requirement (2.0 spaces per square foot of building floor area).

A two-story building in the OHC Overlay could not be built larger than about 13,000 sf because the remaining site area would not be able to accommodate enough parking spaces to meet the minimum parking requirement.

**Canby FM Fuel Site**  
**Alternative Land Use Capacity Calculations by Overlay Zone**

**III. Comparative Yield: Maximum Height Building with Surface & Ground Floor Parking, Retail or Office**

	<u>CC</u>		<u>OHC</u>
Site Area (162' x 200' +/-)	32466		32466
Site Length (N-S)	200		200
Site Width (E-W)	162		162
Assumed # of Floors (maximum)	4	< difference in max. height CC/OHC >	3
Bldg Footprint	18000		19480
Assumed East Wall Length	200		180
Calculated Bldg Width	90		108
Min. ROW Setback, feet	0		10
Site Remainder Width (E-W)	72		44
Site Remainder Length (N-S)	200		200
Site Remainder Area, SF	14400		8800
Ground Floor Building Area, SF	18000		19480
Total Available Parking Area, SF	32400		28280
Avg Area per Parking Space	300		300
Max. Pot'l Parking Spaces	108		94
Min. # Parking Spaces/ksf (Retail/Office)	2		2
Max Parkable Bldg SF (exterior parking only)	<b>54000</b>	< limit due to parking capacity	47000
Max. Area in Building (except parking)	54000	limit due to max. building coverage >	<b>38960</b>

The maximum building height in the CC Overlay is 60 feet, which would allow up to a four-story building. Assuming parking on the ground floor as well as surface parking, the building footprint could not be larger than about 18,000 sf because the remaining site + ground floor building area would not be able to accommodate enough parking spaces to meet the minimum parking requirement (2.0 spaces per square foot of building floor area). With three floors at 18,000 sf, such a building would contain 54,000 square feet of leasable space with parking at the minimum standard.

The maximum building height in the OHC Overlay is 45 feet, which would allow up to a three-story building. Assuming parking on the ground floor as well as surface parking, the building footprint could not be larger than about 19,480 sf because of the 60% building coverage limitation. With two floors at 19,480 sf, such a building would contain 38,960 square feet of leasable space with parking exceeding the minimum standard.

**Canby FM Fuel Site**  
**Alternative Land Use Capacity Calculations by Overlay Zone**

**IV. Comparative Yield: Maximum Height Building with Surface & Ground Floor Parking, Medical Office**

	<u>CC</u>		<u>OHC</u>
Site Area (162' x 200' +/-)	32466		32466
Site Length (N-S)	200		200
Site Width (E-W)	162		162
Assumed # of Floors (maximum)	4	< difference in max. height CC/OHC >	3
Bldg Footprint	12000		15833
Assumed East Wall Length	200		180
Calculated Bldg Width	60		88
Min. ROW Setback, feet	0		10
Site Remainder Width (E-W)	102		64
Site Remainder Length (N-S)	200		200
Site Remainder Area, SF	20400		12800
Ground Floor Building Area, SF	12000		15833
Total Available Parking Area, SF	32400		28633
Avg Area per Parking Space	300		300
Max. Pot'l Parking Spaces	108		95
Min. # Parking Spaces/ksf (Medical Office)	3		3
Max Parkable Bldg SF (exterior parking only)	<b>36000</b>	< limit due to parking capacity >	<b>31667</b>
Max. Area in Building (except parking)	36000		31666

The maximum building height in the CC Overlay is 60 feet, which would allow up to a four-story building. Assuming parking on the ground floor as well as surface parking, a medical/dental office building's footprint could not be larger than about 12,000 sf because the remaining site + ground floor building area would not be able to accommodate enough parking spaces to meet the minimum parking requirement (3.0 spaces per square foot of building floor area). With three floors at 12,000 sf, such a building would contain 36,000 square feet of leasable space with parking at the minimum standard.

The maximum building height in the OHC Overlay is 45 feet, which would allow up to a three-story building. Assuming parking on the ground floor as well as surface parking, a medical/dental office building's footprint could not be larger than about 15,833 sf because the remaining site + ground floor building area would not be able to accommodate enough parking spaces to meet the minimum parking requirement (3.0 spaces per square foot of building floor area). With two floors at 15,833 sf, such a building would contain 31,666 square feet of leasable space with parking at the minimum standard.





**SECTION 9: ORIGINAL DRAWINGS & APPLICATION MATERIALS FROM FRED MEYER  
STORES, (5.17.12 TRAFFIC STUDY SEPARATE)**



City of Canby  
Planning Department  
170 N. 2<sup>nd</sup> Avenue  
P.O. Box 930  
Canby, OR 97013  
Ph: 503-266-7001  
Fax: 503-266-1574

## 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: Fred Meyer Stores, Inc. - Jim Coombes Daytime Phone: 503-797-5617  
Mailing Address: 3800 SE 22<sup>nd</sup> Avenue Fax Number: 503-797-3539  
City/State: Portland, Oregon <sup>2</sup> 97202 Email: \_\_\_\_\_

☒ Representative Name: Great Basin Engineering - Jake Tate Daytime Phone: 801-521-8529  
Mailing Address: 2010 North Redwood Road Fax Number: 801-521-9551  
City/State: Salt Lake City, Utah Zip: 84116 Email: jaket@gbesouth.com

☐ Property Owner Name: Oliver Long LLC Daytime Phone: 503-266-2715  
Signature: E Wayne Oliver  
Mailing Address: 101 N. Ivy St. Fax Number: 503-266-2715  
City/State: Canby Or. <sup>2</sup> Email: wayne@oliverinsurance.net

☐ Property Owner Name: E Wayne Oliver Daytime Phone: 503-266-2715  
Signature: E Wayne Oliver  
Mailing Address: 101 N. Ivy St. Fax Number: 503-266-6968  
City/State: Canby Or. 97001 <sup>2</sup> Email: wayne@oliverinsurance.net

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

- ① All property owners represent that 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 Chapters 16.41 and 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 INFORMATION:

351, 369 & 391 SE 1 <sup>st</sup> Ave.; 354 & 392 SE 2 <sup>nd</sup> Ave.	32,466 s.f.	3S1E33DC00100, 00200, 00300, 02200 and 02300
(Street Address or Location of Subject Property)	(Total Size of Property)	(Assessor Tax Lot Numbers)
Vacant Land	C2	HC - Highway Commercial
(Existing Use, Structures, Other Improvements on Site)	(Zoning)	(Comp Plan Designation)

#### PROPOSED PROJECT INFORMATION:

A gasoline distribution facility having 6 multi-product dispensers (gasoline & diesel).

(Describe the Proposed Development or Use of Subject Property)

STAFF USE ONLY - DO NOT WRITE BELOW - STAFF USE ONLY

X

Vicki Lang

X

Wayne M. Lang

# TEXT AMENDMENT APPLICATION

FEE \$2,880  
PROCESS TYPE IV

## OWNERS

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

Address PO Box 353

City Canby State OR Zip 97013

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

E-mail ryan@oliverinsurance.net

## APPLICANT\*\*

Name Great Basin Engineering - Jake Tate

Address 2010 North Redwood Road

City Salt Lake City State UT Zip 84116

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

E-mail jaket@gbesouth.com


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

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

☐ Fax  
☐ Fax

## OWNERS' SIGNATURES

  
E. Wayne Oliver

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

## DESCRIPTION OF PROPERTY

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

## USE OF PROPERTY

Existing Use: Vacant Land

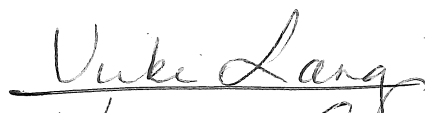

Proposed Use: Gasoline Distribution Facility

Existing Structures: None

ZONING: C-2

COMPREHENSIVE PLAN DESIGNATION: HC – Highway Commercial

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

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

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

**CITY OF CANBY  
ZONE MAP CHANGE APPLICATION**

Fee \$2,640

**OWNERS**

**APPLICANT\*\***

Name Oliver & Lang, LLC and E.Wayne Oliver

Name Great Basin Engineering - Jake Tate

Address PO Box 353

Address 2010 North Redwood Road

City Canby State OR Zip 97013

City Salt Lake City State UT Zip 84116

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

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☐ Fax

**OWNERS' SIGNATURES**

E. Wayne Oliver  
E. Wayne Oliver

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

**DESCRIPTION OF PROPERTY**

Address 351, 369 & 391 SE 1<sup>st</sup> Avenue and 354 & 392 SE 2<sup>nd</sup> Avenue

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

Existing Use Vacant Land

Proposed Use Gasoline Distribution Facility

Existing Structures None

Zoning C-2

Comprehensive Plan Designation HC - Highway Commercial

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

Previous Land Use Action (If any) N/A

**FOR CITY USE ONLY**

File # :

Date Received:

By:

Completeness:

Pre-App Meeting:

Hearing Date:

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

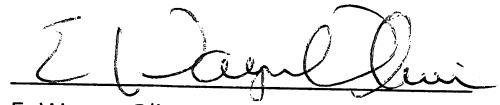
## Appointment of Authorized Agents

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

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

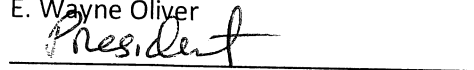
Oliver & Lang, L.L.C.

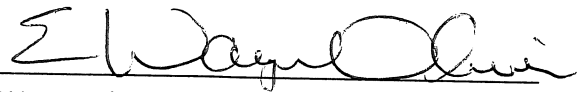
By:



E. Wayne Oliver

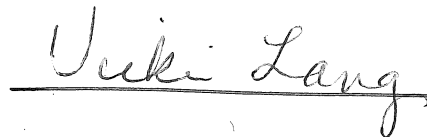
Its:

  
President

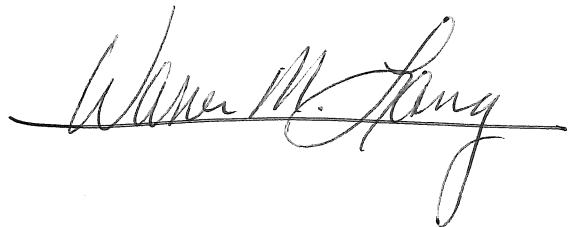


E. Wayne Oliver

X



X



**CITY OF CANBY**  
**ZONE MAP CHANGE APPLICATION**

Fee \$2,640

RECEIVED

AUG 13 2012

CITY OF CANBY

**OWNERS**

**APPLICANT\*\***

Name Oliver & Lang, LLC and E.Wayne Oliver

Name Great Basin Engineering - Jake Tate

Address PO Box 353

Address 2010 North Redwood Road

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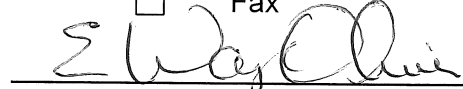
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Oliver & Lang, L.L.C.

By: E. Wayne Oliver  
E. Wayne Oliver  
Its: President

E. Wayne Oliver  
E. Wayne Oliver

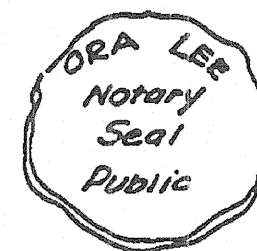
X Debbie Lang  
X Warren M. Lang



Know All Men by these Presents:-  
That I, Albert Lee have caused the lands shown on the annexed plat to be surveyed laid out and platted into lots and blocks, streets and alleys, to be known as Albert Lee's Second Addition to the City of Canby, Oregon, and that the streets are as shown on the accompanying Plat and are hereby dedicated to the use of the public forever.  
Albert L. Lee  
Subscribed and sworn to before me this 6th day of Sept. 1911  
Geo. M. Lee  
Notary Public for the State of Oregon



I, F.M. Roth being first duly sworn do depose and say that I have accurately surveyed and marked with proper monuments the lands shown on the annexed plat and that I have planted a stone (8"x8"x11") at the initial point that bears N 63° E. 40 feet from the N.E. corner of Albert Lee's First Addition to the City of Canby, Oregon.  
The lands platted is in Clackamas County, State of Oregon, and is more particularly described as follows:- Beginning with a point which bears N 63° E. 40 feet and N 27° W. 60 feet from the N.E. Corner Block 2 of Albert Lee's First Add. to Canby, Oregon, running thence N 63° E. 412.8 feet to the center line of Fanton Street, thence S 27° E. tracing center line of Fanton Street 300 feet more or less to the Southerly line of East Second Street, thence S 63° W. tracing the Southerly line of S. Second Street 417.8 feet to the Easterly line of "M" Street, thence tracing Easterly line of "M" Street N. 27° W. 300 feet to the place of Beginning and containing acres more or less situate in Sec. 33, T.3S. R.1E. W.1M.  
F. M. Roth.



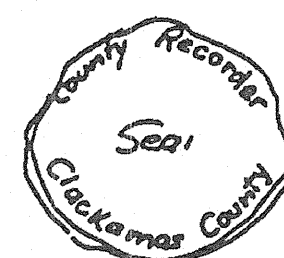
Subscribed and sworn to before me this 6th day of Sept. 1911.  
Geo. M. Lee  
Notary Public in and for Oregon

State of Oregon } S.S.  
County of Clackamas



Approved this 7th day of Sept. 1911. By the County Court of Clackamas County.  
By: R.B. Beattie County Judge  
W.H. Maiton " Comm-  
N. Blair " "  
Approved J.E. Blair County Assessor  
Attest W.L. Mulvey " Clerk  
By: E.T. Quinn Deputy

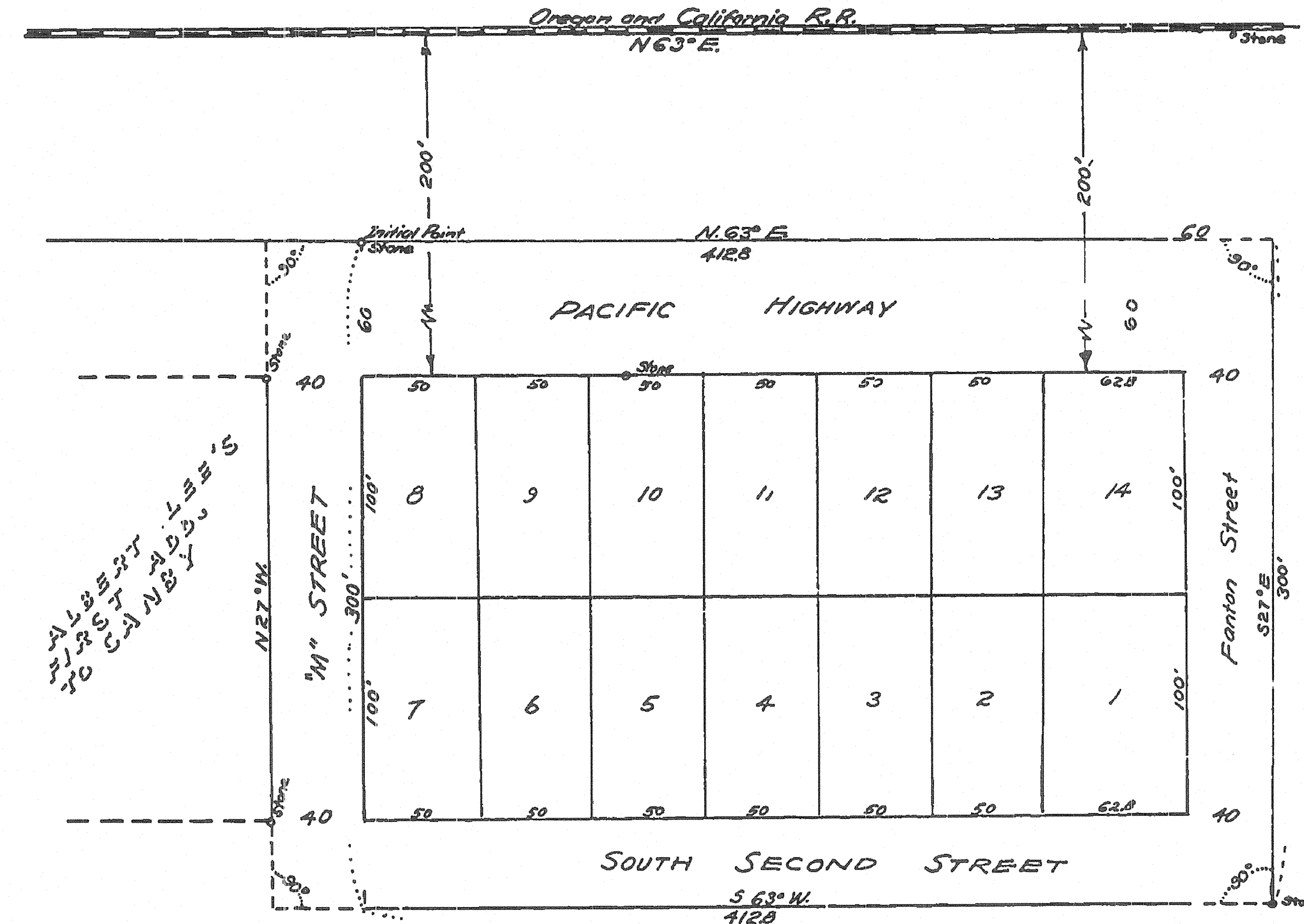
State of Oregon } S.S.  
County of Clackamas



I L.E. Williams Recorder in and for said County do hereby certify that the within instrument was received for record this 8th day of Sept. 1911 at 2:45 o'clock P.M. and that this is a correct transcript of the original plat. In Testimony Whereof, I have hereunto set my hand and affixed my seal this 8th day of Sept. 1911.  
L. E. Williams  
Recorder of conveyances for Clackamas County, Oregon.

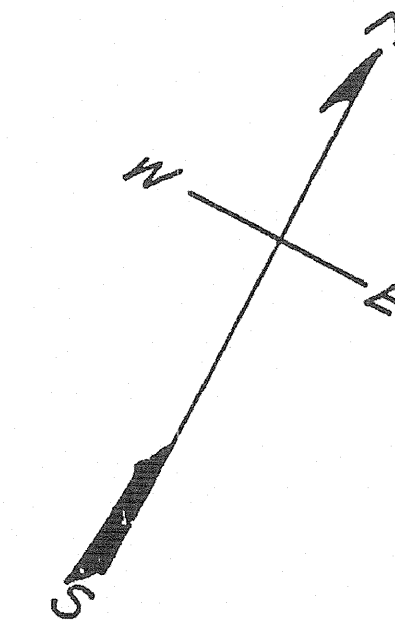
Approved S.A.D. Hingate  
Dep. C. S.

This tracing is a true copy of "ALBERT LEE'S SECOND ADDITION TO CANBY OREGON.", recorded in Book 10, Page 30, Record of Town Plats. Made in compliance with O.R.S. 92-130 by J.M. Skimming on Feb. 6, 1957.  
J.M. Skimming



# ALBERT LEES SECOND ADDITION TO CANBY OREGON

Scale 1"=50'



3 IE 33DC  
CANBY

This map was prepared for  
assessment purpose only.

D.L.C.  
UNDER LEE NO. 56

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

CLACKAMAS COUNTY

1"=100'

SEE MAP 3 IE 33DB

CAN

-42  
R

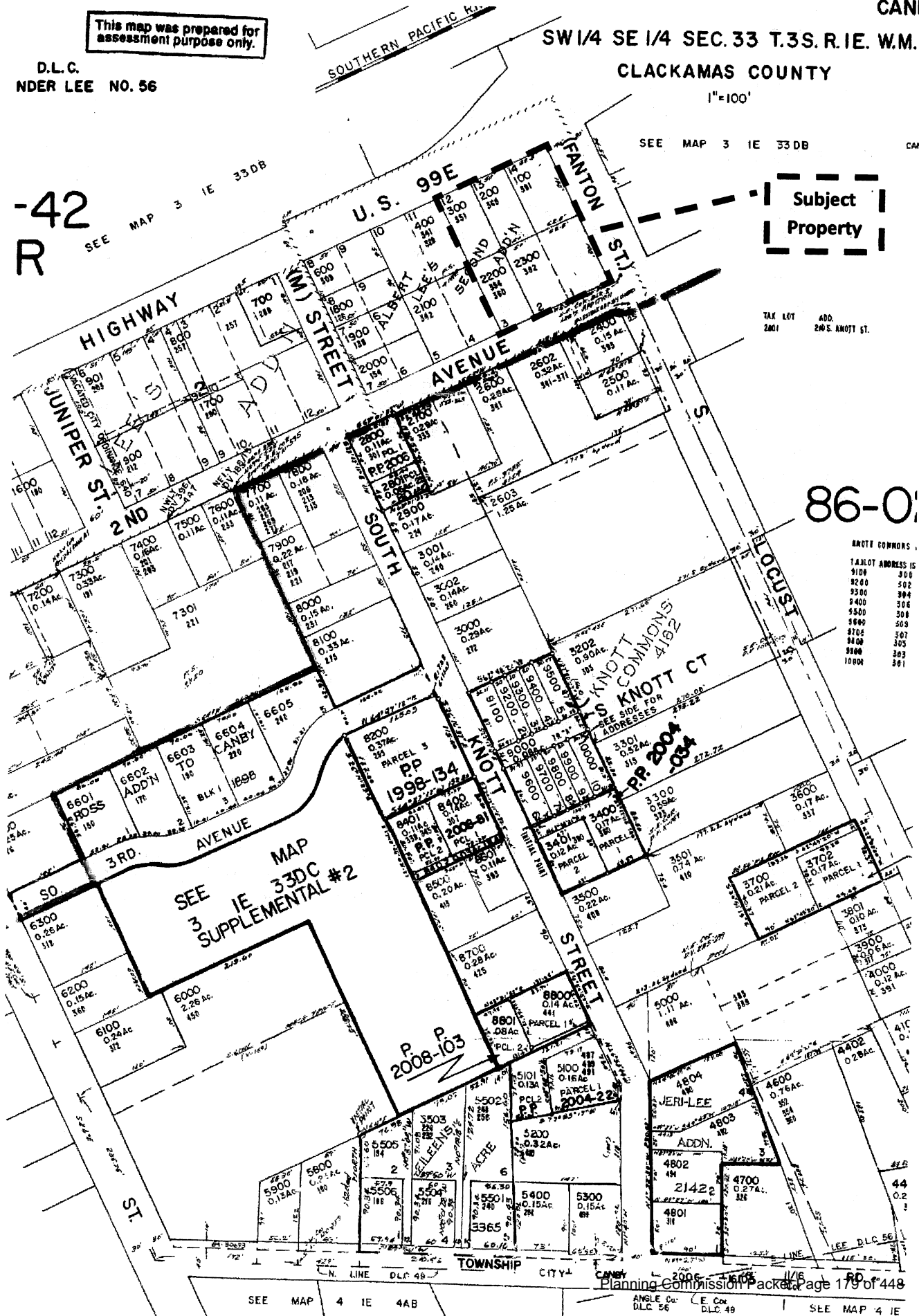
SEE MAP 3 IE 33DB

Subject  
Property

TAX LOT ADD.  
2801 240 S. KNOTT ST.

86-01

KNOTT COMMONS  
TAXLOT ADDRESS IS  
9100 300  
9200 302  
9300 304  
9400 306  
9500 308  
9600 309  
9700 307  
9800 305  
9900 303  
10000 301



# **GREAT BASIN ENGINEERING - South**

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



CONSULTING ENGINEERS  
AND LAND SURVEYORS

May 17, 2012

City of Canby  
Attention: Bryan Brown  
111 NW 2<sup>nd</sup> Avenue  
Canby, Oregon 97013

Re: Type III Site & Design Review Associated with the Proposed Fred Meyer Fuel Center #651

Bryan,

The purpose of this written statement is to provide the City of Canby Planning Department and the Planning Commission with information regarding the proposed Fred Meyer Fuel Center and how it meets the Municipal Code. Also addressed in the statement is the availability and adequacy of public facilities & services.

## **Project Background**

Fred Meyer Stores, Inc. is proposing a 6 multi-product dispenser fuel center at the southeast corner of SE 1<sup>st</sup> Avenue (Hwy 99E) and Locust Street. The project includes a 92' x 58' fuel canopy, two underground fuel storage tanks (one 20,000 gal. unleaded tank and one split tank with 10,000 gal. diesel & 8,000 gal. supreme unleaded), an attendant kiosk, a mechanical equipment kiosk with restroom, dumpster enclosure, storage shed, propane tank refueling station and an air/water pad. Also, included in the project will be the associated asphalt circulation and queuing areas, parking stalls, site curbing and sidewalks.

The site is zoned C-2 Highway Commercial where a service (fueling) station is an outright permitted use. The site also is located at the easternmost edge of the Core Commercial (CC) area of the Downtown Canby Overlay (DCO) Zone. A text amendment to the zoning code is being filed concurrently with this application which will move the subject property into the Outer Highway Commercial Overlay Area (OHC). This is being done after a review of the City's Municipal Code made it evident that while the proposed fuel station is a permitted use in the underlying C-2 zone, the DCO development standards were not written with a fuel station in mind. In an attempt to follow the code as much as possible the OHC's design standards fit the nature and intent of a fuel station with its "automobile-oriented" focus much better than the CC area's "pedestrian friendly environment" focus. Detailed information regarding the text amendment can be found in the documents submitted for that request. Please refer to those documents if additional information is needed. This document has been written under the assumption that the text amendment will be approved and that the OHC design standards will be imposed on the site. Discussion will be given on how the project meets these requirements and, where necessary, identify items in the code that are incompatible with a fueling station.

### **Downtown Canby Overlay Development Standards**

Section 16.41.050 of the municipal code sets development standards for the DCO area and each of the three subareas. Before proceeding a point of clarification is necessary to help identify how we have applied the definition of the terms “building” and “structure” with relation to the proposed project. Per Section 16.04.090 of the Code, the term building *means a structure for the shelter or enclosure of persons, animals, chattels or property of any kind*. Section 16.04.590 lists indicates that a structure *means that which is built or constructed. Structure means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground*. Based on these definitions we are proceeding with the understanding that the attendant kiosk under the canopy and mechanical/restroom kiosk would be considered the “buildings” and that the canopy itself would be considered a “structure”. The proposed project complies with the following areas of the development standards set forth by the code:

- The absence of a maximum setback distance in Table 1 of section 16.41.050 in the OHC subarea allows the canopy which is located approximately 74’ 9” from the street lot line to meet the setback requirements. [Section 14.49.050 (A)(1)]
- The maximum building footprint of 80,000 sq. ft. per use is met. [Section 14.49.050 (A)(2)]
- The maximum building height or 45’ is met. [Section 14.49.050 (A)(2)]
- A dumpster enclosure is provided to screen garbage collection area. It will be located away from the street and have a stone veneer to match the stone used on other areas of the project. It will be buffered by landscaping on the two exposed sides. [Section 14.49.050 (A)(3)(a-c)]
- Roof top mechanical equipment will be screened from view using a parapet wall. [Section 14.49.050 (A)(3)(d)]
- A 5’ wide landscape strip has been provided around the perimeter of all parking and maneuvering areas particularly between the parking stalls and the side lot line of the adjacent property. [Section 14.49.050 (A)(4)(b)(2)]

The following areas of the Section 16.41.050 development standard do not appear to apply to a fueling station.

- The requirement that a minimum of 40% of the length of each lot frontage shall be developed with a building built at the minimum setback (10’ on the OHC subarea) from the street lot line. [Section 14.49.050 (A)(1)(b)]
  - ♦ This requirement cannot be met since our buildings are only a total of 143 sq. ft. and very small in nature. The proposed use does not have a building large enough to meet this requirement.
- The requirement that a minimum floor area ration of 0.25 be provided. [Section 14.49.050 (A)(2)]
  - ♦ The kiosk’s and canopy only achieve a floor area ration of 0.17. The only way to increase this ratio is to increase the canopy which is not possible with the site area available.

- The requirement that parking and maneuvering areas shall be set back a min. 15' from front lot line. [Section 14.49.050 (A)(4)(b)(1)]
  - ◆ The request by the City of Canby and ODOT to maintain the shared access with the neighbor to the west makes this requirement difficult to meet.
- The requirement that parking and maneuvering areas must not exceed 60% of the lot frontage. [Section 14.49.050 (A)(4)(b)(3)]
  - ◆ This criterion cannot be met for the same reason as the first item relating to the building frontage. The project does not have a large enough building to take up 40% of the frontage which would leave 60% of the frontage for parking and maneuvering. The small nature of the buildings for this project therefore requires a larger portion of the frontage for maneuvering purposed out of necessity.

### **DCO Site and Design Review Standards**

Section 16.41.070 identifies site and design review standards to be imposed on properties in the DCO areas. These standards provide a basis for the appearance of the proposed development, many of these standards to not apply to a fueling station. Below is a summary of the standards and their applicability to this project.

#### **Section 16.41.070 (A) – Pedestrian Oriented Ground Floor Design**

- Standard 1 – Ground Floor Windows – Not applicable to this project. The only windows on this project are on the attendant kiosk under the canopy which has a width of 4' along the primary street facing façade.
- Standard 2 – Building Entries and Doors – Not applicable to this project. There are no areas that the public can enter through an entry or door on this project.
- Standard 3 – Transition Areas – Not applicable to this project. These requirements are not required in the OHC subarea.
- Standard 4 – Additional Standards for Residential-Only Buildings – Not applicable to this project. This project is not a residential building.

#### **Section 16.41.070 (B) – Cohesive Architectural Element Standards**

- Standard 1 (a) – Bay Divisions – The requirement that architectural bays be divided by columns no more than 50' apart is met by the proposed canopy having column spacing of only 34'.
- Standard 1 (b) – Height of Bays – Not applicable to this project. The bays are 15' 6" high which puts them under the height limit of this requirement.
- Standard 1 (c) – Design Elements – This requirement is met through the use of engaged columns having stone veneer bottom and stucco textured upper. Also the canopy is provided along 100% of the street-facing building length.
- Standard 1 (d) – Decorative Accents – Not applicable to this project. None of the listed options are applicable to a fuel center.

#### **Section 16.41.070 (C) – Integrated Building Façade Standards**

- Standard 1 – Distinct Top, Middle and Base of Building – This requirement will be met by using a stone veneer on the bottom of all columns and kiosks. The middle area will

use textured stucco on columns and kiosks (where windows are not located) and both the kiosks and canopy will be capped with textured fascia and the Fred Meyer logo.

- Standards 2-3 – Not applicable in the OHC subarea
- Standard 4 – Top of Flat Roof Design Element – This requirement is met through the addition of a cornice to the top of the canopy.

#### Section 16.41.070 (D) – Corner Intersection Standards

- Standard 1 – Corners – Not applicable in the OHC subarea.

#### Section 16.41.070 (E) – Materials Standard

- Standard – This requirement is met through the use of stone and stucco textured materials across the site.

#### Section 16.41.070 (F) – Color Palette

- Standard – This requirement has been met through the use of neutral colors like those found in the Sherwin-Williams Arts and Crafts color palette.

#### Site Design Review Menu Compliance (Table 16.49.040)

Section 16.49.040 of the municipal code indicates that the board shall use the matrix found in Table 16.49.040 to determine if a Type III Site and Design Review Application is compatible with developments in the same general vicinity, that materials and colors are similar and that LID practices are used whenever feasible. The requirement is that 70% of the criteria in the matrix be used with 15% of these points being LID elements from the matrix. The following table summarizes the matrix and this projects ability to comply with the criteria.

Design Criteria	Applicable to Project (Y/N)	Points Achieved	Points Possible	Notes
<b>Parking</b>				
Screening of loading facilities from public right-of-way	N	0	0	No loading facilities are proposed
Parking lot lighting provided	Y	1	1	Yes
Parking location	Y	1	2	Parking on side of Bldg.
Number of parking spaces provided	Y	2	2	Req'd=2; Prov=2
<b>Access</b>				
Distance of access to nearest intersection	Y	2	2	>100 feet
Pedestrian walkways from public street to building entrance	Y	2	2	All entrances connected
Pedestrian walkways from parking lot to building entrance	Y	2	2	No more than 1 undesignated crossing
<b>Tree Retention</b>				
Trees outside of bldg footprint and parking/access areas	N	0	0	No existing trees outside of access areas

<b>Design Criteria</b>	<b>Applicable to Project (Y/N)</b>	<b>Points Achieved</b>	<b>Points Possible</b>	<b>Notes</b>
Replacement of trees removed	N	0	0	4 removed, 17 added
<b>Signs</b>				
Dimensional size of sign	Y	0	2	>75% max
Similarity of sign color to building color	Y	1	2	Stone veneer use onsite to be used on sign
Pole sign used	Y	1	1	No pole sign
Location of sign	Y	0	1	>25 feet from driveway
<b>Building Appearance</b>				
Style	Y	1	1	Gas station to east
Color	Y	2	2	Subdued and similar
Material	Y	2	2	City recommended materials used
Size of Building	Y	1	1	< 20,000 sq. ft.
<b>Landscaping</b>				
Number of non-required trees provided	Y	1	1	1 tree provided for every 290 sq. ft. of landscape
Amount of grass	Y	2	2	Grass < 25% of total landscape
Location of shrubs	Y	1	1	Background
<b>LowImpactDevelopment (LID)</b>				
Use of pervious paving materials	N	0	0	Pervious paving is not recommended for fueling stations
Provision of park or open space for public use	Y	2	4	Open space provided
Use of drought tolerant species	Y	4	4	>75% drought tolerant species to be used
Provision of additional interior parking lot landscaping	N	0	0	Not possible with this site
Provision of an eco-roof or roof top garden	N	0	0	No roof access provided to maintain and not visible from street due to parapet
Parking integrated within building footprint	N	0	0	Not possible with this site
Disconnecting downspouts from city storm water facilities	N	0	0	Only applicable for existing buildings
Shared parking with adjacent uses or public parking structure	Y	0	2	None provided
<b>Totals</b>		<b>28</b>	<b>37</b>	<b>75% of Total, 16% LID</b>



Our review of this project indicates that the criteria identified in the Site Design Review Menu Matrix are satisfied with the project achieving 75% of the total points possible. Of these points 16% are LID requirements.

### **Public Facilities**

The site has access to all necessary public utilities and facilities. Water, sewer, gas, power and phone are all directly adjacent to the site and available for use by the development. A pre-application meeting was held with the City at which time no deficiencies were identified by those in attendance for the services available to the site. Storm water will be collected, treated and infiltrated onsite. No connection to a City storm drain facility will be required.

### **Summary**

This written statement has been provided to the City of Canby at the request of Fred Meyer Stores, Inc. to provide details regarding a proposed fuel station at the southwest corner of SE 1<sup>st</sup> Aveney (Hwy 99E) and Locust Street. While a service (fueling) station is an outright permitted use in the underlying C-2 highway commercial zone, the additional requirements of the Downtown Canby Overlay Zone are not written to accommodate a fuel station. This letter has identified the portions of the code that can be met by the proposed development and also the portions that cannot be met. While in some cases alternate methods have been proposed many instances remain where the development standards just does not apply to a fuel station. We look forward to working together with the City to find a solution that will allow this permitted use to be constructed as allowed by the code while meeting the intent of the DCO zone to the most complete extent possible. Should you require additional information or have any questions please contact me at (801) 521-8529.

Sincerely,

GREAT BASIN ENGINEERING – SOUTH



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



## SITE AND DESIGN REVIEW APPLICATION: LANDSCAPING CALCULATIONS

### Site Areas

1. Building area	5,447	- Square footage of building footprints
2. Parking/hardscape	22,084	- Square footage of all sidewalks, parking, & maneuvering areas
3. Landscaped area	4,935	- Square footage of all landscaped areas
4. Total developed area	32,466	- Add lines 1, 2 and 3
5. Undeveloped area	0	- Square footage of any part of the site to be left undeveloped.
6. Total site area	32,466	- Total square footage of site

### Required Site Landscaping (Code 16.49.080)

7. Percent of landscaping required in Zoning District	15%	- 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	4,870	- Multiply line 4 and line 7
9. Proposed square footage of landscaping	4,935	- Fill in value from line 3

### Required Landscaping within a Parking Lot (Code 16.49.120(4))

*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	N/A	- 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	N/A	
12. Area of parking lot & hardscape	N/A	- 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	N/A	- 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	N/A	- 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	N/A	- Calculate the amount of landscaping proposed within 10 feet of all parking and maneuvering areas.

## SITE AND DESIGN REVIEW APPLICATION: PARKING LOT TREE CALCULATION

16. Number of parking spaces	N/A	- Total number of vehicle parking spaces
17. Area of parking lot & hardscape	N/A	- Area from line 12
18. Number of parking spaces (line 16) divided by 8	N/A	- Round <b>up</b> to the nearest whole number
19. Area of parking lot area (line 17) divided by 2,800	N/A	- Round <b>up</b> to the nearest whole number
20. Number of required trees in parking lot	N/A	- Fill in the <b>larger</b> of row 18 and row 19
21. Number of trees provided within 10 feet of parking lot	N/A	- Fill in the number of proposed trees within 10 feet of parking and maneuvering areas.

## Fred Meyer – Canby Site Design Review Application

### Supplemental Recommended Findings

July 12, 2012

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

#### **16.49.040      *Criteria and standards.***

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

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

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

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

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

[not applicable to this Type III application]

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

*16.41.070.A. Pedestrian oriented ground floor design standards.*

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

*16.41.070.B. Cohesive architectural elements standards.*

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

*16.41.070.C. Integrated building façade standards.*

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

*16.41.070.D. Corner intersection standards.*

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

*16.41.070.E. Materials standards.*

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

*16.41.070.F. Color palette.*

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

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

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

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

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

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

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

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

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

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

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

### **Summary and Conclusion**

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

# **GREAT BASIN ENGINEERING - South**

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



CONSULTING ENGINEERS  
AND LAND SURVEYORS

May 7, 2012

City of Canby  
Attention: Bryan Brown  
111 NW 2<sup>nd</sup> Avenue  
Canby, Oregon 97013

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

Bryan,

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

## **Project Background**

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

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

## **Proposed Text Amendment**

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

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

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

### **Justification for Text Amendment**

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

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



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

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

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

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

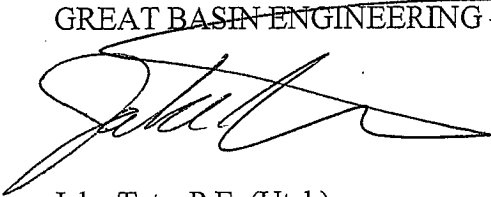
its fuel centers meet and in most cases exceed all Local, State and Federal requirements. Especially those related to underground storage of fuel, vapor recovery activities and any other requirement specific to a gasoline distribution facility.

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

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

Sincerely,

GREAT BASIN ENGINEERING – SOUTH

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

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

## Fred Meyer – Canby Text Amendment Application

### Supplemental Recommended Findings

July 12, 2012

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

#### **Proposed Text Amendment**

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

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

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

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

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

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

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

### Justification for Text Amendment

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

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

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

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

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

#### **Compliance with Approval Criteria**

##### ***16.88.160 Amendments to text of title.***

...

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

- 1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;*

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

2. *A public need for the change;*

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

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

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

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

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

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

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

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

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

5. *Statewide planning goals.*

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

**Goal 1 Citizen Involvement**

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

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

### **Goal 2 Land Use Planning**

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

### **Goal 3 Agricultural Lands**

### **Goal 4 Forest Lands**

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

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

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

### **Goal 6 Air, Water and Land Resources Quality**

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

### **Goal 7 Areas Subject to Natural Hazards**

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



### **Goal 8 Recreational Needs**

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

### **Goal 9 Economic Development**

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

### **Goal 10 Housing**

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

### **Goal 11 Public Facilities and Services**

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

### **Goal 12 Transportation**

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

### **Goal 13 Energy Conservation**

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

### **Goal 14 Urbanization**

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

### **Goal 15 Willamette River Greenway**

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

### **Goal 16 Estuarine Resources**

### **Goal 17 Coastal Shorelands**

### **Goal 18 Beaches and Dunes**

### **Goal 19 Ocean Resources**

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

### **Summary and Conclusion**

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

## Fred Meyer – Canby Site Design Review Application

### Supplemental Recommended Findings

July 12, 2012

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

#### **16.49.040      *Criteria and standards.***

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

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

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

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

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

[not applicable to this Type III application]

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

*16.41.070.A. Pedestrian oriented ground floor design standards.*

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

*16.41.070.B. Cohesive architectural elements standards.*

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

*16.41.070.C. Integrated building façade standards.*

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

*16.41.070.D. Corner intersection standards.*

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

*16.41.070.E. Materials standards.*

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

*16.41.070.F. Color palette.*

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

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

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

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

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

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

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

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

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

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

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

### **Summary and Conclusion**

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







## **Pre-Application Meeting**

**Fred Meyer Gas Station**

**February 28, 2012**

**11:00 am**

### **Attended by:**

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

Adam Schatz, Fred Meyer, 503-797-3026

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

Jerry Nelzen, Public Works, 503-266-4021

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

Bryan Brown, Planning Dept, 503-266-7001

Avi Tayar, ODOT, 503-731-8221

Jim Coombes, Fred Meyer, 503-797-5617

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

Dan Mickelsen, Public Works, 503-266-4021

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

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

Seth Brumley, ODOT, 503-731-8534

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

### **GREAT BASIN ENGINEERING, Jake Tate**

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

### **CURRAN-MCLEOD ENGINEER, Hassan Ibrahim**

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

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

#### **CITY OF CANBY, PUBLIC WORKS DEPARTMENT, Jerry Nelzen**

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

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

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

#### **CANBY UTILITY, WATER DISTRIBUTION DEPARTMENT, Doug Quan**

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

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

**OREGON DEPARTMENT OF TRANSPORTATION, Avi Tayar**

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

**CITY OF CANBY, PLANNING DEPARTMENT, Bryan Brown**

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

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



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

ODOT District 2B

9200 SE Lawnfield Rd.

Clackamas, OR 97015

(971) 673-6228

Fax: (503) 653-5655

loretta.l.kieffer@odot.state.or.us

August 15, 2012

File Code: PMT 4-17

James Coombs  
Fred Meyer Stores  
3800 SE 22nd Ave.  
Portland, OR 97202

**Subject: Approval of Application for State Highway Approach  
and  
Submittal Requirements for Construction Drawings and Plans**  
Highway Number 081, (Pacific Hwy. East [001E]),  
at Mile Point 20.94  
Application Number 17612

Dear James Coombs:

I am pleased to inform you that the Oregon Department of Transportation (ODOT) has approved your *Application for State Highway Approach*.

In order to build your new highway approach, ODOT requires that it be constructed in accordance with a *Permit to Construct a State Highway Approach*. The intention behind this requirement is to ensure that the highway operates safely while you are engaged in construction on the state right-of-way and afterwards when you are operating the approach.

In order to obtain your *Permit to Construct a State Highway Approach* you must have construction drawings and plans drawn up and approved by the Department. Your drawings and plans should include the following information about the approach itself:

- (a) Grade profile;
- (b) Base and surface design;
- (c) Design for type of approach;
- (d) Erosion control plan for construction;
- (e) Pollution control plan for construction;
- (f) ODOT traffic control devices and/or signs; and
- (g) ODOT traffic control lines and/or striping.
- (h) According to site plan you will be creating a joint approach with the

adjacent property to the west. The connection to the adjacent property from the proposed approach will be one-way into the adjacent site. The existing approach on the east edge of the adjacent property and the existing driveway on the subject property will be closed and the curb and sidewalk reconstructed at those locations.

(i) Please show on site signage and striping to accommodate new site circulation for one consolidated shared approach on construction plans.

{As required: Structural details of grade-separated structures must be included in the construction drawings and plans.}

Because ODOT is particularly concerned about whether the completed approach will be able to serve the vehicles that will be using it, you must also attach the following information as exhibits in your package of drawings and plans:

- (1) The maximum gross weight of vehicles and loads, and gross axle weights,
- (2) The types of vehicles that will use the approach(es), including diagrams showing types of truck and trailer combinations, maximum width and overall length, distance between axles, maximum axle weights and size and number of tires per axle.

{As required: ODOT requires that an operated test vehicle of the type and dimension to be used at the proposed approach be supplied. The applicant, at the sole expense of the applicant, shall supply this vehicle.}

Because ODOT's approval of your approach was based on current conditions on the highway, it is important to keep moving forward in a timely manner toward the construction permit. Please submit your drawings and plans **no later than 5:00 PM on 10/14/2012** to the following address:

Loretta Kieffer, District Access Management Coordinator  
ODOT District 2B  
9200 SE Lawnfield Rd.  
Clackamas, OR 97015

If necessary, the Department may extend the time for your submittal of drawings and plans if both you and the Department agree in writing before the deadline listed above. Please contact me at (971) 673-6228 if you would like to request an extension of time.

After you submit construction drawings and plans, the Department will contact you if any additional information is needed for approval. We will notify you when your drawings and plans are approved and provide instructions at that time for you to obtain a *Permit to Construct*. You may not begin any work in the highway right of way until you receive a Permit to Construct signed by the Department.

If you have any questions regarding the requirements of the construction drawings and plans, please feel free to contact me. I welcome the opportunity to assist you.

Sincerely,

Loretta Kieffer, District Access Management Coordinator

ODOT District 2B, Maintenance Office







# Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

District 2B

9200 SE Lawnfield Rd.

Clackamas, OR 97015

(971) 673-6228

Fax: (503) 653-5655

loretta.l.kieffer@odot.state.or.us

File Code: PMT 4-49

August 02, 2012

James Coombs  
Fred Meyer Stores  
3800 SE 22nd Ave.  
Portland, OR 97202

**Subject: Completeness Determination: Application Deemed Complete**  
Highway Number 081, (Pacific Hwy. East [001E]),  
at Mile Point 20.94  
Application Number 17612

Dear James Coombs:

As required by OAR 735-051-3040, the Oregon Department of Transportation (ODOT) has finished its Completeness Determination of the materials you submitted with your *Application for State Highway Approach*. We are pleased to inform you that your application has been deemed complete.

The next step is to determine whether your proposed approach can be approved pursuant to the provisions of OAR 734-051-4010, -4020, and -3050. ODOT is required to make a final decision about your application within 60 calendar days of the date of this letter.

If we anticipate that we will not be able to approve your approach as described in your application package, we will notify you in advance of the final decision and invite you to participate in a Pre-Decision Collaborative Discussion process in an effort to reach a more favorable decision is possible.

If you have any questions, you may contact me at (971)673-6228.

Sincerely,

Loretta Kieffer, District Access Management Coordinator  
ODOT District 2B, Maintenance Office



## **Canby Neighborhood Review Meeting Notes**

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

Date: April 4, 2012

Time: 6:00 PM-7:30 PM

Location: Hope Village Community Center

Address: 1535 S. Ivy St Canby, OR 97013

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

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

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

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

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

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

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

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

# CANBY NEIGHBORHOOD MTG. 4-4-12

## MAILING LIST

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

## **Canby Neighborhood Review Meeting Notes**

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Jay Gravening	P.O. Box 548 Canby, OR 97013

August 8, 2012

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

RECEIVED

AUG 09 2012

CITY OF CANBY

Dear Resident or Property Owner:

This notice is provided to you pursuant to Canby City Code Section 16.89.070 and is with respect to an approximately  $\frac{3}{4}$ -acre property located on the west side of S. Locust Street, between SE 1<sup>st</sup> Avenue (Highway 99) and SE 2<sup>nd</sup> Avenue. The property consists of Tax Lots 100, 200, 300, 2200 and 2300 of Clackamas County Tax Map 3 1E 33DC. The base zone is Highway Commercial (C-2). The site is also in the Downtown Canby Overlay Zone (DCO) at the eastern edge of the Core Commercial (CC) sub-area.

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

The meeting is scheduled for:

Date: Tuesday, August 28, 2012

Time: 6:00-7:30 PM

Location: Hope Village Community Center

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

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

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

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

Sincerely,



James Coombes  
Fred Meyer Stores, Inc.

Planning Commission Packet Page 228 of 448



## **Canby Neighborhood Review Meeting Notes**

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

Date: August 28, 2012

Time: 6:00 PM-7:30 PM

Location: Hope Village Community Center

Address: 1535 S. Ivy St Canby, OR 97013

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

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

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

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

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

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

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

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

August 8, 2012

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

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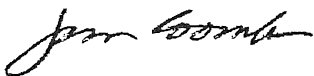
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Sincerely,



James Coombes  
Fred Meyer Stores, Inc.

Planning Commission Packet Page 228 of 448

NEIGHBORHOOD MEETING AUGUST 28, 2012

ATTENDANCE -  
MAILING LIST

NAME	ADDRESS OR CONTACT
Vicki Lang	1320 SE 8th Ave vic711@hotmail
Wayne Oliver	101 N. Ivy St. Canby Or 97003 <sup>com</sup>
wayne@oliverinsurance.net	
Cristobal Lopez	154 S. Knott St Canby
Roger Skoe	1853 N. Teakwood Cir. Canby
JIM COOMBS	3800 SE 22ND AVE PORTLAND OR 97202

August 8, 2012

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ON PROPOSED FRED MEYER FUEL CENTER

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Sincerely,



James Coombes  
Fred Meyer Stores, Inc.

# GROUP MACKENZIE

July 6, 2012

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

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

Dear Mr. Brown:

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

## OBSERVATIONS

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

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

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

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

P.O. Box 14310 | Portland, OR 97293

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

**Group  
Mackenzie,  
Incorporated**

Architecture

Interiors

Structural  
Engineering

Civil Engineering

Land Use Planning

Transportation  
Planning

Landscape  
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### Locations:

Portland, Oregon

Seattle, Washington

Vancouver, Washington

### ***Morning Peak***

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

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

### ***Afternoon Peak***

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

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

## **EVALUATION**

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

### ***Morning Peak***

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

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

### ***Afternoon Peak***

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

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

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

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



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

## SUMMARY

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

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

Sincerely,



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

Enclosures: Queue Exhibits, 5-Minute Interval Summaries

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



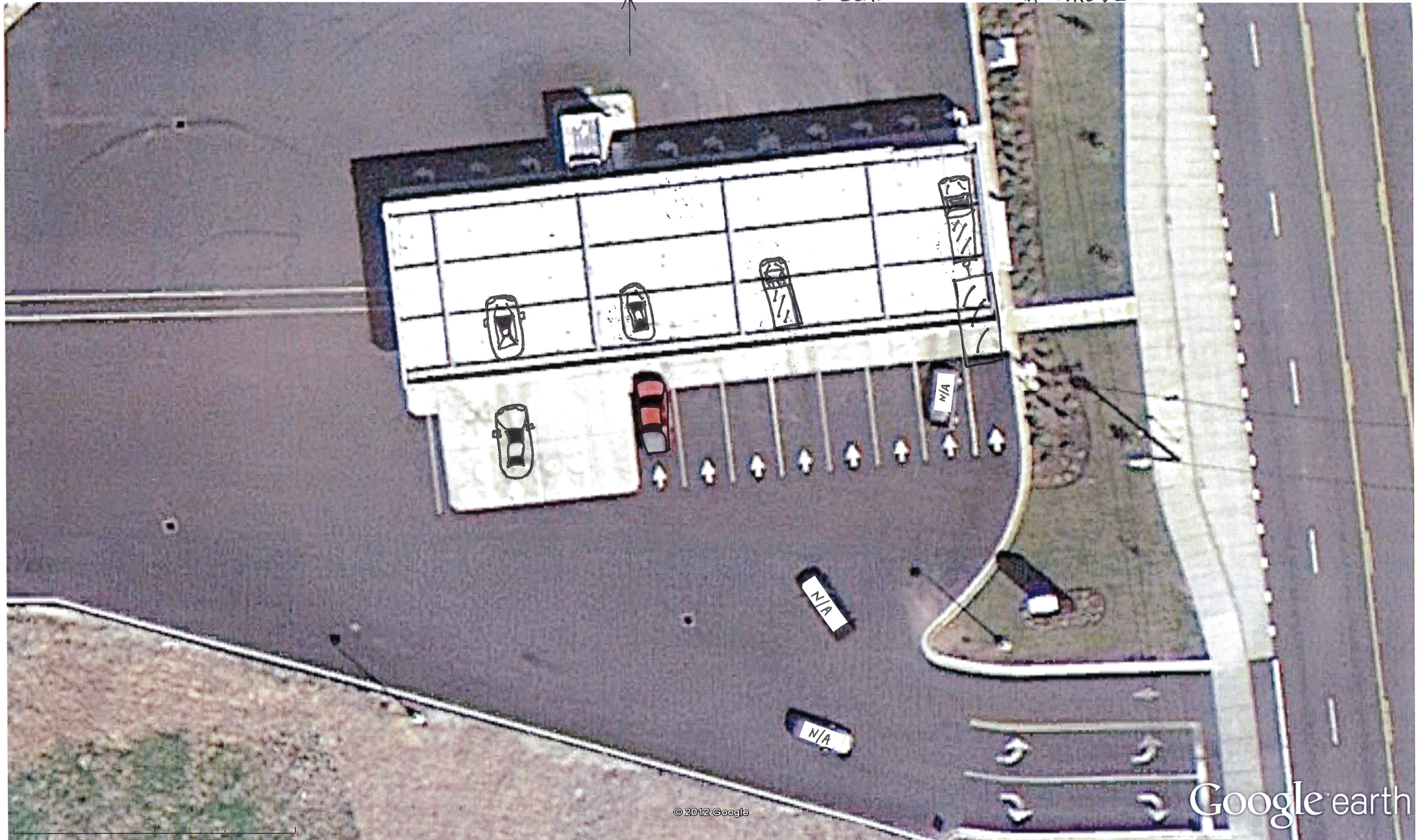


NORTH

NOT TO SCALE

OAK GROVE

7:56 AM



© 2012 Google

Google earth

Google Earth Pro

feet  
meters

200

70

Planning Commission Packet Page 235 of 448



NORTH

NOT TO SCALE

OAK GROVE

8:07 AM



© 2012 Google

Google earth

Google Earth Pro

feet  
meters

200

70

Planning Commission Packet Page 236 of 448



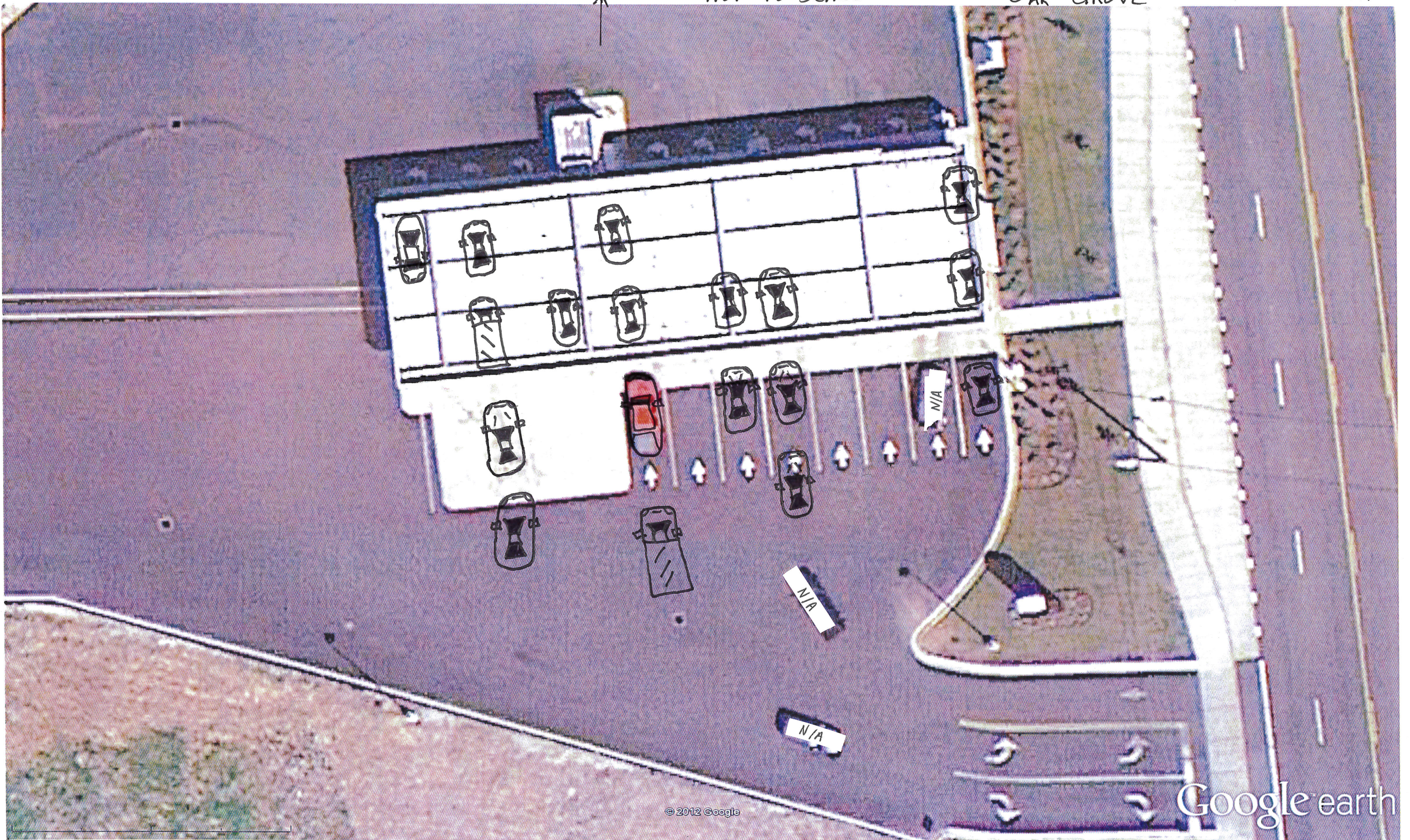


NORTH

NOT TO SCALE

OAK GROVE

5:24 PM



© 2012 Google

Google earth

Google Earth Pro

feet  
meters

200

Planning Commission Packet Page 237 of 448



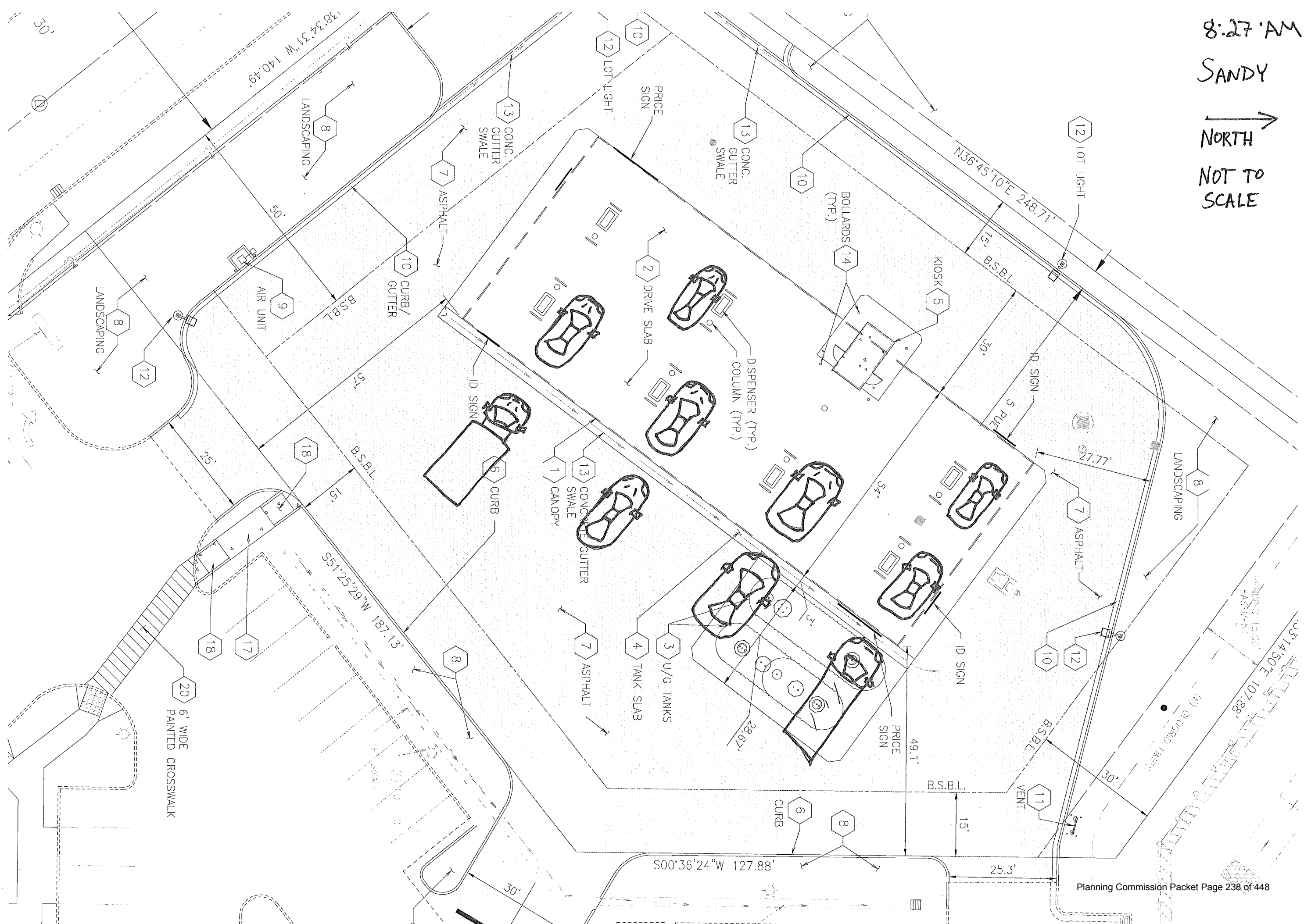


8:27 AM

SANDY

NORTH

NOT TO SCALE

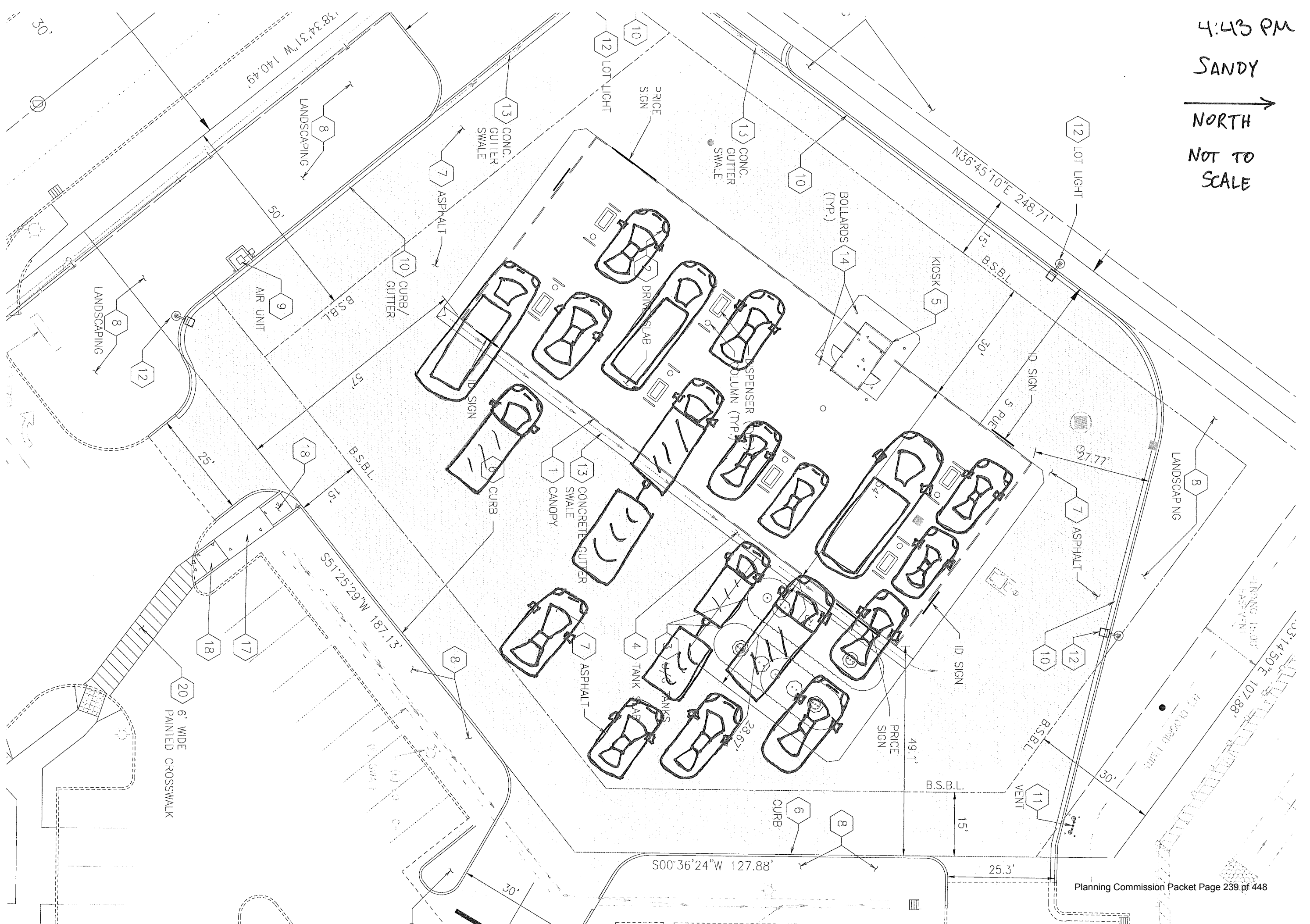


4:43 PM

SANDY

NORTH

NOT TO SCALE



# QUEUES AT FRED MEYER FUEL FACILITIES

## AM Oak Grove

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

## AM Longest Queue

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

# QUEUES AT FRED MEYER FUEL FACILITIES

## PM Oak Grove

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

## PM Longest Queue

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



# QUEUES AT FRED MEYER FUEL FACILITIES

## AM Sandy

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

## AM Longest Queue

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

# QUEUES AT FRED MEYER FUEL FACILITIES

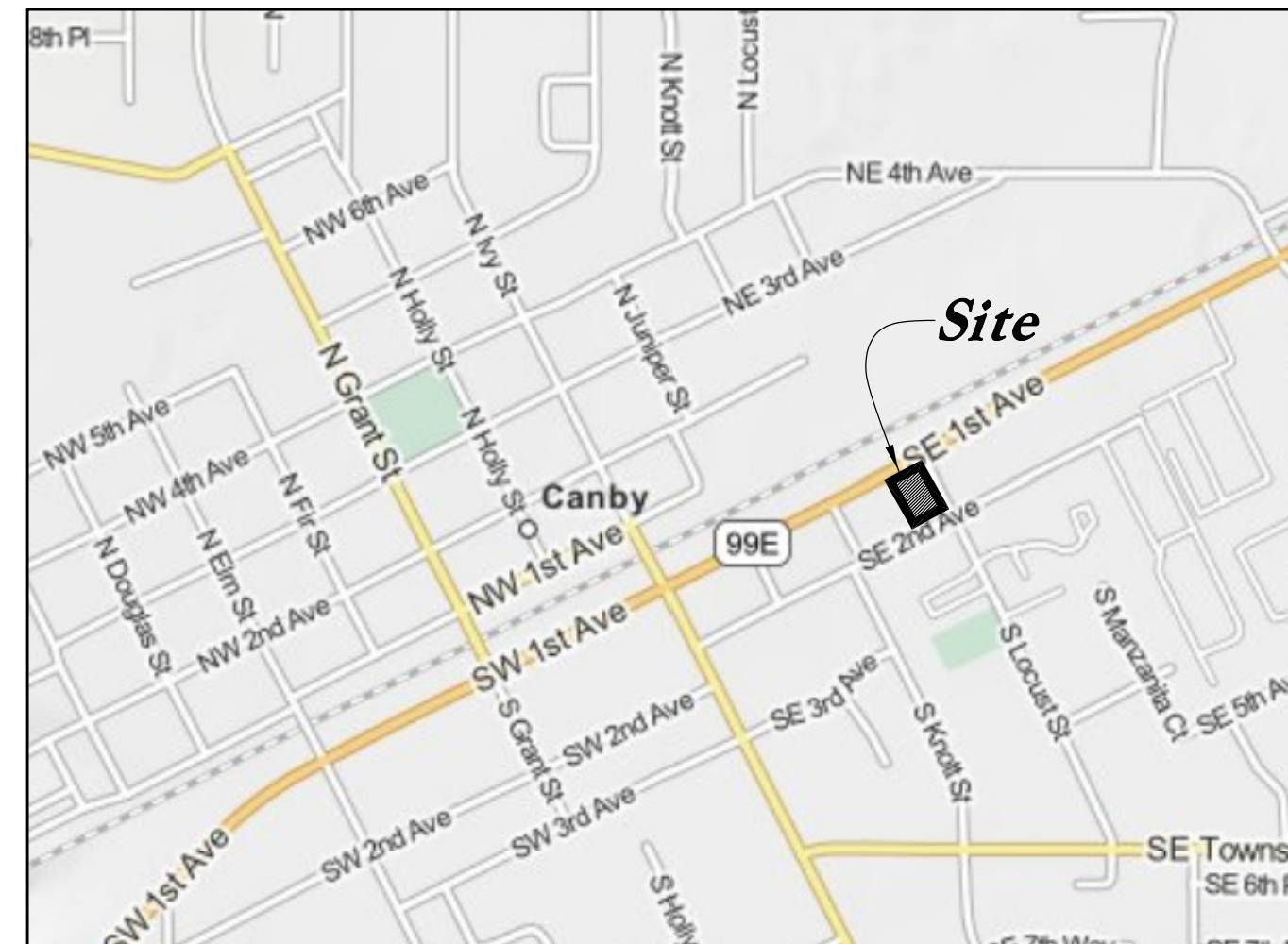
## PM Sandy

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

## PM Longest Queue

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

***369 SE 1st Avenue  
Canby, Oregon 97013***



**Vicinity Map**  
Not to Scale



<b>CV</b>	<b>Cover Sheet</b>
<b>C0.1</b>	<b>Demolition Plan</b>
<b>C1.1</b>	<b>Site Plan</b>
<b>C2.1</b>	<b>Grading Plan</b>
<b>L1.1</b>	<b>Landscape Plan</b>
<b>L2.1</b>	<b>Irrigation Plan</b>
<b>L3.1</b>	<b>Installation Details</b>
<b>A1</b>	<b>Exterior Elevations and Signage (Color)</b>

<b>BOL</b>	<b>Billboard</b>	<b>PP</b>	<b>Power Pole</b>
<b>BRW</b>	<b>Finish Grade — Bottom of Retaining Wall</b>	<b>PVC</b>	<b>Poly Vinyl Chloride</b>
<b>CATV</b>	<b>Cable Television Box</b>	<b>RCP</b>	<b>Reinforced Concrete Pipe</b>
<b>CB</b>	<b>Catch Basin</b>	<b>RD</b>	<b>Roof Drain</b>
<b>CMP</b>	<b>Corrugated Metal Pipe</b>	<b>SB</b>	<b>Signal Box</b>
<b>COB</b>	<b>Cleanout Box</b>	<b>SD</b>	<b>Storm Drain</b>
<b>COTG</b>	<b>Cleanout to Grade</b>	<b>SDMH</b>	<b>Storm Drain Manhole</b>
<b>EA</b>	<b>Edge of Asphalt</b>	<b>SMH</b>	<b>Sanitary Sewer Manhole</b>
<b>EB</b>	<b>Electrical Box</b>	<b>SP</b>	<b>Signal Pole</b>
<b>ECAB</b>	<b>Electrical Cabinet</b>	<b>SS</b>	<b>Sanitary Sewer</b>
<b>EMH</b>	<b>Electrical Manhole</b>	<b>SVZ</b>	<b>Sight Visibility Zone</b>
<b>FH</b>	<b>Fire Hydrant</b>	<b>SW</b>	<b>Secondary Water</b>
<b>FL</b>	<b>Flowline</b>	<b>TA</b>	<b>Top of Asphalt</b>
<b>G</b>	<b>Ground</b>	<b>TB</b>	<b>Telephone Box</b>
<b>GB</b>	<b>Grade Break</b>	<b>TBC</b>	<b>Top Back of Curb</b>
<b>GM</b>	<b>Gas Meter</b>	<b>TG</b>	<b>Top of Grade</b>
<b>HB</b>	<b>Hose Bib</b>	<b>TMH</b>	<b>Telephone Manhole</b>
<b>I</b>	<b>Irrigation Line</b>	<b>TP</b>	<b>Top of Concrete</b>
<b>ICB</b>	<b>Irrigation Control Box</b>	<b>TRW</b>	<b>Finish Grade — Top of Retaining Wall</b>
<b>Lip</b>	<b>Lip of Gutter</b>	<b>TW</b>	<b>Top of Walk</b>
<b>LP</b>	<b>Light Pole</b>	<b>WL</b>	<b>Waterline</b>
<b>MH</b>	<b>Manhole</b>	<b>WP</b>	<b>Working Point</b>
<b>Mon</b>	<b>Monument</b>	<b>WV</b>	<b>Water Valve</b>
<b>PM</b>	<b>Power Meter</b>		

Proposed Curb & Gutter		Existing Improvements	
Proposed Open Face C & G		Existing Asphalt	
Proposed Asphalt		Existing Concrete	
Proposed Concrete		Existing Inlet Box	
Proposed Truncated Domes		Existing Catch Basin	
Proposed Inlet Box		Existing Manhole	
Proposed Catch Basin		Existing Fire Hydrant	
Proposed Manhole		Existing Water Valve	
Proposed Transformer		Existing Overhead Power Line	
Proposed Meter Box		Existing Water	
Proposed Water Meter		Existing Secondary Water	
Proposed Combo Box		Existing Sewer	
Proposed Fire Hydrant		Existing Storm Drain	
Proposed Water Valve		Existing Gas	
Proposed Water Line		Existing Power	
Proposed Sanitary Sewer		Existing Telephone	
Proposed Storm Drain		Existing Fence	
Proposed Conduit Line		Flowline	
Proposed Power Line		Centerline	
Proposed Gas Line		Existing Contour	
Proposed Secondary Water Line		Existing Spot	
Proposed Roof Drain		Existing Light Pole	
Proposed Fence		Existing Street Light	
Ridge Line		Existing Building	
Grade Break		Existing Telephone Box	
Proposed Contour		Existing Power Meter	
Direction of Drainage		Existing Electrical Box	
Proposed Spot		Existing Electrical Cabinet	
ADA Accessible Route		Existing Gas Meter	
Property Line		Existing Water Meter	
Sewer Line		Existing Irrig. Control Box	
Proposed Light Pole		Existing Bollard	
Proposed Street Light		Existing Hose Bib	
Proposed Building		Working Point	
Existing Power Pole		Existing Deciduous Tree	
Existing Power Pole w/ Guy		Existing Coniferous Tree	
Existing Utility Marker			
Existing Post			
Detail Number			
Sheet Number			

*This property lies entirely within Flood Zone X as designated on FEMA Flood Insurance Rate Map for Clackamas County, Oregon and Incorporated Areas Community Map No. 41005C0264D dated June 17, 2008. Flood Zone X is defined as "Areas determined to be outside the 0.2% annual floodplain." (No Shading)*

The basis of bearings for this project is N 27°00'00" W between a found 5/8" iron rod and a found 3/4" iron pipe per PS 18904, Clackamas County Survey Records, as shown on the ALTA Survey.

NGS Benchmark A-14.

156.54 feet (NAVD 88, Published)  
(47.713 meters)


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

*Lots 3, 12, 13 and 14 Albert Lees Second addition to Canby, in  
the City of Canby, County of Clackamas and State of Oregon.*

*Lots 1 and 2, Albert Lees Second Addition to Canby, in the City  
of Canby, County of Clackamas and State of Oregon.*

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

**# 651**  
**Canby, Oregon**

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
  
2010 North Redwood Lane, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801)521-8529 Ogden (801)394-2888 Fax (801)521-8551

# Preliminary Cover Sheet

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

*17 May, 2012*

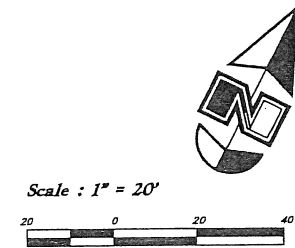
**SHEET NO.**

**CV**


REV	DATE	DESCRIPTION
-----	------	-------------

Designed by: JT
Drafted by: JT
Client Name: Fred Meyer
FM651-CV





Site Area = 32,457 s.f. (0.745 ac.)  
Roof Area = 5,447 s.f. (16.8%)  
Canopy = 5,304 s.f.  
Kiosk, Mech. & Restroom = 143 s.f.  
Landscape Area = 4,935 s.f. (15.2%)  
Impervious Area = 22,084 s.f. (68.0%)  
Parking Required = 1/550 s.f. = 1 Stall + 1 ADA Stall = 2 Total  
(143 s.f. Kiosk Mech. & Restroom)  
Parking Provided = 2 Stalls



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CONSULTING ENGINEERS AND LAND SURVEYORS  
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Salt Lake City (801)321-8329 Ogden (801)394-7288 Fax (801)321-8551

***Preliminary Site Plan***

---

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

**Fred Meyer**

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

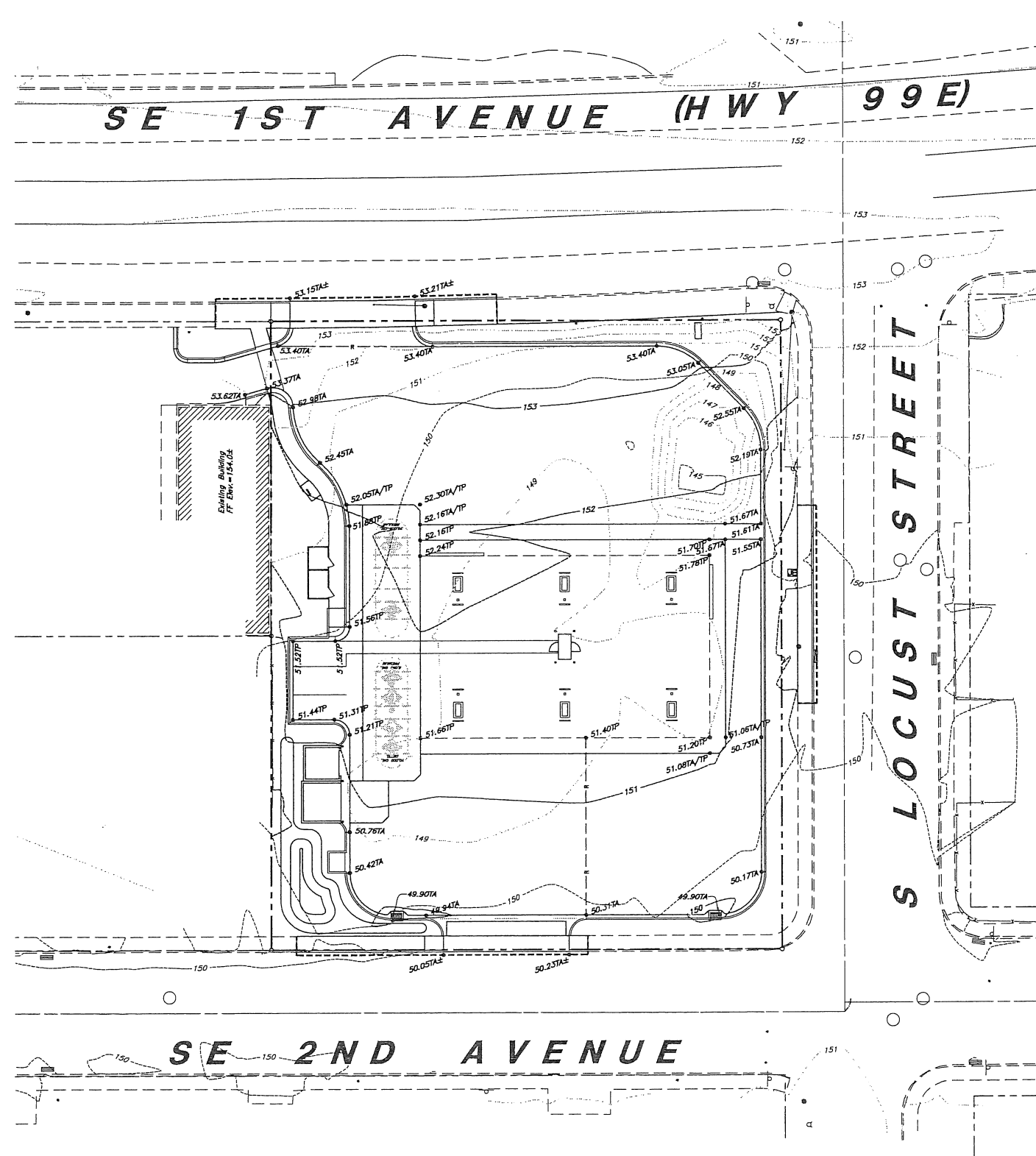
**# 651**

### *Canby, Oregon*

27 Aug, 2012

SHEET NO.

## C1.1



#### General Grading Notes:

1. All grading shall be in accordance with the project geotechnical study.
2. Cut slopes shall be no steeper than 3 horizontal to 1 vertical.
3. Fill slopes shall be no steeper than 3 horizontal to 1 vertical.
4. Fills shall be compacted per the recommendations of the geotechnical report prepared for the project and shall be certified by a Geotechnical Engineer.
5. Areas to receive fill shall be properly prepared and approved by a Geotechnical Engineer prior to placing fill.
6. Fills shall be banded into competent material as per specifications and geotechnical report.
7. All trench backfill shall be tested and certified by a Geotechnical Engineer.
8. A geotechnical engineer shall perform periodic inspections and submit a complete report and map upon completion of the rough grading.
9. The final compaction report and certification from a Geotechnical Engineer shall contain the type of field testing performed. Each test shall be identified with the method of obtaining the in-place density, whether sand cone or drive ring and shall be so noted for each test. Sufficient maximum density determinations shall be performed to verify the accuracy of the maximum density curves used by the field technician.
10. Dust shall be controlled by watering.
11. The location and protection of all utilities is the responsibility of the permittee.
12. Approved protective measures and temporary drainage provisions must be used to protect adjoining properties during the grading process.
13. All public roadways must be cleared daily of all dirt, mud and debris deposited on them as a result of the grading operation. Cleaning is to be done to the satisfaction of the City Engineer.
14. The site shall be cleared and grubbed of all vegetation and deleterious matter prior to grading.
15. The contractor shall provide shoring in accordance with OSHA requirements for trench walls.
16. Aggregate base shall be compacted per the geotechnical report prepared for the project.
17. The recommendations in the following Geotechnical Engineering Report by HortCromer are included in the requirements of grading and site preparation. The report is titled "Report of Geotechnical Engineering Services, Fred Meyer Fueling Facility #651, Canby, Oregon" Job No. 13904-01 Dated April 30, 2012.
18. As part of the construction documents, owner has provided contractor with a topographic survey performed by manual or aerial means. Such survey was prepared for project design purposes and is provided to the contractor as a courtesy. It is expressly understood that such survey may not accurately reflect existing topographic conditions.
19. If Contractor observes evidence of hazardous materials or contaminated soils he shall immediately contact the project engineer to provide notification and obtain direction before proceeding with disturbance of soil materials or contaminated soil.
20. Contractor will be responsible to phase the construction development so that storm water improvements and storm water facilities including detention or retention improvement facilities are constructed and functional prior to an offsite storm water release and take necessary construction precautions so that no offsite flooding will occur.

#### Curb and Gutter Construction Notes:

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

**ADA Note:**  
Contractor must maintain a running slope on Accessible routes no steeper than 5.0% (1:20). The cross slope for Accessible routes must be no steeper than 2.0% (1:50). All Accessible routes must have a minimum clear width of 36". If Grades on plans do not meet this requirement notify Consultant immediately.  
The Client, Contractor and Subcontractor should immediately notify the Consultant of any conditions of the project that they believe do not comply with the current state of the ADA (FCC/ANSI A117.1-Latest Edition) and/or FHWA.

**Fred Meyer**

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

**#651**

Canby, Oregon

27 Aug, 2012

SHEET NO.

**C2.1**

Preliminary Grading Plan

Fred Meyer Fuel #651 - Canby

369 SE 1st Avenue  
Canby, Oregon 97013

GREAT BASIN ENGINEERING - SOUTH  
CONSULTING ENGINEERS and LAND SURVEYORS

2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116

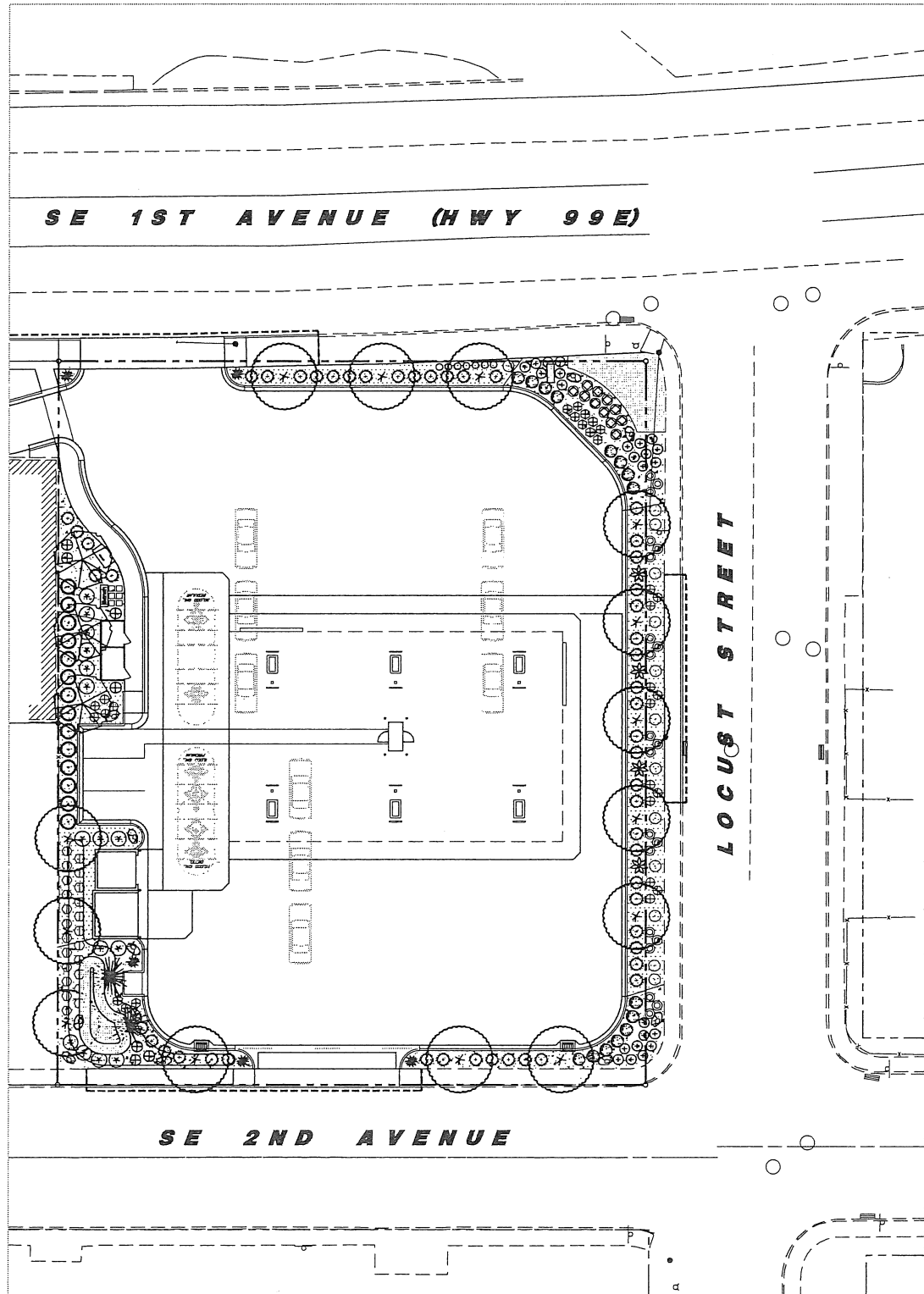
Soil Lake City (801)521-8529 Ogden (801)384-7288 Fax (801)521-8551

Designed by: JT  
Drafted by: JT  
Client Name:  
Fred Meyer

FMS1-CR

REV	DATE	DESCRIPTION

C:\Users\jake\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.I55-2012\jake\0272012 100719 AM\jake\_120



### Legend / Materials

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

### Plant List (TREES)

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

### Plant List (SHRUBS)

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

### Plant List (ORNAMENTAL GRASSES)

Quan.	Symbol	Botanical Name	Common Name	Size	Remarks
23		Calamagrostis a. 'Foerster'	Foerster Feather Grass	5 Gallon	24"-30" Height
12		Calamagrostis a. 'Overdam'	Overdam Feather Grass	5 Gallon	18"-24" Height
7		Festuca ovina 'Elijah Blue'	Elijah Blue Fescue	2 Gallon	12"-15" Height
17		Helictotrichon sempervirens	Blue Oat Grass	2 Gallon	15'-18" Height
7		Miscanthus sinensis 'Gracillimus'	Gracillimus Maiden Grass	5 Gallon	24"-30" Height
21		Pennisetum alopec. 'Hameln'	Dwarf Fountain Grass	2 Gallon	12"-15" Height

### Tree Selection & Description Statement

- COLUMNAR BLUE ATLAS CEDAR** - This evergreen tree is mentioned for hardiness zones 6-9, but has been grown in even colder environments. This tree produces no noticeable fruit, is drought tolerant, and has a low moisture requirement, especially following the initial establishment period.
- CRIMEAN LINDEN** - This deciduous tree is mentioned for hardiness zones 3-8. It produces small 2"-3" ovoid fruit, which is non-persistent. This tree is tolerant of wind, salt and air pollution, which makes it a good selection for city street use. It has a medium moisture requirement, and is more drought tolerant following the initial establishment period.
- MUSASHINO ZELCOYA** - This deciduous tree is mentioned for hardiness zones 5-9. It produces no noticeable fruit, and is drought tolerant. It has a low moisture requirement, especially following the initial establishment period. It is a good selection for city use, and due to its more upright columnar habit, can be used in tighter spaces.

### Planting Notes

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

### General Notes

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

### Submittal Requirements

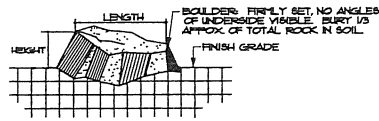
- The contractor shall provide to the Owner/Engineer product samples of all landscape materials such as boulders, decorative stone, bark mulches, weed barrier fabric, soil amendments & import topsoil in order to obtain approval to be used on the project, and prior to any shipment to the site. Failure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

### Stone Surfacing

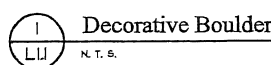
- APPLICATION PROCEDURE:
- Place pre-emergent herbicide on fine grade layer.
  - Place weed barrier fabric.
  - Place 4" minimum decorative stone to finish grade.
  - Place pre-emergent herbicide on finish grade.

### Sub-Grade Requirements

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



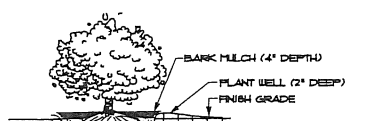
NOTE: USE CARE TO MINIMIZE MARKING & SCRATCHING.



NOTE: USE CARE TO MINIMIZE MARKING & SCRATCHING.

Decorative Boulder

N.T.S.



NOTE: SMOOTH GRADE ENTIRE AREA PRIOR TO PLACEMENT.

Shrub Planting

N.T.S.

Stone Surfacing

N.T.S.

Tree Planting

N.T.S.



NOTE: SMOOTH GRADE ENTIRE AREA PRIOR TO PLACEMENT.

Tree Planting

N.T.S.

Tree Planting

N.T.S.

Tree Planting

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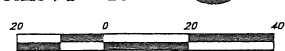
**Fred Meyer**

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

**#651**

Canby, Oregon

Scale: 1" = 20'



**GREAT BASIN ENGINEERING - SOUTH**  
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Salt Lake City (801)321-8229 Ogden (801)344-7288 Fax (801)321-9551

Landscape Plan

Fred Meyer Fuel - #651

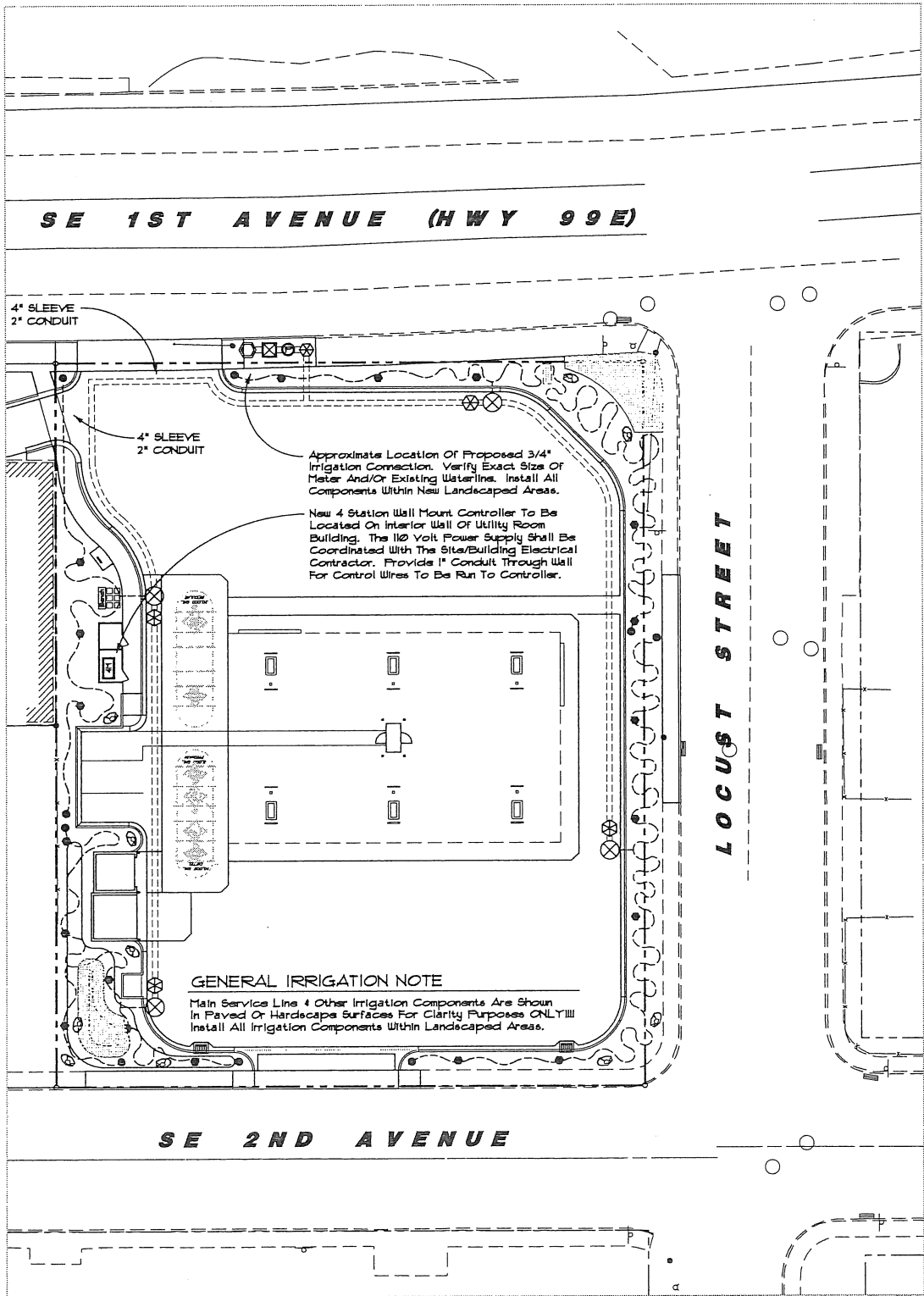
369 SE 1st Avenue  
Canby, Oregon 97013

27 Aug, 2012

SHEET NO.

**L1.1**





Sprinkler List

Symbol	Model-Number	Description	Remarks
●	New Tree Location	Provides Added Emitters	Added Emitters For Tree Type Specified
⊗	Reinbird XCL-615-PRF	Drip Control Zone Kit	3/4" Size In Control Valve Box With Gravel Sump
⊗	Reinbird 33DLRC	Quick Coupler Valve	3/4" Size In Control Valve Box With Gravel Sump
4	Reinbird ESP-4M	Solid State Controller	Multi-Program / 4 Station Modular Exterior Mount
⊗	Mueller Orisec Mark II	Stop & Waste Valve	3/4" Size / Install Inside Cast Iron Curb Box
⊗	Febco 825Y Series	3/4" RPA Backflow Preventer	Install Above Grade Per All Local Codes
⊗	Watts 223-HP Series	Pressure Regulator	3/4" Size Installed Per Detail
●	Reinbird ARV	Air Relief Valve (As Needed)	Install In Control Valve Box With Gravel Sump
—	Schedule 40 PVC	Irrigation Slewling	Sizes As Noted On Plan / 24" Bury Across Asphalt
—	Schedule 40 PVC	Main Service Line	1" Size Throughout/Rated ASTM D 1184
—	Schedule 40 PVC	Lateral Circuit Line	Pipe Sizes As Required For Guide / 1" Min. / Run Laterals To All Individual Planting Areas
—	125 P.S.I. Low Density Polyethelene Pipe	For Distribution To All Non-Tree Plantings	Size As Required For Flow / 3/4" Min. Size / After PVC Laterals To Be Run To All Planting Areas

Sleeving Installation Notes

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

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

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

Pipe GPM Design Guide

Pipe Size	Water Flow (GPM)
(Velocities Not To Exceed 5 Feet/Second)	
1" Size /	0 - 12 GPM
1 1/4" Size /	12 - 22 GPM
1 1/2" Size /	22 - 30 GPM

NOTE: Contractor shall perform all pipe sizing using the above design guidelines. 1" minimum size piping to be used with schedule 40 pvc. 3/4" minimum sizing on drip distribution polyethelene piping.

Sprinkler Notes

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

General Notes

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

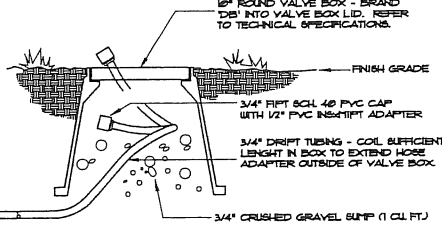
Submittal Requirements

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

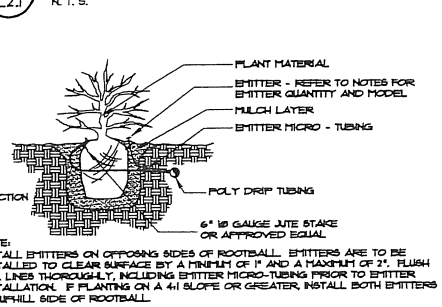
Emitter Installtion Guide

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

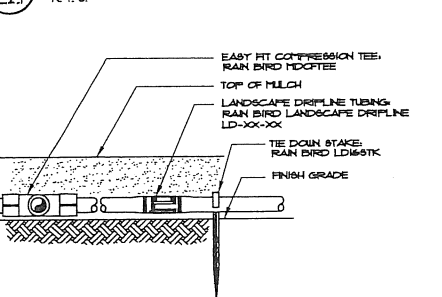
NOTE: The accompanying shall be used as a guide only! Final selection of type and quantity of emitters shall be the responsibility of the contractor.



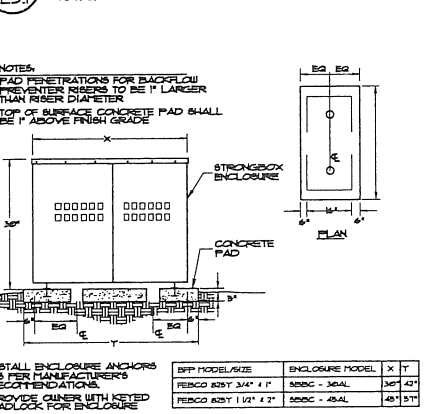
1 Compression Flush Cap



2 Drip Emitter



3 Landscape Dripline On Grade

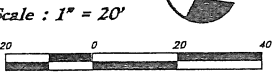


4 Backflow Preventer Enclosure

Irrigation Controller Valve Schedule

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

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



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

**#651**  
Canby, Oregon

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801) 521-8239 Ogden (801) 594-7288 Fax (801) 521-9551

**Irrigation Plan**

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

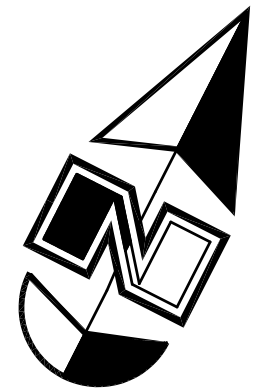
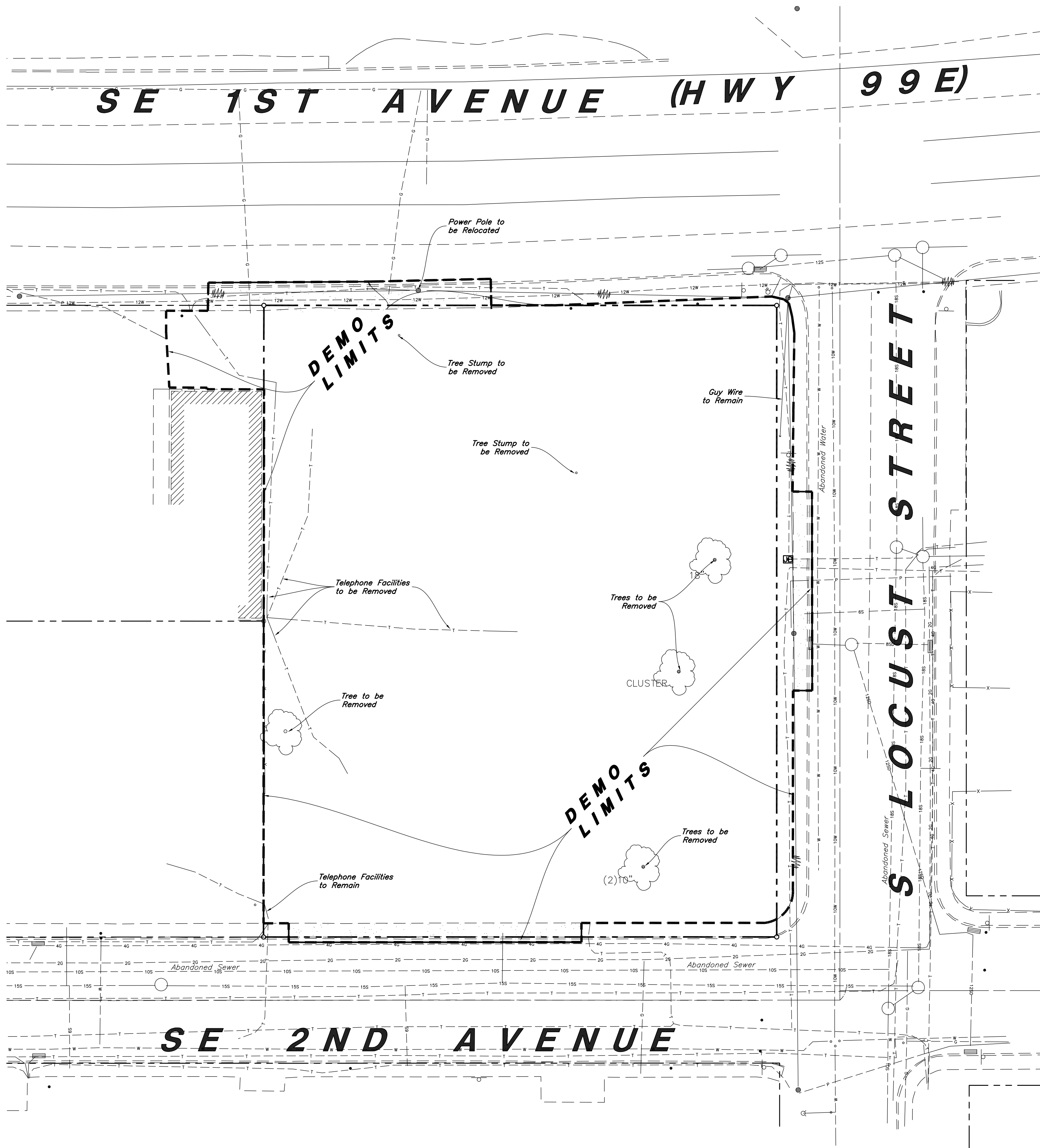
27 Aug, 2012

SHEET NO. **L2.1**



Planning Commission Packet Page 249 of 448





Scale : 1" = 20'

20 0 20 40

- General Demolition Notes:**
- Demolition and site clearing for this contract are to include all areas shown within demolition limits or by note.
  - Refer to site improvement plans for more details on limits of removal.
  - All curbs, gutters, walks, slabs, walls, fences, flatwork, asphalt, waterlines and meters, gas lines, sewer lines, light poles, buried cables, storm drain piping and structures to be cleared from site unless otherwise shown.
  - All utilities, sewer, water, gas, telephone and electrical services to be disconnected and capped. According to city, county and utility company requirements, unless otherwise shown.
  - Excavated areas to be backfilled with clean granular material compacted to 95% of maximum lab density as determined by ASTM D 1557-78. (Test results to be given to owner). Excavated areas should be backfilled per the geotechnical report prepared for the project.
  - Clear and grub trees, shrubs, and vegetation within construction limits, disposal to be off-site. Except where noted otherwise.
  - DO NOT interrupt any services or disrupt the operation of any businesses shown outside the demolition limits.
  - Remove debris, rubbish, and other materials resulting from the demolition and site clearing operations from the site and dispose of in a legal manner.
  - The location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and, where possible, measurements taken in the field. The information is not to be relied upon as being exact or complete. Contractor shall contact authorities having jurisdiction for field locations. Contractor shall be responsible for protection of in place and relocated utilities during construction.
  - Stockpiles shall be graded to maintain slopes not greater than 3 horizontal to 1 vertical. Provide erosion control as needed to prevent sediment transport to adjacent drainage ways.
  - Contractor shall be responsible for disposal of all waste material. Disposal shall be at an approved site for such material. Burning onsite is not permitted.
  - Contractor shall verify with city any street removal, curb cuts, and any restoration required for utility line removal.
  - Install traffic warning devices as needed in accordance with local standards.
  - Contractor shall obtain all permits necessary for demolition from City, County, State or Federal Agencies as required.
  - Demolish existing buildings and clear from site. (Including removal of all footings and foundations.)
  - If Contractor observes evidence of hazardous materials or contaminated soils he shall immediately contact the project engineer to provide notification and obtain direction before proceeding with disturbance of said materials or contaminated soil.

CAUTION :

The location and/or elevation of existing utilities as shown on these plans is based on records of the various utility companies and, where possible, measurements taken in the field. The information is not to be relied on as being exact or complete.



**Fred Meyer**

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

**#651**  
**Canby, Oregon**

Preliminary Demolition Plan

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

17 May, 2012

SHEET NO.

**C0.1**

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801)551-8529 Ogden (801)394-7288 Fax (801)521-9551

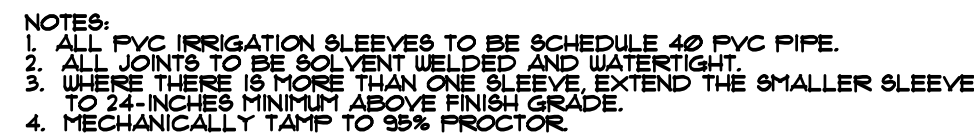
Designed by: JT  
Drafted by: JT  
Client Name: Fred Meyer  
FM651-DM

REV	DATE	DESCRIPTION





(L3.1) N. T. S.



(L3.1) N. T. S.



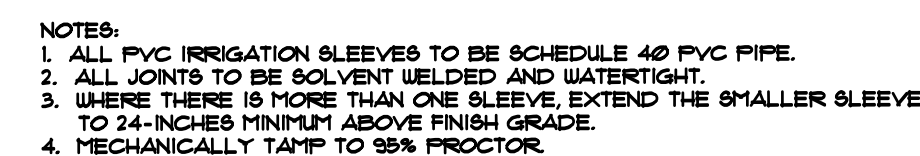
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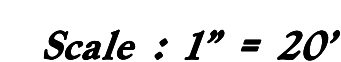
L3.1 N.T.S.



3. N. T. S.



L3.1 N. T. S.



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

**# 651**  
**Canby, Oregon**

## Installation Details

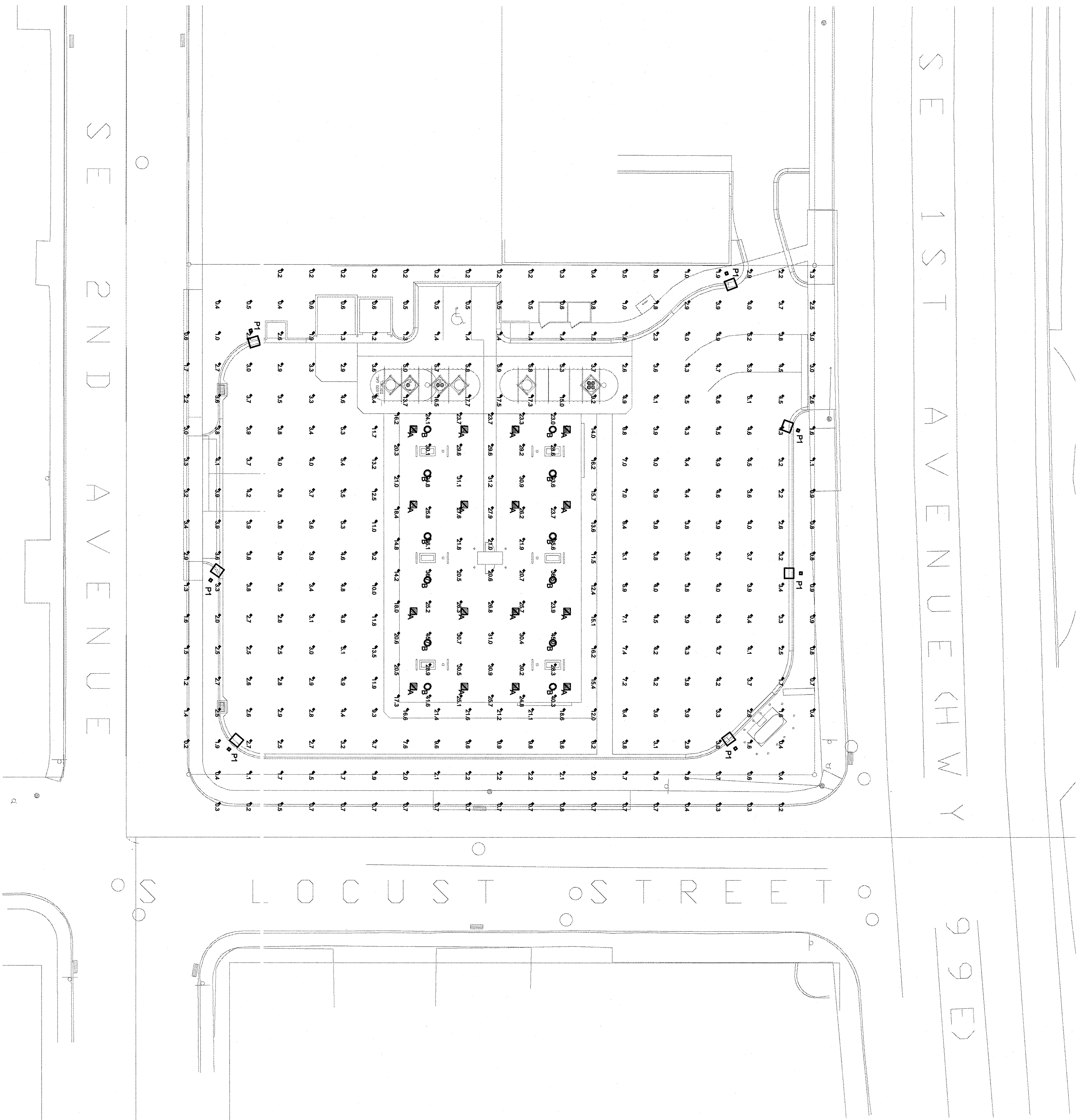
**Fred Meyer Fuel - #651**  
369 SE 1st Avenue  
Canby, Oregon 97013

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, Box 16747

*Salt Lake City, Utah 84116*  
 (801)521-8529 Ogden (801)394-7288 Fax (801)521-9551




Designed by: RDL  
 Crafted by: RDL  
 Patient Name:  
 Fred Meyer

[illegible]



SITE PHOTOMETRIC PLAN

SCALE: 1"=20'-0"

LUMINAIRE SCHEDULE									
Symbol	Label	Catalog Number	Description	Lamp	File	Lumens	L.F.	Watts	Notes
	A	ECTA-S-250-PSM-	ENCODE TOP ACCESS	1-250W PSM CLEAR BU	ECTA-S-250-PSM-FIES	23000	0.72	291	4
	B	ECTA-SR-70-T8MH-	ENCODE TOP ACCESS	1-70W T8 MH (95)	ECTA-SR-70-T8MH-FIES	6600	0.72	88	4
	P1	GSM-AM-250W-ARCHITECTURAL AREA LIGHT ELIMINATOR	250 WATT PULSE-START CLEAR ED-28 HORIZONTAL BURN	GSM-XX-250-WHXXX-FC 18" dia	22000	0.81	283	1.23	

FIXTURE NOTES:

- LAMP PROVIDED WITH FIXTURE.
- PROVIDED THROUGH KROGER DIRECT BUY.
- POLE: COOPER NO. TRS/A25F-BZ W/ BASE COVER (25" ROUND TAPERED STEEL) SEE POLE MOUNTING DETAIL SHEET SE3.0
- (NIC) NOT IN CONTRACT SHOWN FOR REFERENCE ONLY.

NO APPROVED EQUALS:

PROVIDE AS SPECIFIED.

STATISTICS				
Description	Symbol	Avg	Max	Min
CANOPY	+	30.8 fc	94.8 fc	14.2 fc
OVERALL AREA	+	4.2 fc	21.6 fc	0.2 fc
				108.01
				21.01

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Salt Lake City, Utah 84116  
Salt Lake City (801)521-8529 Ogden (801)394-7288 Fax (801)521-8551

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

Fred Meyer Fuel #651 - Canby, Oregon  
Engineering Consultants Incorporated  
303 Federal Way Boise, Idaho 83705  
Phone (208) 376-9820 Fax (208) 376-9822  
www.ccebas.com

GC1  
JUNE 19, 2012  
SHEET NO.

SE2.0

## GENERATION 3 LED FOCUS CANOPY LIGHT (CR03)

### LUMINAIRE ORDERING INFORMATION

TYPICAL ORDER EXAMPLE: **CR03 FO LED 30 350 CW UE WHT**

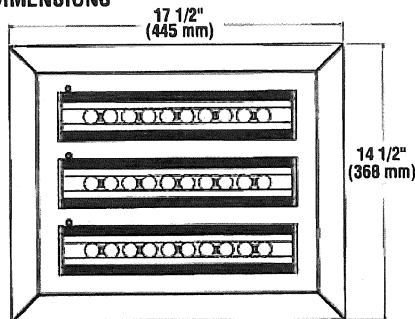
Prefix	Distribution	Light Source	# of LEDs	Drive Current	Color Temperature	Input Voltage	Finish
CR03	FO - Focus	LED	30	350 - 350 mA	CW - Cool White (5000° K nom)	UE - Universal Voltage (120-277V AC)	WHT - White

### ACCESSORY ORDERING INFORMATION (Accessories are field installed)

Description	Order Number	Description	Order Number
Retrofit Panel - SC to CR03, for 16" Deck Panel	430951	Retrofit 2x2 Cover Panel Blank (no holes)	357282
Retrofit Panel - EC / ECTA / SCF to CR03, for 16" Deck Panel	430765	Retrofit RIC Cover Panel Blank (no holes)	354702
Retrofit Panel - SC to CR03, for 12" Deck Panel	430797	Kit - Hole Plugs and Silicone (enough for 25 retrofits) <sup>1</sup>	1320540
Retrofit Panel - ECTA / SCF to CR03, for 12" Deck Panel	430759	<sup>1</sup> Consists of (25) 7/8" hole plugs and (1) 10.3 oz tube of RTV	
Retrofit 2x2 Cover Panel (w/ centered hole pattern for CR03)	430966		

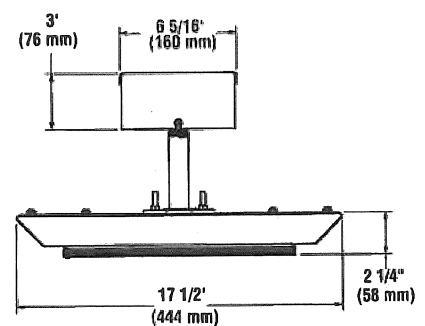
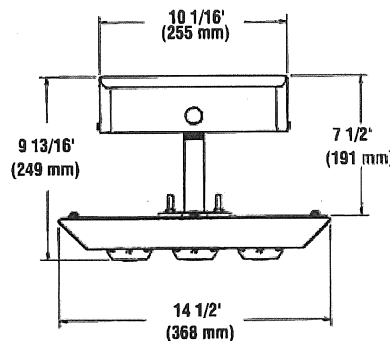
Superkits® are available to retrofit CR03 Ambient and Focus fixtures into a wide variety of existing 2x2 and recessed housings. See separate spec sheets.

### DIMENSIONS

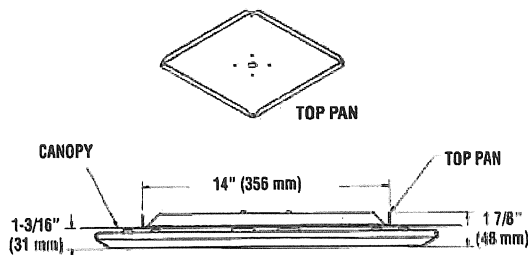


#### SHIPPING WEIGHTS

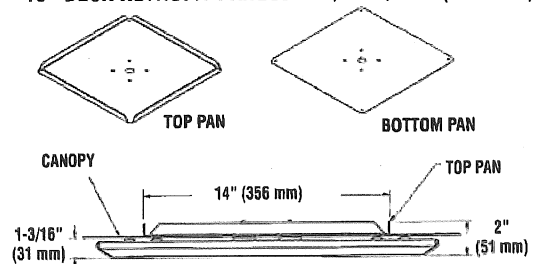
12.2 lbs.	1 fixture
53.3 lbs.	4 fixtures



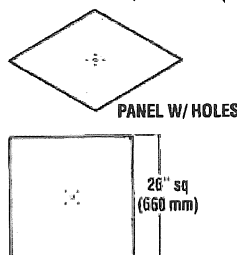
### 16" DECK RETROFIT PANEL - SC (#430951)



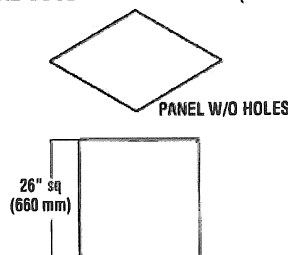
### 16" DECK RETROFIT PANELS - EC/ECTA/SCF (#430765)



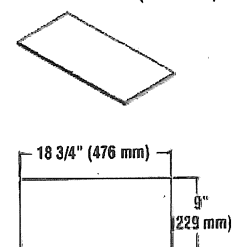
### 2X2 COVER PANEL W/ HOLES (430966)



### 2X2 COVER PANEL BLANK (357282)



### RIC COVER PANEL (354702)



07/28/11

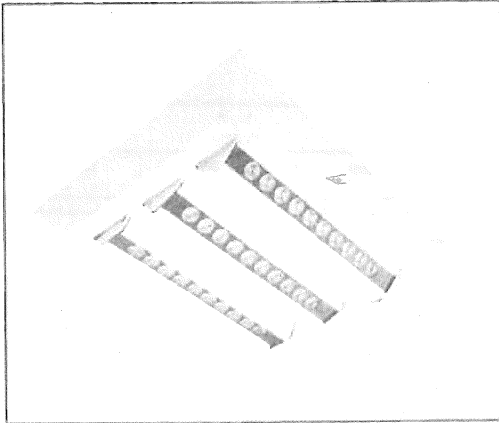
© 2011  
LSI INDUSTRIES INC.

Project Name \_\_\_\_\_ Fixture Type \_\_\_\_\_  
Catalog # \_\_\_\_\_

**LSI**  
Industries  
A Company with a Smart Vision



## GENERATION 3 LED FOCUS CANOPY LIGHT (CR03)



## LIGHT OUTPUT - CR03

Distribution	Lumens (Nominal)
Type FO	1000 (for each of 3 banks - total 3000)
Input Power of 40 watts	

US patents D590100 & D574995 & 7828456 and US & Int'l. patents pending

**LEDS** - Select high-brightness LEDs. 5300°K color temperature, 70 CRI (nominal).

**OPTICS / DISTRIBUTIONS** - Ultra-High efficiency optics provide precise beam placement for optimal retail surface illumination. Each bank of LEDs in a light cartridge is independently adjustable between +/- 45° allowing targeted zone illumination. Regardless of light cartridge position luminaire provides cutoff.

**OPTICAL UNIT** - Featuring a slim 2" profile luminaire. Housing is die-formed aluminum with independently adjustable extruded aluminum light cartridges. Each light cartridge is provided with a gasketed clear tempered glass lens providing a water-resistant seal.

**DRIVER** - State-of-the-art driver technology designed specifically for LSI LED light sources provides unsurpassed system efficiency. Input power is 50 watts. Components are fully encased in potting for moisture resistance. Driver complies with IEC and FCC standards.

**DRIVER HOUSING** - Weather-tight aluminum driver/electrical enclosure is elevated above canopy deck to ensure no water entry and providing "knock-out" entry for primary wiring.

**FINISH** - Standard color is white. Fixture is finished with LSI's DuraGrip® polyester powder coat process. DuraGrip withstands extreme weather changes without cracking or peeling.

**OPERATING TEMPERATURE** - -40°C to +50°C (-40°F to +122°F)

**ELECTRICAL** - Universal voltage power supply 120-277V VAC, (50/60 Hz) input. Two-stage surge protection (including separate surge protection built into electronic driver) meets IEEE C62.41.2-2002, Scenario 1, Location Category C

**INSTALLATION** - Installs in a 12" or 16" deck pan. Deck penetration consists of 5 drilled holes simplifying installation and water sealing. Unit is designed to retrofit into existing Scottsdale® (4") hole as well as openings for Encore® and Encore® Top Access and to reconnect wiring from the SC/ECTA without having to relocate conduit. Retrofit panels are available for existing Scottsdales and Encores (see back page) as well as kits for recessed and 2x2 installations (see separate spec sheets).

**EXPECTED LIFE** - Minimum 60,000 hours to 100,000 hours depending upon the ambient temperature of the installation location. See LSI web site for specific guidance.

**WARRANTY** - Limited 5-year warranty

**LISTING** - ETL listed to UL1598, UL8750 and other U.S. and International safety standards. Suitable for wet locations.

**PHOTOMETRICS** - Application layouts are available upon request. Contact LSI Petroleum Lighting or [petroleum.apps@lsi-industries.com](mailto:petroleum.apps@lsi-industries.com)



Suitable for wet locations

IP67

RoHS



07/28/11

© 2011  
LSI INDUSTRIES INC.

Project Name \_\_\_\_\_

Catalog # \_\_\_\_\_

Fixture Type \_\_\_\_\_



## LED AMBIENT CANOPY LIGHT (CRS)

### LUMINAIRE ORDERING INFORMATION

TYPICAL ORDER EXAMPLE: **CRS SC LED 64 SS CW UE WHT**

Prefix	Distribution	Light Source	# of LEDs	Drive Current	Color Temperature	Input Voltage	Finish	Options
CRS	SC - Standard Canopy AC - Asymmetric Canopy	LED	64 84 128	SS - Super Saver HO - High Output	CW - Cool White	UE - Universal Voltage (120-277 AC)	WHT - White	IMS - Integral Motion Sensor <sup>1</sup> IPC - Integral Photocell <sup>1</sup>

Note:

1- Consult Factory

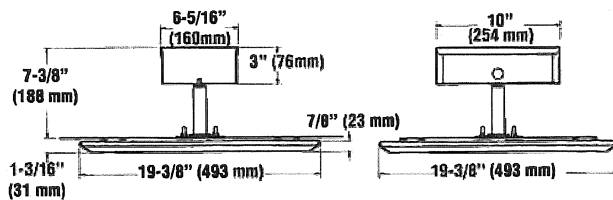
### ACCESSORY ORDERING INFORMATION

(Accessories are field installed)

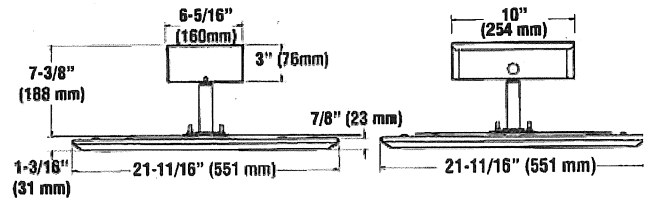
Description	Order Number	Description	Order Number
Retrofit Panel - SC to CRS, for 16" Deck Panel	430951	Retrofit RIC Cover Panel Blank (no holes)	354702
Retrofit Panel - EC / ECTA / SCF to CRS, for 16" Deck Panel	430765	Kit - Hole Plugs and Silicone (enough for 25 retrofits) <sup>1</sup>	1320540
Retrofit Panel - SC to CRS, for 12" Deck Panel	430797	CFKL - Flange Kit Large	501647
Retrofit Panel - ECTA / SCF to CRS, for 12" Deck Panel	430759	CFKS - Flange Kit Small	501533
Retrofit 2x2 Cover Panel Blank (no holes)	357282	<sup>1</sup> Consists of (25) 7/8" hole plugs and (1) 10.3 oz tube of RTV	

### DIMENSIONS

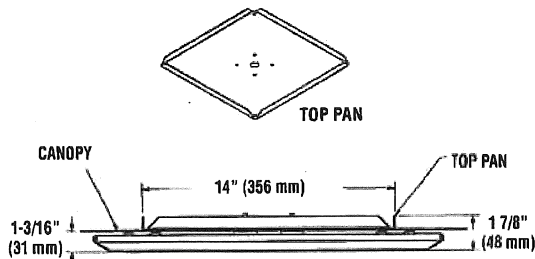
AMBIENT 64/84



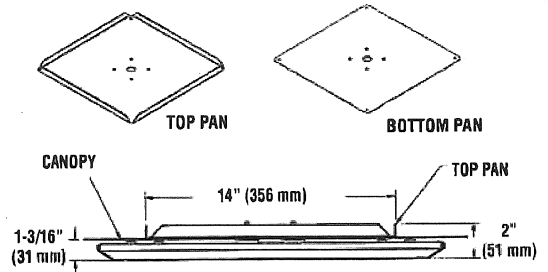
AMBIENT 128



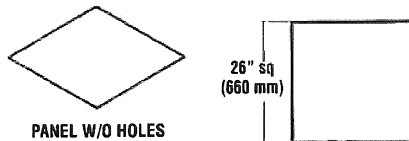
16" DECK RETROFIT PANEL - SC (#430951)



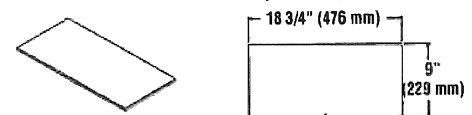
16" DECK RETROFIT PANELS - EC/ECTA/SCF (#430765)



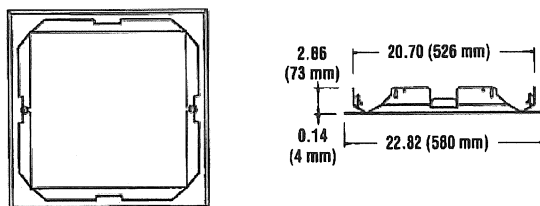
2X2 COVER PANEL BLANK (357282)



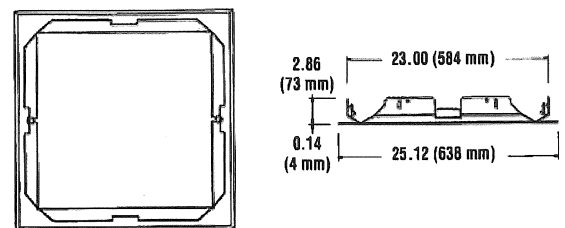
RIC COVER PANEL (354702)



CFKS 64/84 FLANGE KIT (501533)



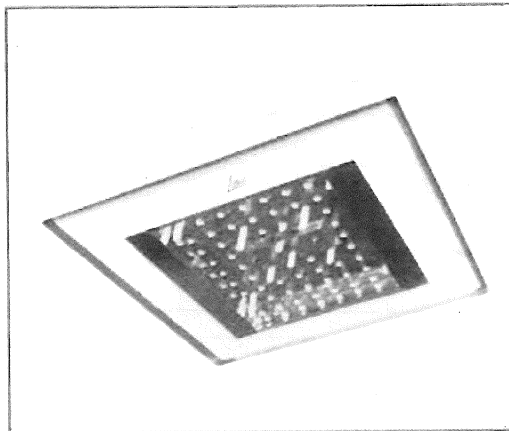
CFKL 128 FLANGE KIT (501647)



# CANDPY - A

**Crossover**  
LED LIGHTING TECHNOLOGY

## LED AMBIENT CANOPY LIGHT (CRS)



May be covered by the following: US patent D574994, 7828456, 8002428 & 8042968 and MX patent 29631 and ISRL 49679 and AUS 2008312668 and US & Int'l. patents pending

### SMARTTEC™ ENERGY SAVING FEATURES:

**THERMAL CONTROL** - Sensor reduces drive current when ambient temperatures exceeds rated temperature.

**LEDS** - Choose from three array choices, 64, 84 and 128, which feature select high brightness LEDs; 5300°K color temperature, 70 CRI (nominal).

**DRIVE CURRENT** - Super Saver (SS) - most economical and highest lumens per watt or High Output (HO) - highest output per initial dollar.

**OPTICS / DISTRIBUTION** - Available with (SC) Standard Canopy or (AC) Asymmetric Canopy distribution.

**OPTICAL UNIT** - Featuring an ultra-slim 1" profile, housing is die-formed aluminum with a clear tempered glass lens. Unit is water-resistant, sealed to an IP67 rating. Patented integral single blade heat sink does not trap dirt and grime, ensuring cool running performance over the life of the fixture.

**THE INDUSTRY'S ONLY BREATHABLE SEAL** - Luminaire assembly incorporates a pressure stabilizing vent breather to prevent seal fatigue and failure.

**DRIVER** - State-of-the-art driver technology provides excellent system efficiency, control and protection. LSI driver components are fully encased in potting for IP65 moisture resistance. Complies with IEC and FCC standards.

**DRIVER HOUSING** - Wet location rated driver/electrical enclosure is elevated above canopy deck to help prevent water entry and to provide easy "knock-out" connection of primary wiring.

**FINISH** - Standard color is white. Finished with LSI's DuraGrip® polyester powder coat process. DuraGrip withstands extreme weather changes without cracking or peeling.

**OPERATING TEMPERATURE** - -40°C to +50°C (-40°F to +122°F)

**ELECTRICAL** - Universal voltage power supply, 120-277 VAC, 50/60 Hz input. Two-stage surge protection (including separate surge protection built into electronic driver) meets IEEE C62.41.2-2002, Scenario 1, Location Category C, 10KV.

**INSTALLATION** - Installs in a 12" or 16" deck pan. Deck penetration consists of 5 drilled holes simplifying installation and water sealing. Unit is designed to retrofit into existing Scottsdale® (4") hole as well as openings for Encore® and Encore® Top Access and to reconnect wiring from the SC/ECTA without having to relocate conduit. Retrofit panels are available for existing Scottsdales and Encores (see back page) as well as kits for recessed and 2x2 installations (see separate spec sheets).

Fixture may also be used for Double Deck installations on metal canopies, in retrofit or new construction. This requires the use of Crossover Flange Kits (CFKL / S). Flange kit mounting requires cutting a square hole between canopy ribs and attaching via framing members or suspending from structure.

**SHIPPING WEIGHT** - 64/84 = 11 lbs., 128 = 13.6 lbs.

**EXPECTED LIFE** - Minimum 60,000 hours to 100,000 hours depending upon the ambient temperature of the installation location. See LSI web site for specific guidance.

**WARRANTY** - Limited 5-year warranty.

**LISTING** - ETL and UL listed to UL1598, UL8750 and other U.S. and International safety standards. Suitable for wet locations.

**PHOTOMETRICS** - Application layouts are available upon request. Contact LSI Petroleum Lighting or [petroleum.apps@lsi-industries.com](mailto:petroleum.apps@lsi-industries.com)

### LIGHT OUTPUT - CRS

Description	# of LEDs	SS - Super Saver		HO - High Output	
		Lumens	Watts	Lumens	Watts
CRS SC LED	64	8202	75	13596	155
CRS AC LED	64	7925	75	13198	155
CRS SC LED	84	10747	97	14570	147
CRS AC LED	84	10367	97	13959	147
CRS SC LED	128	16374	145	19635	189
CRS AC LED	128	16134	145	19399	189



Suitable for wet locations

IP67

RoHS



## DESCRIPTION

Galleria's beauty and versatility make it an excellent choice for roadway and general area lighting applications. An aesthetic reveal in the formed aluminum housing gives the Galleria a distinctive look while a variety of mounting options and lamp wattages provide maximum flexibility.

Galleria's superior light distributions makes it the optimum choice for almost any small, medium or large area lighting application.

Catalog #	Type
Project	P1
Comments	DATE
Prepared by	6-28-12

## SPECIFICATION FEATURES

### Construction

**HOUSING:** Formed aluminum housing with stamped reveal has interior-welded seams for structural integrity and is finished in premium TGIC polyester powder coat. U.L. listed and CSA certified for wet locations. **DOOR:** Formed aluminum door has heavy-duty hinges, captive retaining screws and is finished in premium TGIC polyester powder coat. (Spider mount unit has steel door.)

### Electrical

**BALLAST TRAY:** Ballast tray is hard-mounted to housing interior for cooler operation.

### Optical

**REFLECTOR:** Choice of 14 high efficiency optical systems utilizing horizontal and vertical lamp orientations. Optional high efficiency segmented optical systems constructed of premium 95% reflective anodized aluminum sheet. Optical segments are rigidly mounted inside a thick gauge aluminum housing for superior protection. All segment faces are clean of rivet heads, tabs or other means of attachment which may cause streaking in the light distribution. Standard with mogul-base socket. All optical modules feature quick disconnect wiring

plugs and are field rotatable in 90° increments. **LENS:** Convex tempered glass lens or flat glass.

### Mounting

Extruded aluminum arm includes internal bolt guides allowing for easy positioning of fixture during assembly. Specify arm-included mounting for contractor-friendly single carton packaging of housing and arm.



## GSS/GSM/GSL GALLERIA SQUARE

70 - 1000W

Pulse Start Metal Halide

High Pressure Sodium

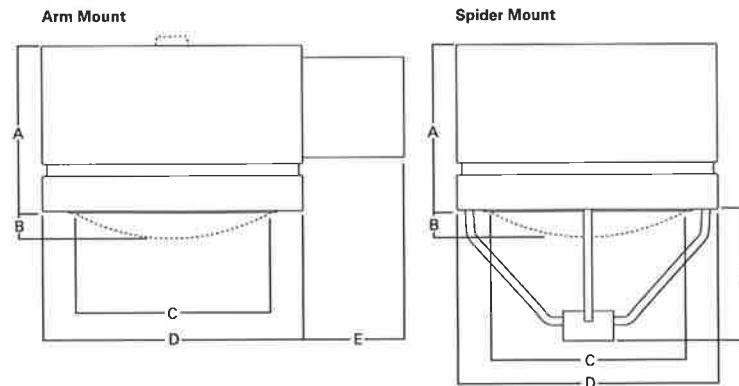
Metal Halide

ARCHITECTURAL  
AREA LUMINAIRE

**DARK SKY  
COMPLIANT** **FCO**  
Full Cutoff

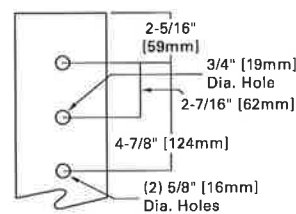
NOTE: In all flat glass configurations only.

## DIMENSIONS



## ARM DRILLING

### TYPE "M"



Fixture	A	B	C	D	E	F
GSS	9-1/4"	1-1/2"	12-7/8"	15-5/8"	6" or 9"	13-1/4"
	235mm	38mm	327mm	397mm	152mm or 229mm	337mm
GSM	11"	3-1/2"	19-1/4"	21-3/4"	6" or 14"	15" or 16"
	279mm	89mm	480mm	552mm	152mm or 356mm	381mm or 406mm
GSL	14-1/2"	4-1/4"	25-7/8"	27"	6" or 14"	18-3/4" or 19-3/4"
	368mm	108mm	657mm	686mm	152mm or 356mm	476mm or 502mm

NOTE: Top cap used on GSM with 1000W flat glass vertically lamped optics only.

## WATTAGE TABLE

Fixture	Lamp Type	Wattage
GSS (Galleria Small)	Pulse Start Metal Halide (MP)	70, 100, 150W
	High Pressure Sodium (HPS)	70, 100, 150W
	Metal Halide (MH)	175W
GSM (Galleria Medium)	Pulse Start Metal Halide (MP)	70, 100, 150, 175, 200, 250, 320, 350, 400, 450, 750, 875, 1000W
	High Pressure Sodium (HPS)	70, 100, 150, 250, 400, 750, 1000W
	Metal Halide (MH)	175, 250, 400, 1000W
GSL (Galleria Large)	Pulse Start Metal Halide (MP)	250, 320, 350, 400, 450, 750, 1000W
	High Pressure Sodium (HPS)	250, 400, 750, 1000W
	Metal Halide (MH)	250, 400, 1000W

## ENERGY DATA

### CWA Ballast Input Watts

150W MP HPF (185 Watts)  
175W MP HPF (198 Watts) ©  
250W MP HPF (283 Watts) ©  
250W HPS HPF (295 Watts)  
400W MP HPF (452 Watts) ©  
400W HPS HPF (457 Watts)  
750W MP HPF (820 Watts)  
1000W MH HPF (1080 Watts)  
1000W HPS HPF (1100 Watts)

### EPA

**Effective Projected Area: (Sq. Ft.)**

**[Without Arm]**

GSS: 1.20 GSM: 2.40 GSL: 3.90

**[Spider Mount]**

GSS: 1.53 GSM: 2.86 GSL: 4.45

## SHIPPING DATA

**Approximate Net Weight:**

36 lbs. (16 kgs.)  
79 lbs. (36 kgs.)  
88 lbs. (40 kgs.)



## MOUNTING CONFIGURATIONS

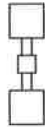
Wall Mount



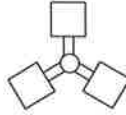
Arm Mount Single



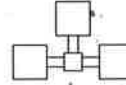
Arm Mount 2 @ 180°



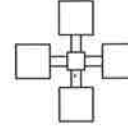
Arm Mount 2 @ 90°

Arm Mount 3 @ 120°  
(Round Pole Only)

Arm Mount 3 @ 90°



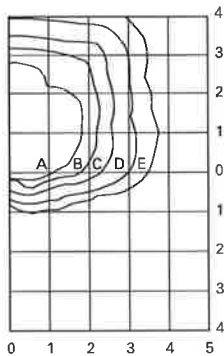
Arm Mount 4 @ 90°



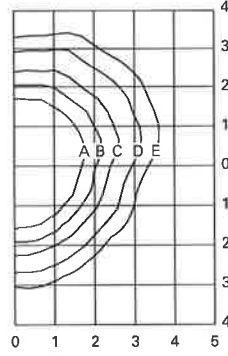
E.P.A. TABLE

	Single [w/arm where applicable]	2 @ 180°	2 @ 90°	3 @ 120°	3 @ 90°	4 @ 90°
<b>GSS</b>	1.7	3.4	3.4	4.6	4.6	5.2
<b>GSM</b>	2.9	5.8	6.8	9.2	9.2	10.4
<b>GSL</b>	4.4	8.8	9.8	13.7	13.7	15.6

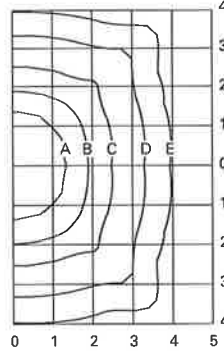
## PHOTOMETRICS



**GSM-XX-1000-MH-SL-FG**  
1000-Watt MH  
110,000-Lumen Clear Lamp  
Spill Light Eliminator  
Flat Glass



**GSM-XX-1000-MH-3V-FG**  
1000-Watt MH  
110,000-Lumen Clear Lamp  
Type III Vertical  
Flat Glass



**GSM-XX-1000-MH-AS-SG**  
1000-Watt MH  
110,000-Lumen Clear Lamp  
Area Square  
Flat Glass

## Footcandle Table

Select mounting height and read across for footcandle values of each isofootcandle line. Distance in units of mounting height.

Mounting Height	Footcandle Values for Isofootcandle Lines				
	A	B	C	D	E
<b>1000W [SL] / 400W [AR]</b>					
25'	2.88	1.44	0.72	0.29	0.14
30'	<b>2.00</b>	<b>1.00</b>	<b>0.50</b>	<b>0.20</b>	<b>0.10</b>
35'	1.46	0.73	0.37	0.15	0.07
<b>1000W [3V/AS]</b>					
30'	3.50	2.00	1.00	0.50	0.20
35'	2.60	0.73	0.37	0.18	0.07
40'	<b>2.00</b>	<b>1.00</b>	<b>0.50</b>	<b>0.20</b>	<b>0.10</b>

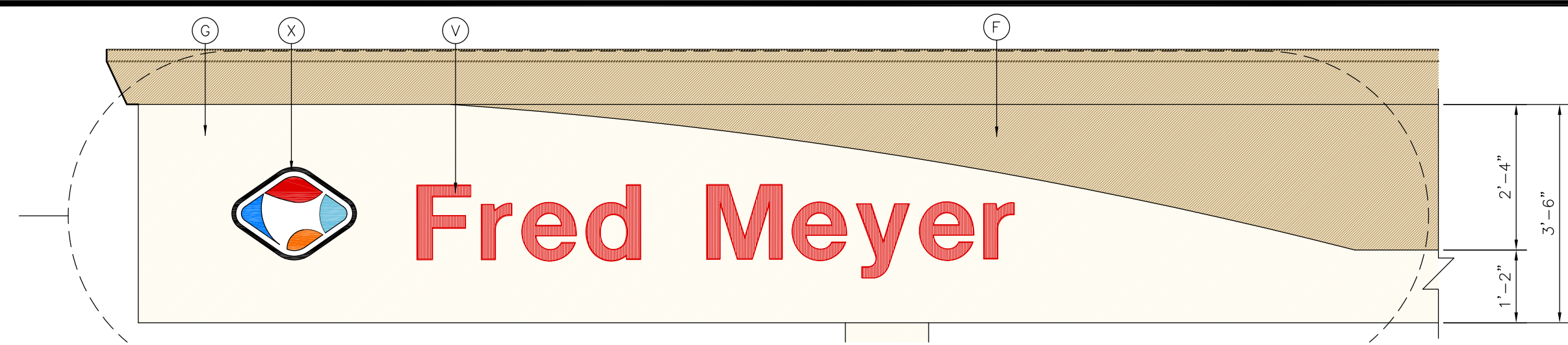
## ORDERING INFORMATION

Sample Number: GSM-AM-400-MP-MT-3V-SG-BK-L

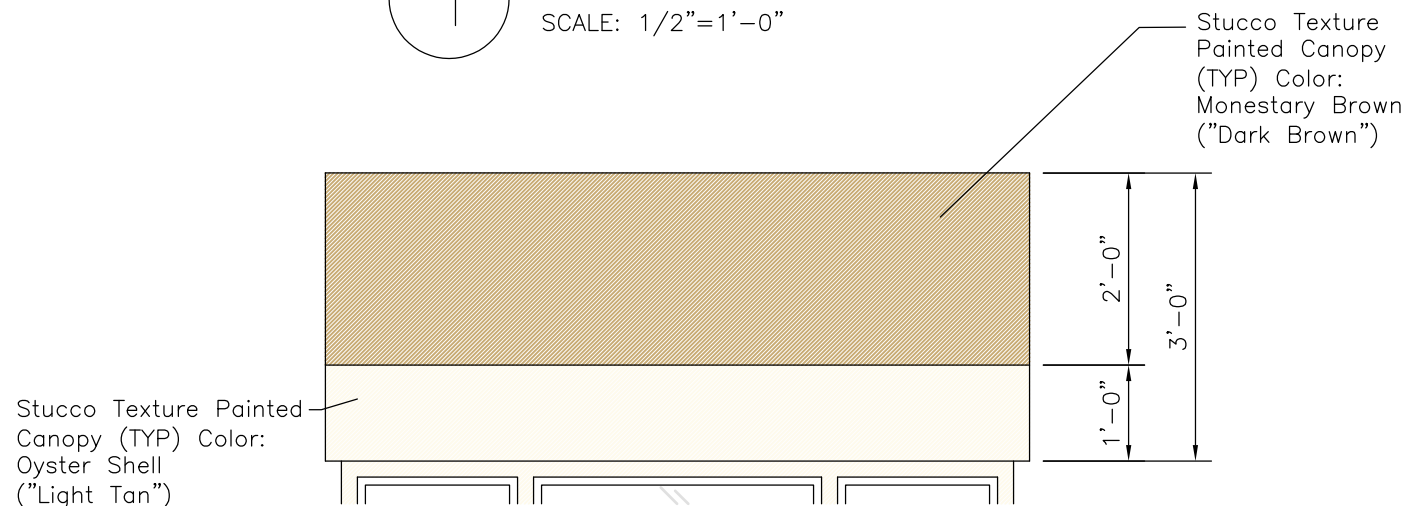
<b>Product Family</b> <b>GSS</b> =Galleria Square Small <b>GSM</b> =Galleria Square Medium <b>GSL</b> =Galleria Square Large	<b>Lamp Wattage</b> <b>MP</b> 70=70W 100=100W 150=150W 175=175W 200=200W 250=250W 320=320W 350=350W 400=400W <sup>6</sup> 450=450W 750=750W 875=875W 1000=1000W <sup>7</sup> <b>HPS</b> 70=70W 100=100W 150=150W 250=250W 400=400W 750=750W 1000=1000W <sup>7</sup> <b>MH</b> <sup>8</sup> 175=175W 250=250W 400=400W 1000=1000W <sup>7</sup>	<b>Lamp Type</b> <b>MP</b> =Pulse Start Metal Halide <b>HPS</b> =High Pressure Sodium <b>MH</b> =Metal Halide <sup>8</sup>  <b>Voltage</b> <sup>9</sup> 120=120V 208=208V 240=240V 277=277V 347=347V 480=480V <b>MT</b> =Multi-Tap <sup>10</sup> <b>TT</b> =Triple-Tap <sup>10</sup> <b>ST</b> =5-Tap <sup>11</sup>	<b>Distribution</b> <b>Horizontal Lamp</b> <b>1F</b> =Type I Formed <sup>12</sup> <b>2F</b> =Type II Formed <b>2S</b> =Type II Segmented <sup>13</sup> <b>3F</b> =Type III Formed <b>3S</b> =Type III Segmented <sup>13</sup> <b>4S</b> =Type IV Segmented <sup>13</sup> <b>5S</b> =Type V Segmented <sup>13</sup> <b>FT</b> =Forward Throw <b>SL</b> =Spill Light Eliminator <sup>14</sup> <b>CA</b> =Cutoff Asymmetric with EHS <sup>15</sup> <b>Vertical Lamp</b> <b>AR</b> =Area Round <b>AS</b> =Area Square <sup>15</sup> <b>3V</b> =Type III Vertical <sup>15</sup> <b>RW</b> =Rectangular Wide <sup>15, 16</sup>  <b>Lens Type</b> <b>FG</b> =Flat Glass <sup>17</sup> <b>SG</b> =Sag Glass	<b>Color</b> <sup>18</sup> <b>AP</b> =Grey <b>BZ</b> =Bronze <b>BK</b> =Black <b>WH</b> =White <b>DP</b> =Dark Platinum <b>GM</b> =Graphite Metallic  <b>Options</b> <sup>19</sup> <b>F</b> =Single Fuse (120, 277 or 347V) <b>FF</b> =Double Fuse (208, 240 or 480V) <b>L</b> =Lamp Included <b>EM</b> =Quartz Restrike w/ <sup>20</sup> Delay <b>Q</b> =Quartz Restrike <sup>20</sup> <b>R</b> =NEMA Twistlock Photocontrol Receptacle <b>EHS</b> =External Adjustable House Side Shield <b>HS</b> =House Side Shield <sup>21, 22</sup> <b>VS</b> =Vandal Shield <sup>23</sup>	<b>Accessories</b> <sup>24</sup> <b>GSM-EXTHS</b> =External House Side Shield - 2.24 EPA <b>GSL-EXTHS</b> =External House Side Shield - 2.46 EPA <b>MA1004XX</b> =14" Arm for Square Pole, 1.0 EPA <sup>15</sup> <b>MA1005XX</b> =6" Arm for Square Pole, 0.5 EPA <sup>15</sup> <b>MA1006XX</b> =Direct Mount Kit for Square Pole <sup>15</sup> <b>MA1007XX</b> =14" Arm for Round Pole, 1.0 EPA <sup>15</sup> <b>MA1008XX</b> =6" Arm for Round Pole, 0.5 EPA <sup>15</sup> <b>MA1009XX</b> =Direct Mount Kit for Round Pole <sup>15</sup> <b>MA1021XX</b> =6" Arm for Square Pole, 0.5 EPA <sup>3</sup> <b>MA1022XX</b> =6" Arm for Round Pole, 0.5 EPA <sup>3</sup> <b>MA1023XX</b> =9" Arm for Square Pole, 0.5 EPA <sup>3</sup> <b>MA1024XX</b> =9" Arm for Round Pole, 0.5 EPA <sup>3</sup> <b>MA1029XX</b> =Wall Mount Bracket with 10" Arm <b>MA1046XX</b> =Wall Mount Bracket <sup>13</sup> <b>MA1208XX</b> =11 1/2" Arm and Round Pole Adapter - 0.8 EPA <b>OA1060XX</b> =Mast Arm Adapter <b>MA1010XX</b> =Single Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1011XX</b> =2@180° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1012XX</b> =3@120° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1013XX</b> =4@90° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1014XX</b> =2@90° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1015XX</b> =2@120° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1016XX</b> =3@90° Tenon Adapter for 3 1/2" O.D. Tenon <b>MA1017XX</b> =Single Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1018XX</b> =2@180° Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1019XX</b> =3@120° Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1045XX</b> =4@90° Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1048XX</b> =2@90° Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1049XX</b> =3@90° Tenon Adapter for 2 3/8" O.D. Tenon <b>MA1060</b> =House Side Shield for GSS (Field Installed) <sup>25</sup> <b>MA1061</b> =House Side Shield for GSM (Field Installed) <sup>25</sup> <b>MA1062</b> =House Side Shield for GSL (Field Installed) <sup>25</sup> <b>OA/RA1010</b> =NEMA Twistlock Photocontrol - Multi-Tap <b>OA/RA1027</b> =NEMA Twistlock Photocontrol - 480V <b>OA/RA1201</b> =NEMA Twistlock Photocontrol - 347V
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- Notes: 1 Arm not included. See Accessories.  
 2 Arm length varies based on housing size: 9" for GSS, 11-1/2" for GSM and 14" for GSL.  
 3 Available on GSS housing only.  
 4 Available on GSL housing only.  
 5 Standard with medium-base sockets in GSS housing. Mogul-base sockets in GSM and GSL housings. Wattage availability varies by housing size - see Wattage Table.  
 6 Requires reduced envelope ED-28 lamp when used with GSM housing and flat glass vertically lamped optics.  
 7 Requires reduced envelope BT-37 lamp when used with GSM housing.  
 8 175, 250 and 400W MH available for non-US markets only.  
 9 Products also available in non-US voltages and 50Hz for international markets. Consult factory for availability and ordering information.  
 10 Multi-Tap ballast is 120/208/240/277V wired 277V. Triple-Tap ballast is 277/347/480V wired 347V.  
 11 5-Tap ballast is 120/208/240/277/480V wired 480V. Only available in 400-1000W.  
 12 Medium housing fixture only.  
 13 Maximum wattage on segmented optical distributions is 400W. 400W Metal Halide lamp must use reduced envelope ED-28 lamp. Not available in GSL housing.  
 14 Must use reduced envelope lamp, not available in GSL housing.  
 15 Available on GSM and GSL housings only.  
 16 RW optic not available with flat glass.  
 17 1000W GSL with flat glass requires BT-37 lamp and is not available in AS, RW, SL or 3V distributions.  
 18 Other finish colors available, including a full line of RAL color matches. Consult your Cooper Lighting Representative.  
 19 Add as suffix in the order shown.  
 20 Quartz options not available with SL optics.  
 21 House side shield not available with 5S, RW, AS, AR, SL and CA optics.  
 22 Not available in 1000W.  
 23 Arm mount only, 400W Maximum.  
 24 Order separately, replace XX with color suffix.  
 25 Compatible with sag lens vertical optics only.

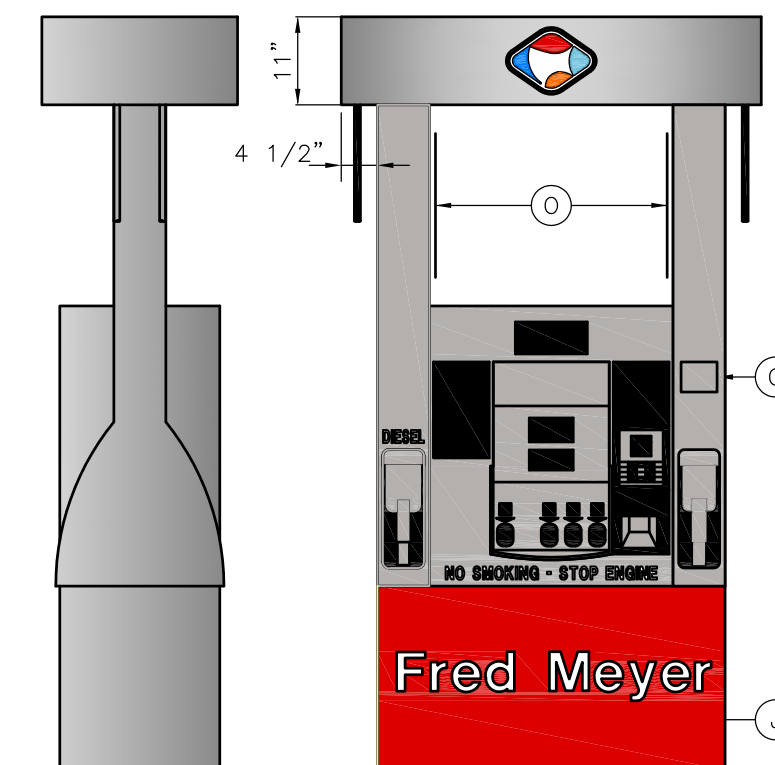




1 CANOPY GRAPHICS  
SCALE: 1/2"=1'-0"



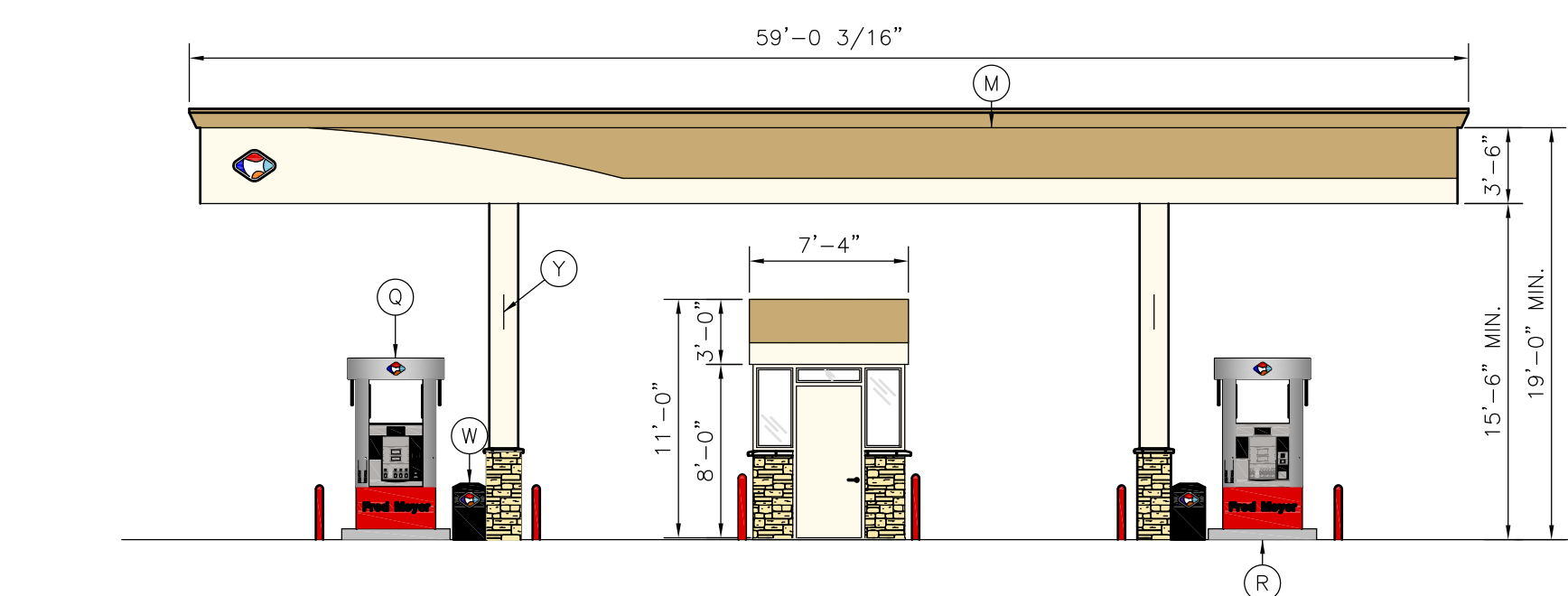
2 KIOSK GRAPHICS  
SCALE: 1/2"=1'-0"



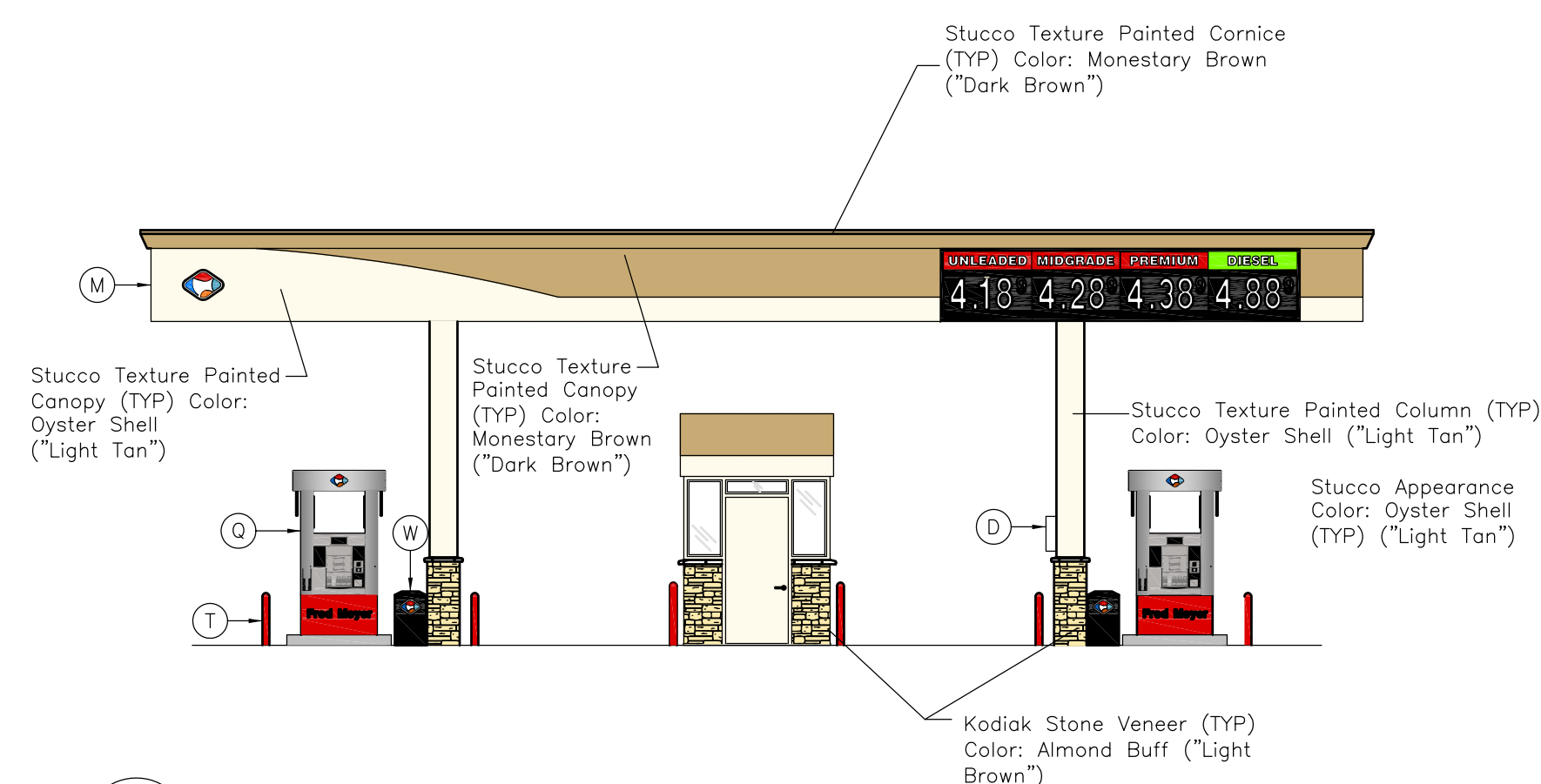
3 DISPENSER ELEVATION  
SCALE: 1/2"=1'-0"

#### EQUIPMENT SCHEDULE

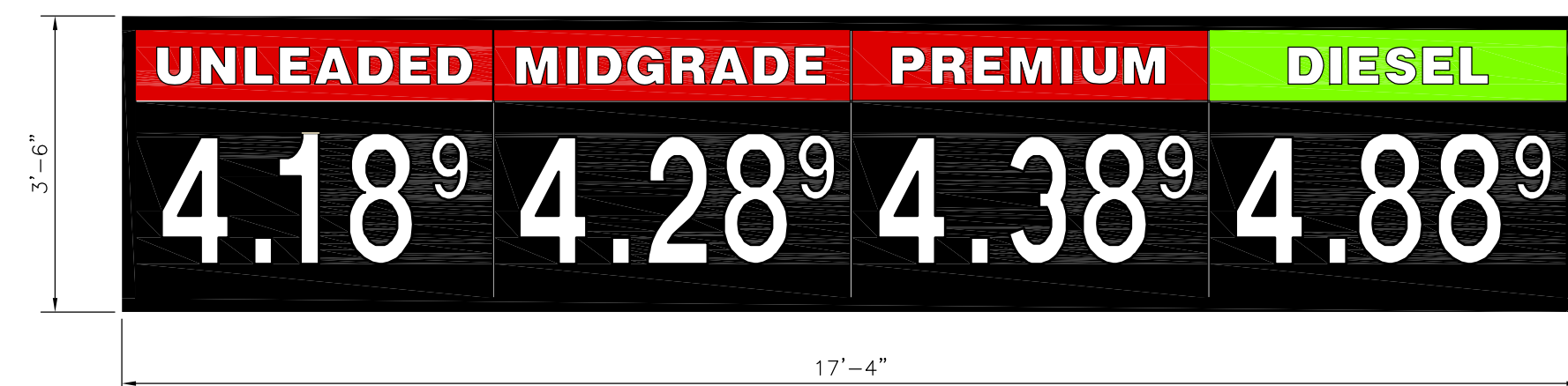
ITEM	DESCRIPTION	COLOR	MANUFACTURER	MODEL	FURNISHED BY	INSTALLED BY
A	INTERNALLY ILLUMINATED IDENTIFICATION SIGN		DUALITE		OWNER	SIGN INSTALLER
B	INTERNALLY ILLUMINATED REMOTE CONTROL PRICE SIGN		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
C	STATIC WARNING DECAL		WAYNE		DISPENSER MANUFACTURER	DISPENSER MANUFACTURER
D	REMOTE PRICE SIGN CONTROL BOX		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
E	SIGN POLE - G.C. TO PAINT	BLACK	DUALITE		OWNER	SIGN INSTALLER
F	CANOPY FASCIA (STUCCO TEXTURE)	Monestary Brown			CANOPY FABRICATOR	CANOPY FABRICATOR
G	CANOPY FASCIA (STUCCO TEXTURE)	OYESTER SHELL			CANOPY FABRICATOR	CANOPY FABRICATOR
H	LOGO - NON-ILLUMINATED (28" H x 37 1/2" W)		DUALITE		OWNER	GENERAL CONTRACTOR
I	PRE-CUT BLACK VINYL ADDRESS DECALS PER LOCAL AUTHORITY SPECIFICATIONS, IF REQUIRED				GENERAL CONTRACTOR	GENERAL CONTRACTOR
J	DISPENSER DOOR GRAPHICS	RED WITH WHITE LETTERS	WAYNE		DISPENSER MANUFACTURER	DISPENSER MANUFACTURER
K	KIOSK FASCIA (STUCCO TEXTURE)	Monestary Brown			OWNER	GENERAL CONTRACTOR
L	KIOSK FASCIA (STUCCO TEXTURE)	OYESTER SHELL			OWNER	GENERAL CONTRACTOR
M	CANOPY				CANOPY FABRICATOR	CANOPY FABRICATOR
N	6" DIAMETER BOLLARD - G.C. TO PAINT	SAFETY RED			GENERAL CONTRACTOR	GENERAL CONTRACTOR
O	HEALTH AND SAFETY DECALS		WAYNE		DISPENSER MANUFACTURER	GENERAL CONTRACTOR
P	KIOSK (STUCCO APPEARANCE)	OYESTER SHELL			KIOSK FABRICATOR	GENERAL CONTRACTOR
Q	DISPENSER		WAYNE		OWNER	GENERAL CONTRACTOR
R	ISLAND FORMS - G.C. TO PAINT	GRAPHITE SW4017	OPW		OWNER	GENERAL CONTRACTOR
S	CANOPY COLUMNS - G.C. TO PAINT	ESSENTIAL GRAY SW6002			CANOPY FABRICATOR	CANOPY FABRICATOR
T	U-SHAPED BOLLARD - G.C. TO PAINT	SAFETY RED	RIVERSIDE		OWNER	GENERAL CONTRACTOR
U	PRICE SIGN, SEE DETAIL 8, THIS SHEET		SKYLINE PRODUCTS, INC.		OWNER	SIGN INSTALLER
V	ILLUMINATED CHANNEL LETTERS		DUALITE		OWNER	SIGN INSTALLER
W	WASTE RECEPTACLE/WINDSHIELD SERVICE CENTER		DCI MARKETING		OWNER	GENERAL CONTRACTOR
X	ILLUMINATED LOGO SIGN		DUALITE		OWNER	SIGN INSTALLER
Y	PUMP NUMBER FLAG				CANOPY FABRICATOR	GENERAL CONTRACTOR



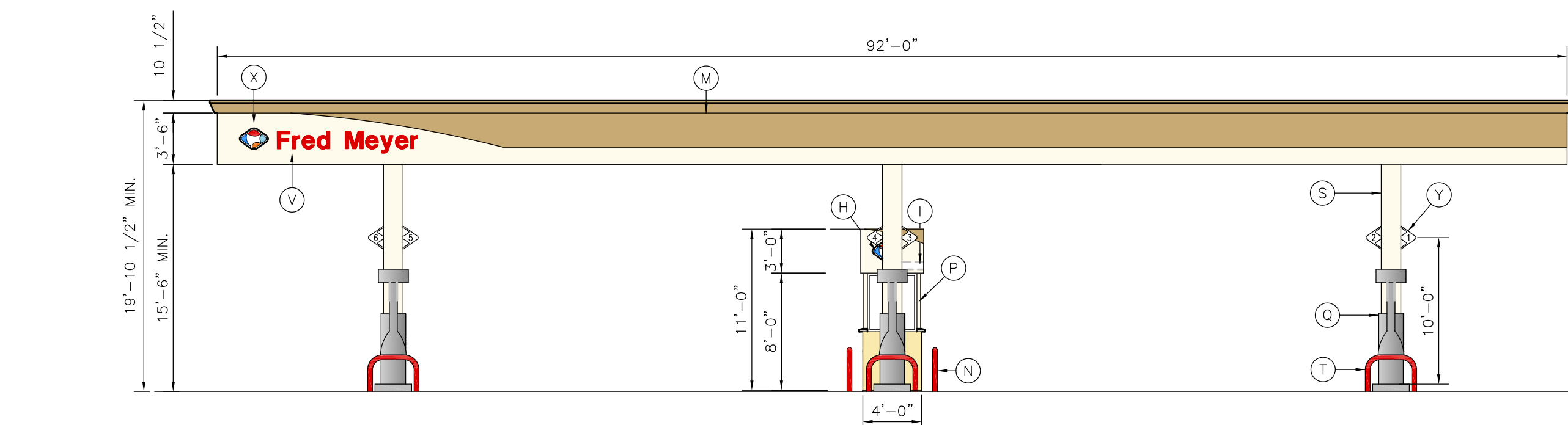
4 WEST ELEVATION  
SCALE: 1/8"=1'-0"



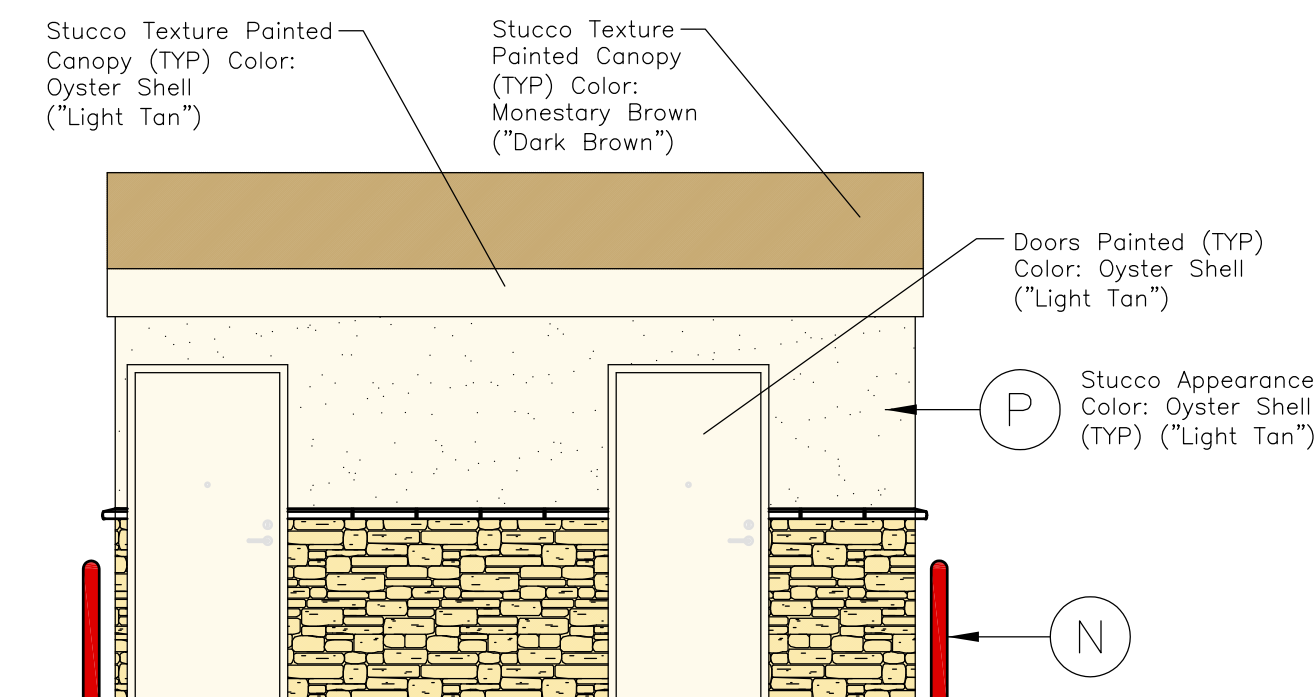
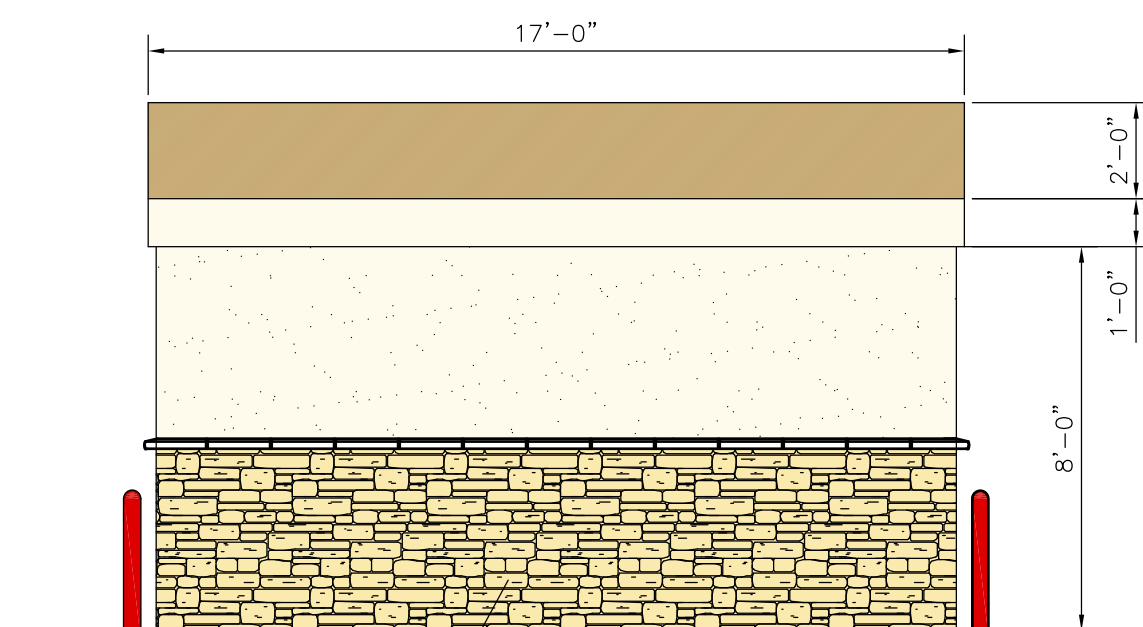
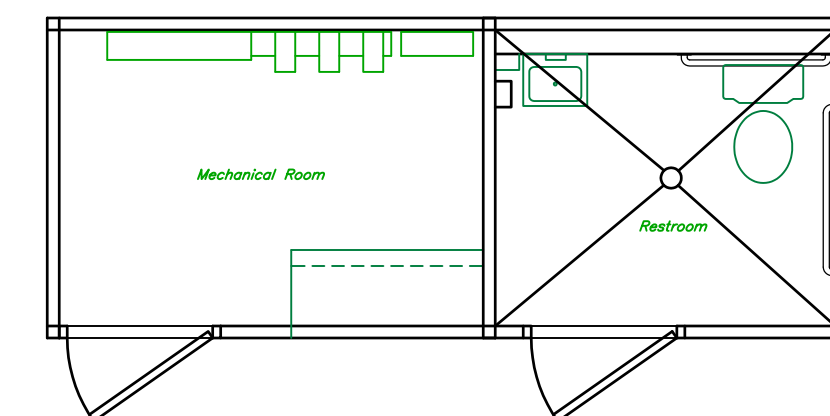
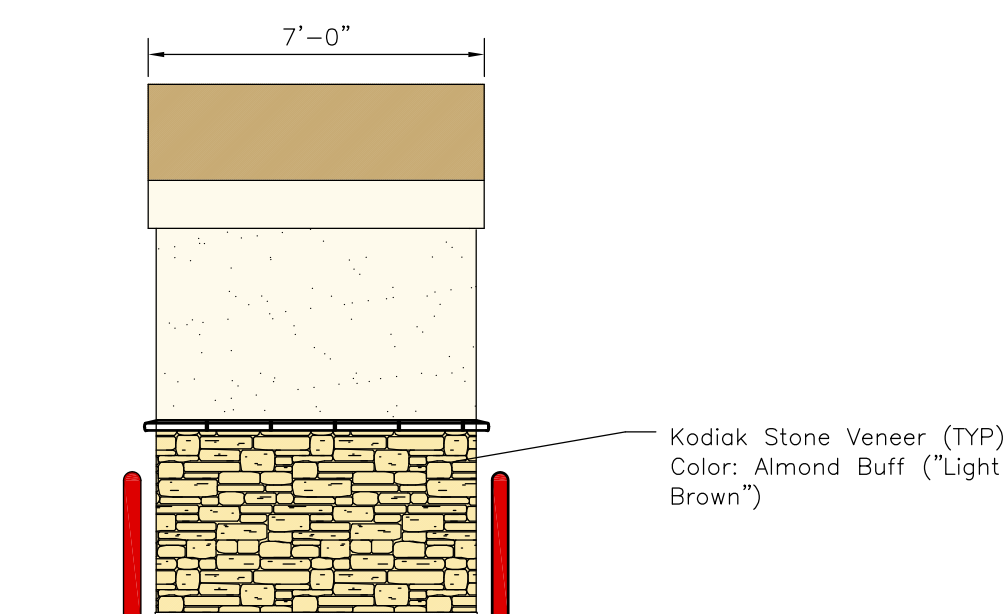
5 EAST ELEVATION  
SCALE: 1/8"=1'-0"



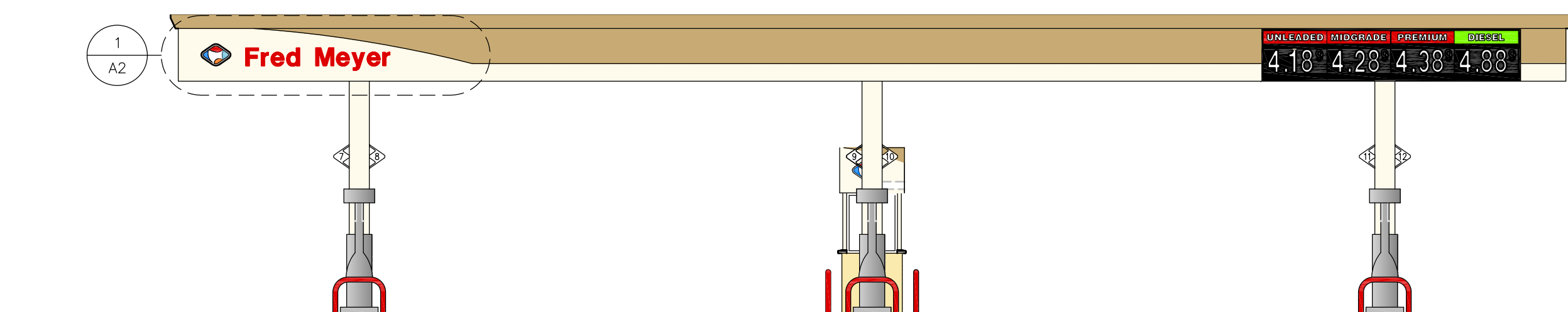
8 CANOPY PRICE SIGN GRAPHICS  
SCALE: 1/2"=1'-0"



6 SOUTH ELEVATION  
SCALE: 1/8"=1'-0"



9 EQUIPMENT BUILDING & RESTROOM  
SCALE: 1/4"=1'-0"



7 NORTH ELEVATION  
SCALE: 1/8"=1'-0"

THIS DRAWING IS AND SHALL REMAIN THE PROPERTY OF THE KROGER COMPANY REPRODUCTION OR ALTERATION OF THIS DRAWING WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE KROGER COMPANY IS PROHIBITED. (NOT PUBLISHED: ALL RIGHTS RESERVED)

NOTE TO CONTRACTOR:

THIS SET OF DRAWINGS AND DOCUMENTS IS INTENDED AS A SET OF GUIDELINES FOR THE PROJECT AND ARE INTENDED TO BE USED IN CONJUNCTION WITH A SET OF CONSTRUCTION SPECIFICATIONS TO BE SUPPLIED BY OWNER. THEY MUST BE READ TO INCORPORATE ALL APPLICABLE FEDERAL, STATE, AND LOCAL CODES INCLUDING FEDERAL A.D.A. REQUIREMENTS. THIS SET ASSUMES THAT THERE ARE NO UNUSUAL SOIL CONDITIONS OR WIND LOADS. THE FAILURE OF THIS CONDITION MAY REQUIRE SIGNIFICANT CHANGES TO THESE DOCUMENTS. IT IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR TO CONFORM TO ALL APPLICABLE CODES AND TO INFORM THE OWNERS/ARCHITECTS OF ANY QUESTIONS OR CLARIFICATIONS WHICH ARE DESIRED. CONTRACTORS SHALL ALSO VISIT THE SITE BEFORE BIDDING. CONTRACTORS ARE REQUIRED TO KNOW ALL OBSERVABLE CONDITIONS AND APPLICABLE CODES.

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Reedwood Road, P.O. Box 16447  
Salt Lake City, Utah 84116  
Salt Lake City (801)521-8529 Ogden (801)384-7268 Fax (801)521-8551

**Fred Meyer**

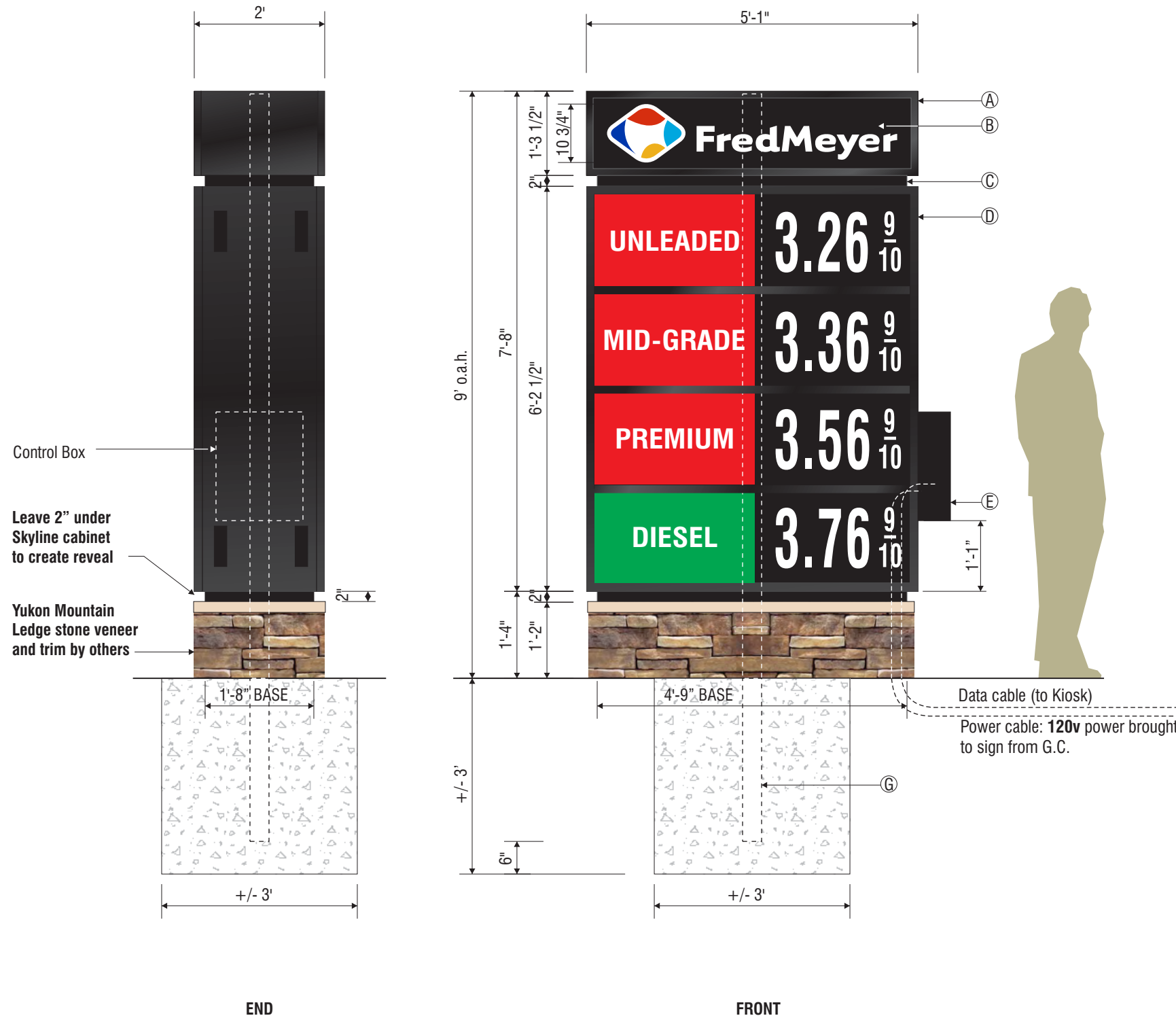
**Kroger**  
The Kroger Co.  
Denver, CO 80239  
Phone (303) 733-5997  
Fax (303) 715-5985

REVISIONS		DES.	DRAWN	DATE
No.	DESCRIPTION	BY	BY	

Project #: #651 - Canby  
Designed By: DLJ  
Drawn By: JMG  
Checked By: DLJ  
Date: 12 Aug 2010  
Scale: FULL  
Disk File: FM651 Canby.dwg  
Model: Oregon 6  
Address: SWC of HWY 99E & S Locust St.  
Canby, Oregon

EXTERIOR ELEVATIONS AND SIGNAGE

Drawing No.: A1



**Manufacture and install one (1) internally illuminated double face fuel price pylon sign**

Ⓐ Top (logo) cabinet to have a fabricated aluminum body and extruded aluminum retainers (#13) painted Black, semi-gloss finish.

Internally illuminate using T12 HO fluorescent lamps

Ⓑ Logo faces to be flat White Lexan with first surface 3M vinyl colors as shown; "Fred Meyer and logo shape reversed out to White

Ⓒ 2" reveal fabricated aluminum painted Black, semi-gloss

Ⓓ Four Product Double Face, model number PSS-10FPDFSSP (thru-pole sign). 5'-1" (H) x 6'-2 1/2" (L) x 2' (W). 31.56 sf

Ⓔ Control Box supplied by Skyline; paint Black

Ⓕ 1'-4" (H) x 4'-9" (L) x 1'-8" (W) base to be fabricated aluminum painted Black, semi-gloss


Ⓖ 3" schedule 40 pipe thru center of sign; direct burial into concrete footing - TBD

**Stone veneer cladding to and trim at top be done by others - leave 2" to create reveal under Skyline cabinet**

  
**3M Dark Red 230-73**  
**PMS 200c**

  
**3M Sultan Blue 230-157**  
**PMS 288c**

  
**3M Olympic Blue 230-57**  
**PMS 299c**

  
**3M Sunflower 230-25**  
**PMS 123c**

Logo vinyl/PMS colors  
NTS

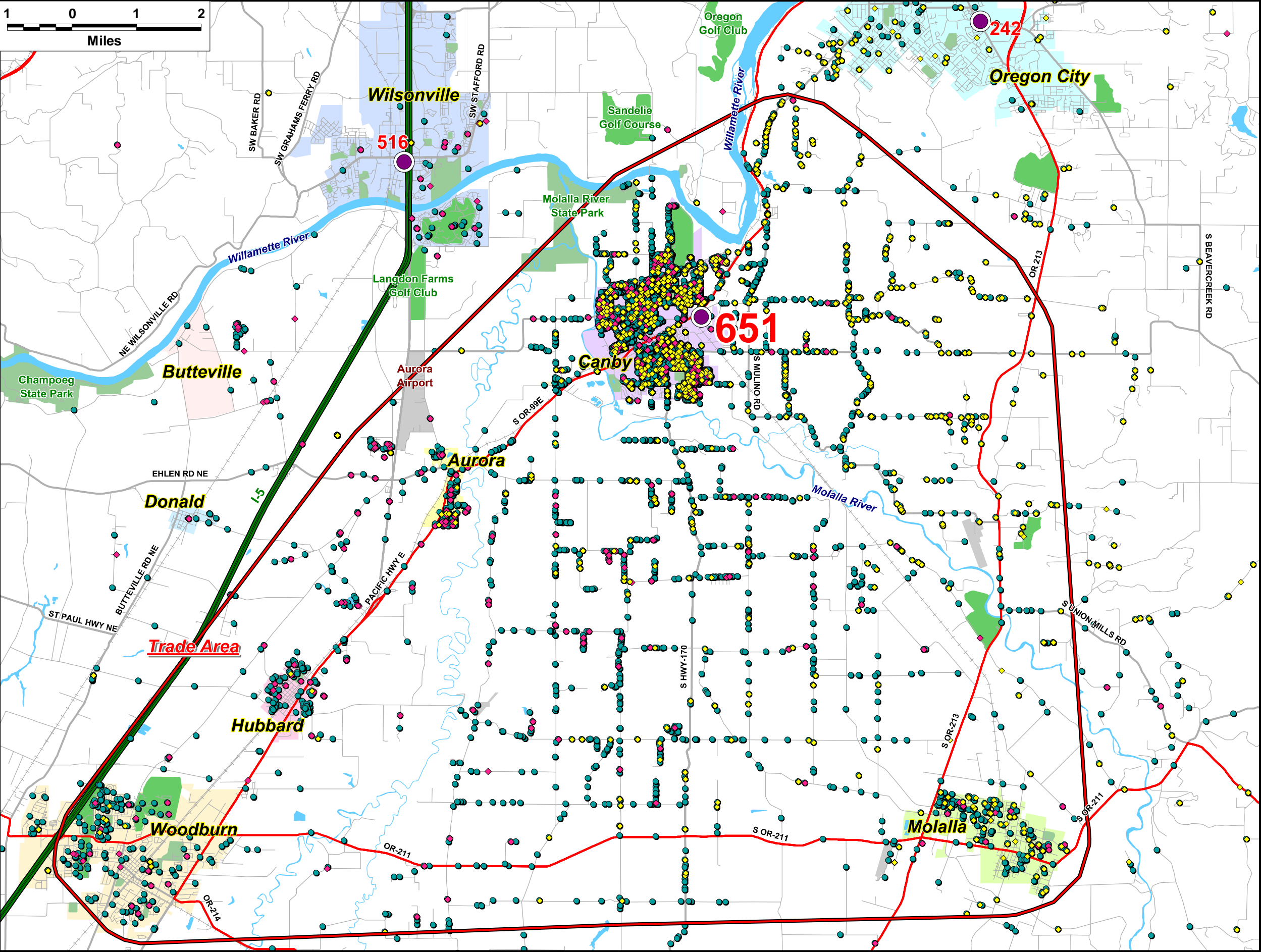
① Double Face Fuel Pricer Sign **26.26 sf**  
Scale: 1/2" = 1' - 0"



# Customer Spotting Map - Fred Meyer #651

SC Hwy 99E & Sequoia Pkwy, Canby, OR

Address Date From: Period 4, 2012



## Fred Meyer

### Legend

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

### Trade Area

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

9,369 Addresses Plotted

### Distribution by City

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

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

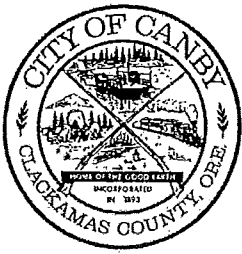
### Map Key

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

● Fred Meyer

realestate  
Corporate Development Research Department

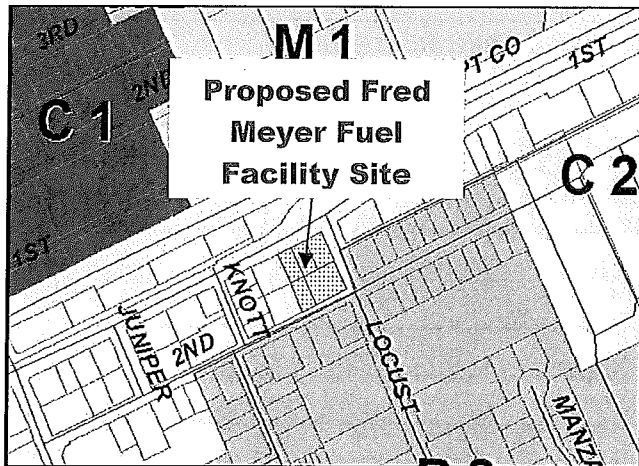
## **SECTION 10: WRITTEN TESTIMONY, AGENCY COMMENTS, & CITIZEN COMMENTS**



# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The Canby Planning Commission will hold a consolidated public hearing on Site and Design Review (DR 12-03), Text Amendment (TA 12-01) and Zone Change (ZC 12-01) on July 8, 2013 at 7pm, located in the City Council Chambers at 155 NW 2<sup>nd</sup> Ave. On April 3, 2013, the Canby City Council remanded DR 12-03 to the Canby Planning Commission with instructions to address whether the revised design in DR 12-03 meets the applicable approval criteria and standards in Canby Municipal Code (CMC). On June 6, 2013, the Oregon Land Use Board of Appeals (LUBA) in *Save Downtown Canby v. City of Canby*, Or LUBA (2013) (LUBA No. 2012-097), remanded TA 12-01 and ZC 12-01 with instructions for the City to consider whether the amendments significantly affect any transportation facility under the Transportation Planning Rule and CMC 16.08.150 or conflict with a future pedestrian crossing of OR 99E in the vicinity of the site. At the July 8, 2013 hearing, the Planning Commission will consider the issues identified in the City Council and LUBA remands and make recommendations to the City Council, who will be the final decision maker for the three consolidated applications.



**Comments due**– Written comments to be included in the Planning Commission packet are due to staff by 5 PM on Wednesday, June 26, 2013.

**Location:** 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2<sup>nd</sup> Ave. (see map, right)

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

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

**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

**Application Type:** Site and Design Review

**City File Number:** DR 12-03

**Contact:** Angie Lehnert at 503-266-0686

**What is the Decision Process?** The Planning Commission will make a determination whether the revised design meets code standards and whether the amendments affect any transportation facility or conflict with a future pedestrian crossing of OR99E at the Public Hearing. The Public Hearing will be limited to these remand issues. No new issues will be allowed unless the Planning Commission chooses to do so.

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

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department or on the City's website <http://www.ci.canby.or.us/CityGovernment/councilminutes&agenda.htm>. Copies are available at \$0.25 per page or can be emailed to you upon request.

### **Applicable Criteria:** Canby Municipal Code Chapters

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

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

## CITY OF CANBY –COMMENT FORM

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**By mail:** Planning Department, PO Box 930, Canby, OR 97013  
**In person:** Planning Department at 111 NW Second Street  
**E-mail:** lehnerta@ci.canby.or.us

Written comments to be included in the Planning Commission's meeting packet are due by 12:00 PM on June 26, 2013. Written comments can also be submitted up to the time of the Public Hearing and may be delivered in person to the Planning Commission during the Public Hearing July 8, 2013, 7:00 pm.

*Application: Site and Design Revised Design & LUBA No. 2012-097 Remand Issues*

*Applicant: Fred Meyer*

*City File #: DR 12-03; TA 12-01; ZC 12-01*

**COMMENTS:** COMMUNICATION SERVICES WILL  
BECOME AVAILABLE THROUGH THE  
DEVELOPMENT ,

**YOUR NAME:** DINH VU  
**ORGANIZATION or BUSINESS (if any):** CANBY TELCOM  
**ADDRESS:** 190 SE 2ND AVE, PO BOX 880  
**PHONE # (optional):**  
**DATE:** JUNE 24<sup>TH</sup> 2013

Thank you!





# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

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

**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

**Application Type:** Site and Design Review

**City File Number:** DR 12-03

**Contact:** Angie Lehnert at 503-266-0686

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*Application: Site and Design Revised Design & LUBA No. 2012-097 Remand Issues*

*Applicant: Fred Meyer*

*City File #: DR 12-03; TA 12-01; ZC 12-01*

- COMMENTS:** 1. Prior to the start of construction, the developer's engineer shall submit a utility plan to include provisions for on-site storm water disposal in accordance with City Public Works Standards and submit drainage analysis for review and approval supplemented by percolation test rates.
2. The fueling area under the canopy shall be hydraulically isolated by means of surface grading or gutters. The remaining area can be discharged on-site into an approved storm system.
3. The fueling area under the canopy shall be directed into a petroleum scavenge device or a valved oil/water separator, then into the sanitary sewer.
4. Demo the existing driveway on Locust Street and replace with a new curb and sidewalk.
5. Conform to the vision triangle requirements (30'x30') at the NE corner of Locust St and Hwy 99E.
6. All the new driveways must be constructed to conform to the most current ADA Standards.
7. Dedicate any needed right-of-way or grant an easement at the SE and NE corners of the site to encompass the sidewalks and ADA ramps access.
8. Grant a 6-foot wide sidewalk easement along the entire site frontage with SE 2<sup>nd</sup> Avenue if one does not exist.
9. All ADA ramps must conform to the most current ADA Standards.

**YOUR NAME:** Hassan Ibrahim

**ORGANIZATION or BUSINESS (if any):** Curran-McLeod Consulting Engineers, Inc.

**ADDRESS:** 6655 SW Hampton St., Suite 210, Portland, OR 97223

**PHONE # (optional):** 503-684-3478

**DATE:** 6/18/2013

## CITY OF CANBY –COMMENT FORM

If you are unable to attend the City Council Public Hearing, you may submit written comments on this form or in a letter addressing the City Council. 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:** [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

Written comments can be submitted up to the time of the Public Hearing and may also be delivered in person to the City Council during the Public Hearing on Wednesday, April 3, 2013, 7:30 pm in the City Council Chambers at 155 NW 2<sup>nd</sup> Ave.

*Application: Appeal of Planning Commission decision*

*Applicant: Save Downtown Canby*

*City File #: APP 13-01 appeal of DR 12-03*

### COMMENTS:

~~The Planning Commission's approval of the design for the Fred Meyer fueling station was made without the benefit of an adequate analysis of the traffic impact this station will cause. The most critical issue in my view is the conflict which will occur between the multiple users of the center turn lane. This potential problem was dismissed by the applicant's traffic analyst by saying conflicts will not occur often. Since the success of the fueling station is predicated on a high volume of cars entering their facility, I fear that customers attempting to enter Hulbert's will encounter significant conflict which in turn will create a serious safety hazard. I believe this issue needs to be reexamined before final approval is considered. The applicant should be required to quantify the frequency of occurrence of conflicts to provide a basis for judging the seriousness of safety issues on this important gateway to our city.~~

I believe Canby would benefit if a Fred Meyer fueling station were available. However, I would encourage the City Council members to exercise their longer range perspective to evaluate the wisdom of such a facility in the central core of our city. This facility will succeed wherever it is located and should not be permitted to place a long term traffic burden on Highway 99 within the central core area.

YOUR NAME:

*Curt Howland*

ORGANIZATION or BUSINESS (if any):

*Hulbert's Flowers*

ADDRESS:

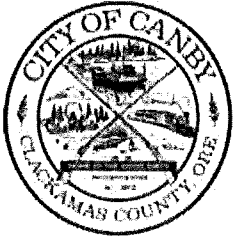
*334 SE First Ave.*

PHONE # (optional):

DATE:

*3/27/13*

Thank you!

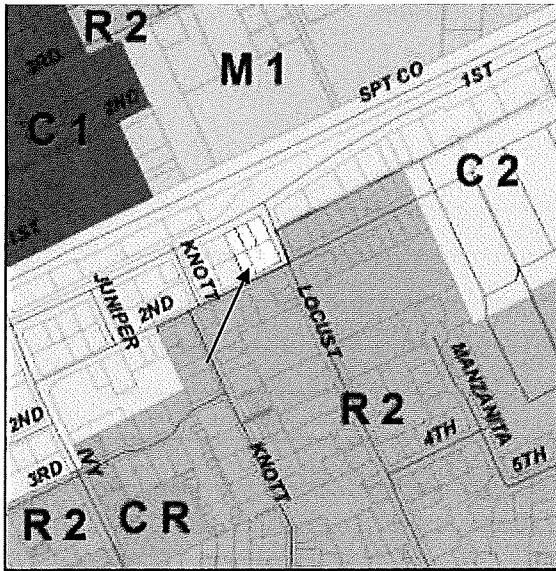


# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The City received an appeal application from "Save Downtown Canby" appealing the Planning Commission's approval of Fred Meyer's Site and Design Review application DR 12-03 for a fuel station facility. The applicable criteria for appeals are stated in Chapter 16.89.050(I) and (J) of the *Canby Land Development and Planning Ordinance*.

The purpose of this Notice is to invite you to comment on the appeal of the decision of the Planning Commission. The Canby City Council will hold a Public Hearing on this appeal on **Wednesday, April 3, 2013 at 7:30 pm in the City Council Chambers at 155 NW 2<sup>nd</sup> Ave.**



**Comments due**– Written comments can be submitted up to the time of the Public Hearing and may also be delivered in person to the City Council during the Public Hearing by 7:30 PM on Wednesday, April 3, 2013.

**Location:** 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2<sup>nd</sup> Ave.

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

**Lot Size and Zoning:** 32,466 sq. ft. of land in tax lots. Existing Comprehensive Plan: Highway Commercial (HC) City of Canby. Existing Zoning: Highway Commercial (C2), and Outer Highway Commercial subarea (OHC) of the Downtown Canby Overlay Zone (DCO).

**Owner:** Oliver Lang LLC

**Applicant:** Save Downtown Canby

**Application Type:** Appeal of Planning Commission decision

**City File Number:** APP 13-01 appeal of DR 12-03

**Contact:** Angie Lehnert at 503-266-0686

**What is the Decision Process?** The City Council will make a decision after the Public Hearing. The Public Hearing will be limited to issues already raised in previous hearings on this application. No new issues will be allowed unless

the City Council chooses to do so.

**Where can I send my comments?** Comments can be mailed to the Planning Department, P O Box 930, Canby, OR 97013; in person at 111 NW Second Avenue; or emailed to [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us).

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Monday, March 25, 2013 at the Canby Planning Department or on the City's website <http://www.ci.canby.or.us/CityGovernment/councilminutes&agenda.htm>. Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Criteria:** Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
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# CITY OF CANBY – COMMENT FORM

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**In person:** Planning Department at 111 NW Second Street  
**E-mail:** [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

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*Application: Appeal of Planning Commission decision*

*Applicant: Save Downtown Canby*

*City File #: APP 13-01 appeal of DR 12-03*

**COMMENTS:**

COMMUNICATION SERVICES WILL BECOME AVAILABLE  
THROUGH THE DEVELOPMENT.

YOUR NAME: DINH VU

ORGANIZATION or BUSINESS (if any): CANBY TELCOM

ADDRESS: 190 SE 2<sup>ND</sup> AVE. PO BOX 880. CANE

PHONE # (optional): \_\_\_\_\_

DATE: MARCH 14<sup>TH</sup> 2013

**Thank you!**



**Hathaway Koback  
Connors LLP**

520 SW Yamhill St.  
Suite 235  
Portland, OR 97204

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

[mikeconnors@hkcllp.com](mailto:mikeconnors@hkcllp.com)

**VIA HAND DELIVERY**

January 28, 2013

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

Re: Fred Meyer Fuel Station  
Site and Design Review Application No. DR 12-03  
Save Downtown Canby

Dear Commissioners:

As you know, this firm represents Save Downtown Canby ("SDC"), a group of local business owners concerned about the above-referenced Site and Design Review application (the "Application") filed by Fred Meyer Stores, Inc. (the "Applicant") for a new Fred Meyer fuel station. We previously submitted letters with attachments, dated July 23, 2012, September 24, 2012 and October 1, 2012, raising a number of problems, concerns and questions regarding the Application. It appears from the Planning Commission packet that these letters have been included as part of the record for this Application, nonetheless we are formally requesting that these letters and attachments be incorporated into the record for this Application.

Our previous letters identify several significant errors and deficiencies in the Application, in particular the Applicant's Transportation Impact Analysis, dated May 17, 2012 (the "TIA"). Given the seriousness of the issues we raised and the Planning Commission's concerns about the traffic impacts expressed at the October 22, 2012 meeting, we were very surprised that the Applicant did not submit any responses or new information in advance of the January 28<sup>th</sup> public hearing. We believe this is a strong indication that the Applicant cannot effectively respond to these issues. In particular, the Applicant likely did not provide a more comprehensive TIA showing the real impacts of the proposed fuel station to the broader transportation system because it will only confirm the significant congestion that will be created by this development. We will not reiterate these issues in this letter, but we continue to believe that these issues remain and are grounds for denying the Application.

This letter focuses on several issues raised in the Staff Report for the January 28<sup>th</sup> hearing that warrant further discussion and the City Council's adoption of the Canby OR 99E Corridor and Gateway Design Plan. We believe that the Staff Report incorrectly concluded that certain approval standards do not apply and that the Application complies with all of the requirements.



Additionally, the City Council's adoption of Ordinance No. 1368, approving the Canby OR 99E Corridor and Gateway Design Plan, demonstrates that a pedestrian refuge island will be provided at Locust Street.

1. The Application does not comply with the development standards set forth in CMC 16.41.050.

The Staff Report acknowledges that the Application does not comply with a number of development standards set forth in CMC 16.41.050, but concludes that some of these standards are not applicable because the Applicant is not proposing substantial buildings and the buildings do not require a building permit. Although the Staff Report is correct that the Application does not comply with these development standards, it is incorrect that the development standards do not apply.

- a. All of the development standards apply to the Application.

The Staff Report's conclusion that some of these development standards are not applicable is wrong for several reasons.

The development standards apply to all development within the DCO regardless of the building size. There is nothing in CMC 16.41.050 or any other provision of the CMC that provides an exception from the DCO development standards for smaller buildings. To the contrary, the minimum floor-area-ratio standard requires a minimum building size in the DCO which is specifically intended to prevent buildings from being too small. CMC 16.41.050(A)(2) and Table 3. Therefore, the Planning Commission must apply all of the development standards in CMC 16.41.050 to the Application.

The proposed buildings are not as small as Staff suggests. The Staff Report incorrectly suggests that the buildings total approximately 330 square feet. The Applicant's own calculations indicate that the buildings are 5,447 square feet. Planning Commission Packet, p.32. The Staff Report fails to account for the canopy, which is approximately 5,304 square feet. The canopy qualifies as a "building" under the plain language definition of that term. A "building" is defined as "a structure built for the shelter or enclosure of persons, animals, chattels or property of any kind." CMC 16.04.090. A "structure" is defined as "an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground." CMC 16.04.590. The canopy is clearly a structure and is being built to provide shelter for persons and property.

Finally, the Staff Report incorrectly concludes that buildings under 200 square feet do not require building permits. All commercial structures require a building permit regardless of their size. OSSC Section 105. Additionally, the Staff Report's proposed conditions of approval include the requirement to obtain building permits.

- b. The Application does not comply with the development standards.

As noted in the Staff Report and Application narrative, the Application does not comply with several development standards.

The Application does not comply with the minimum floor-area-ratio standard in CMC 16.41.050(A)(2) and Table 3. The minimum floor-area-ratio for the OHC subarea is 25 percent, which means that the building floor area must be a minimum of 25 percent of the total property area. CMC 16.04.222. The property is 32,446 square feet. Therefore, the minimum floor-area-ratio requires at least 8,116 square feet of building floor area. The Staff Report claims that the building floor area is 330 square feet, less than 5 percent of the minimum required size. Even using the Applicant's building size of 5,447 square feet, the proposed development is well under the minimum size threshold.

The Application does not comply with the street lot minimum setback requirements set forth in CMC 16.41.050(A)(1)(b) and Tables 1-2. The street lot minimum setback requirement for the OHC subarea is 40 percent. Table 2. That means that 40 percent of the length of the lot frontage must be developed with a building at the minimum setback. CMC 16.41.050(A)(1)(b). The minimum setback for the OHC subarea is 10 feet. Table 1. None of the buildings are within 10 feet of Highway 99 or any of the streets.

The Staff Report acknowledges that the Application does not comply with the parking site maneuvering area setback standards set forth in CMC 16.41.050(A)(4)(b)(1), but suggests that the Planning Commission adopt a condition of approval requiring the Applicant to submit a revised site plan after-the-fact. Staff Report, p.12. The City cannot defer a finding of compliance through conditions of approval unless there is a defined process involving subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). Therefore, the Applicant must demonstrate compliance with this standard as part of this process.

The Application does not comply with the parking and maneuvering area lot frontage requirement in CMC 16.41.050(A)(4)(b)(3). The parking and maneuvering area lot frontage requirement provides that accessways and driveways must not exceed 60 percent of a lot frontage in the OHC subarea. The parking and maneuvering area make up 100 percent of the lot frontage.

2. The Application does not comply with the site and design review standards set forth in CMC 16.41.070 and 16.49.040.

Similar to the development standards, the Staff Report incorrectly concludes that some of the site and design review standards are not applicable because the Applicant is not proposing substantial buildings and that the buildings do not require a building permit. Alternatively, the Staff Report concludes that the Application complies with the standards in CMC 16.49.040. The Staff is wrong in both regards.

a. All of the site and design review standards apply to the Application.

The Staff Report's conclusion that the site and design review standards set forth in CMC 16.41.070 are not applicable is wrong for the same reasons as the development standards. There is nothing in CMC 16.41.070 or any other provision of the CMC that provides an exception from the DCO site and design review standards for smaller buildings. As previously explained, the

proposed buildings are not as small as Staff suggests and the Staff Report is incorrect that building permits are not required. Contrary to Staff's suggestion, all of the site and design review standards in CMC 16.41.070 are applicable. Neither the Applicant nor Staff even attempted to demonstrate that the Application complies with these standards.

b. The Application does not comply with the site and design review standards.

There are several problems with the Staff Report's analysis of the Applicant's compliance with the site and design review standards set forth in CMC 16.41.070 and CMC 16.49.040.

The Staff and the Applicant acknowledge that the Application does not comply with several site and design standards in CMC 16.41.070. The Application does not comply with the window coverage, building entrance/orientation and architectural standards. CMC 16.41.070(A)(2), Standards (1)-(3). While the Applicant claims that it need only demonstrate compliance with the intent of these standards, neither the Applicant nor the Staff Report explain how the proposed fuel station is consistent with the intent. Both the Applicant and the Staff simply argue that those standards that cannot be satisfied are inapplicable. That interpretation is inconsistent with the express language of CMC 16.41.070 and is insufficient to demonstrate compliance with the "intent" of these standards.

The Staff Report does not address compliance with CMC 16.49.040(1)(A)-(D). These are mandatory standards that the Applicant must demonstrate compliance.

The Staff Report's conclusion regarding CMC Table 16.49.040 has several problems. First, the conclusion that some of the standards are not applicable is wrong. In particular, the Low Impact Development ("LID") standards regarding parking are clearly applicable. The Application scores a zero on all of those standards. That means that the total possible points are 52, not 41. Therefore, the Applicant is well below the 70 percent total and 15 percent LID requirements.

Second, the Staff Report's scoring contains several errors. The Application proposes 200 percent of the required parking spaces (one space required and two spaces proposed), and therefore it should be zero points as opposed to the two points given by Staff. There are no pedestrian walkways to building entrances as the term "walkways" is defined in the City's code, and therefore it should be zero points as opposed to the two points given by Staff. CMC 16.04.672. The Application does not propose open space for public use. Merely identifying a miniscule area on the site plan as "open space" does not make it open space, and it is silly to suggest that the public will use a fuel station as open space. Therefore, it should be zero points as opposed to the two points given by Staff. These are mere examples of the errors. If these errors were accounted for and the table was recalculated, the Application would be well below the 70 percent/15 percent thresholds.

Finally, the Staff Report's conclusion that the required points can be rounded down to the benefit of the Applicant is not supported by CMC Table 16.49.040. If the required points are 28.7 total and 6.15 LID as Staff suggests, the Applicant must *meet or exceed* these numbers since they are minimum requirements. The Staff's conclusion that the Applicant's 28 total and 6 LID is sufficient if the required numbers are rounded down is inconsistent with CMC Table 16.49.040. Nor does Staff explain why 28.7 should be rounded down as opposed to rounded up.

3. The Application does not comply with the signage standards.

The Staff Report acknowledges that the Application does not comply with the sign standards set forth in CMC 16.42.050 Table 3 because it exceeds the maximum square footage and maximum number of signs allowed per frontage, but it concludes that it meets the “intent” of the standards. The signage standards are mandatory standards. Meeting the intent of the standards is not sufficient.

4. The Application does not address the stormwater requirements.

Several City agency comments concluded that the Application lacked a stormwater discharge plan and that onsite disposal should be required. The Staff Report does not address this issue or require a stormwater discharge plan consistent with these requirements. General conditions requiring that the Applicant address the stormwater requirements as part of the building permit process are insufficient and improperly defer compliance. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992).

5. The Applicant has not addressed potential conflicts between the proposed fuel station and the pedestrian refuge island approved at Locust Street pursuant to Ordinance No. 1368.

On December 5, 2012, the City Council adopted Ordinance No. 1368, approving the Canby OR 99E Corridor and Gateway Design Plan. The Canby OR 99E Corridor and Gateway Design Plan confirms that a pedestrian refuge island will be provided at Locust Street. The Canby OR 99E Corridor and Gateway Design Plan provides: “There was, however, support for a pedestrian refuge island at Locust Street to provide safer crossing opportunities and for a short median as part of the Berg Parkway Gateway.” See Attached Ordinance No. 1368, p.22. When SDC previously raised the conflicts between the proposed fuel station and the pedestrian refuge island at Locust Street, the Applicant argued that the City had not yet approved the pedestrian refuge island at this location. Pursuant to Ordinance No. 1368, the City Council has officially approved the pedestrian refuge island at Locust Street. The Applicant must account for the pedestrian refuge island at Locust Street and demonstrate that the high levels of traffic associated with the fuel station will not conflict with the heavy pedestrian use as a result of the pedestrian refuge island. CMC 16.08.150(C)(5), 16.08.150(I), 16.08.150(J)(1)-(2).

6. The Applicant cannot rely on the Text and Zoning Map Amendments.

The Staff Report incorrectly assumes that the Applicant can rely on the Text and Zoning Map Amendments for purposes of the Site and Design Review Application. The Applicant cannot rely on the Text and Zoning Map Amendments because the amendments were not in effect when the Application was filed. The Applicant chose to process the Application separately from the Text Amendment and Zoning Map Amendment applications and therefore cannot rely on these amendments for purposes of the Application.

The fixed goal-post rule requires the City to review all land use applications based on the acknowledged Comprehensive Plan and CMC provisions in effect on the date the application is

filed. ORS 227.178(3)(a) provides that “approval or denial of the application shall be based upon the standards and criteria that were *applicable at the time the application was first submitted*.” (Emphasis added). Even if the comprehensive plan and land use regulations change after the date an application is filed, the local government must review the application based on the provisions in effect when the application was filed. *Davenport v. City of Tigard*, 121 Or App 135, 141, 854 P2d 483 (1993). Although there is an exception to the fixed goal-post rule if an applicant elects to file a consolidated set of applications pursuant to ORS 227.175(2), the Applicant chose not to consolidate the applications and therefore this exception is not available. *Columbia Riverkeeper v. Clatsop County*, 58 Or LUBA 190, 206-08 (2009); *NE Medford Neighborhood Coalition v. City of Medford*, 53 Or LUBA 277, 282, *aff’d* 214 Or App 46 (2007). The Applicant chose to process the two sets of applications independently subject to the separate Type III and IV processes. Therefore, the Application must be reviewed under the CC subarea standards in effect when the Application was filed. Since the Application does not comply with the CC subarea standards, it must be denied.

#### Conclusion

The Applicant has not and cannot demonstrate compliance with numerous approval standards. The issues raised in this letter are only the most recent flaws noted from the Staff Report. The Applicant has yet to respond to the other issues SDC raised, most notably the serious flaws in the TIA. Therefore, the Planning Commission should deny the Application. We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



E. Michael Connors

EMC/df

Attachment

cc: Save Downtown Canby

**ORDINANCE NO. 1368**

**AN ORDINANCE ADOPTING THE CANBY OR99E CORRIDOR AND GATEWAY PLAN, AMENDING CANBY'S COMPREHENSIVE PLAN TEXT, TRANSPORTATION SYSTEM PLAN, AND TITLE 16 OF THE CANBY MUNICIPAL CODE.**

**WHEREAS**, the Gateway Plan Advisory Committee F recommended that the Planning Commission adopt the Canby OR99E Corridor and Gateway Plan and approve certain amendments to the Land Development and Planning Ordinance, Comprehensive Plan and Transportation System Plan that comply with state requirements and further the goals of the citizens of Canby; and

**WHEREAS**, the Canby Planning Commission, after providing appropriate public notice, conducted a public hearing on said amendments, during which the citizens of Canby were given the opportunity to come forward to present testimony on these proposed changes; and

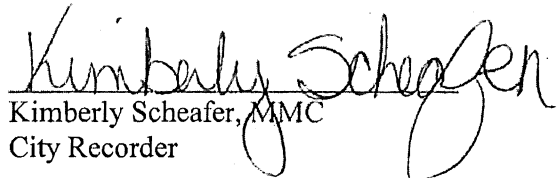
**WHEREAS**, the Planning Commission found that the standards and criteria of Section 16.88.160 and 16.88.180 of the Land Development and Planning Ordinance, concerning Text Amendments and Comprehensive Plan Amendments, were met, and recommended approval to the City Council on a unanimous vote after making certain modifications; and

**WHEREAS**, the City Council, after reviewing the record of the Canby Planning Commission regarding the subject amendments, concluded that the Planning Commission's findings of fact and the amendment itself are appropriate.

**THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:**

- (1) CPA 12-02/TA 12-03 is hereby approved, the Canby OR99E Corridor and Gateway Plan is adopted, and the Land Development and Planning Ordinance, Comprehensive Plan and Transportation System Plan are hereby amended as detailed in Exhibit A.

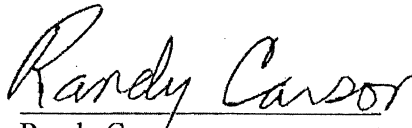
**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, December 5, 2012, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the City Council at a regular meeting thereof on January 2, 2013, commencing after the hour of 7:30 p.m. in the Council Meeting Chambers located at 155 NW 2nd Avenue in Canby, Oregon.

  
Kimberly Scheafer, MMC  
City Recorder

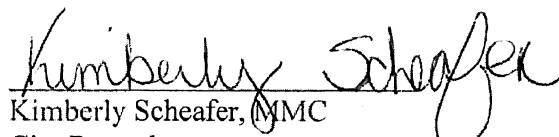


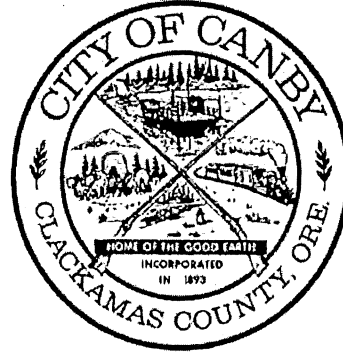
**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on January 2, 2013 by the following vote:

YEAS 6 NAYS 0

  
Randy Carson  
Mayor

ATTEST:

  
Kimberly Scheafer, MMC  
City Recorder



## STAFF REPORT

**TITLE:** Amendments to selected sections of Canby's Comprehensive Plan, Municipal Code, and Transportation System Plan.

**FILE #:** CPA 12-02/TA 12-03

**STAFF:** Matilda Deas, AICP Senior Planner

**DATE OF REPORT:** October 31, 2012

**DATE OF HEARING:** November 13, 2012

### I. REQUEST

This is a legislative amendment application to adopt The Canby OR 99E Corridor and Gateway Design Plan (Plan), update the Comprehensive Plan text, and to modify several sections of the City's Land Development and Planning Ordinance and Transportation System Plan in order to implement the Plan.

### II. APPLICABLE REGULATIONS

**City of Canby General Ordinances:**

- 16.88.160 Amendments to text of title
- 16.88.180 Comprehensive Plan Amendments (Legislative)

### III. MAJOR APPROVAL CRITERIA

**Section 16.88.160 Amendments to Text of Title**

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

- A. The Comprehensive Plan of the City, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
- B. A public need for the change;
- C. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
- D. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
- E. Statewide planning goals.

**Section 16.88.180 Comprehensive Plan Text Amendments (Legislative)**

In judging whether a legislative plan amendment shall be approved, the Planning Commission and City Council shall consider:

- 1. The remainder of the Comprehensive Plan of the City, as well as the plans and policies of the county, state or any local school or service districts which may be affected by the amendment;
- 2. A public need for the change;
- 3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
- 4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
- 5. Statewide planning goals.

#### **IV. FINDINGS**

##### **A. Background and Relationships**

The Canby OR 99E Corridor and Gateway Plan (Plan) was recently completed by the City of Canby and will guide future improvements on the section of OR 99E within city limits. The Plan sets forth streetscape and gateway design elements that reflect the city's "Canby The Garden Spot" theme to enhance motorist awareness as they transition from rural to urban Canby and to support community livability.

The Plan was prepared with public and agency participation and received input from the Gateway Plan Advisory Committee (GPAC), which was formed specifically to advise the City and consultant team on the preparation of the Plan. The Plan also received input from interested citizens through community open houses, workshops and individual stakeholder interviews.

The Plan supplements the recently adopted Updated Transportation System Plan (TSP). It replaces the standard cross-sections for OR 99E within Canby city limits, refines the non-capacity improvements for the designated Special Transportation Area (STA) on OR 99E between Elm and Locust Streets, and identifies additional corridor and improvements outside the STA.

## **B. Proposed Amendments**

The Plan proposes amendments to sections of the Comprehensive Plan, the Transportation Plan, and the Land Development and Planning Ordinance. This report lists each of the amendments below, and addresses the criteria for approval at the end. All of the following proposed amendments are also in the Draft Canby OR 99E Corridor and Gateway Design Plan Appendix which is provided in your packet.

Language that is **bold and underlined** is text to be added. Text to be deleted is indicated by ~~strike through~~ notation. Staff comments are *italicized*.

### **Transportation System Plan Amendments:**

These recommended amendments to the TSP are intended to adopt the Gateway Plan as an ancillary document and provide reference to the Gateway Plan where appropriate.

## **Chapter 7. Motor Vehicle Plan**

### **Special Transportation Area (STA) Designation (p. 7-9)**

Significant multi-modal improvements should be provided along this section of OR 99E for it to better accommodate pedestrian, bicycle, and transit movement along and across the highway consistent with the desired characteristics of an STA. To this end, the Motor Vehicle Master Plan includes an STA implementation project as a priority project. This project (and the identified cost estimate) would include pedestrian, bicycle, transit, and on-street parking improvement projects along the STA designated section of OR 99E.

**To implement the desired improvements on OR 99E associated with the STA, the City worked with ODOT to establish the Canby OR 99E Corridor and Gateway Design Plan. The Gateway Plan refines the design cross-sections for the OR 99E corridor through the STA and identifies projects to improve the streetscape and support safe and attractive, multi-modal travel within the corridor. The Canby OR 99E Corridor and Gateway Design Plan is adopted herein as an ancillary document to the TSP.**

~~The City has also expressed interested in working with ODOT to develop a "downtown streetscape" plan for OR 99E in the STA (as well as for the remainder of the OR 99E corridor in Canby). Such a plan would help ensure coordinated efforts between ODOT and the City and also provide guidance to future development along the corridor.~~

## **Roadway Cross-Section Standards (p. 7-14)**

Additional design considerations are required for OR 99E. The state highway design considerations are defined in the Oregon Highway Plan (OHP) and in the Highway Design Manual (HDM). Any deviation from these standards requires approval of a design exception. Design and future improvements to OR 99E must also address ORS 366.215 (Reduction in Vehicle Carrying Capacity) on this national freight network facility. ~~The City also intends to conduct a future OR 99E corridor plan that will refine the cross-sections, roadway features, and cost estimates for highway improvements in Canby~~

**ODOT, as well as the state Freight Stakeholders Committee support the proposed OR 99E cross sections and improvements. A “design exception” for non-standard features in the OR 99E STA section has been approved by ODOT.**

**The City has adopted the Canby OR 99E Corridor and Gateway Design Plan to refine the cross-sections, roadway features, and cost estimates for improvements to the OR99E corridor. The Gateway Design Plan contains OR 99E cross-section standards, including cross sections through the STA between Locust and Elm Streets, which are shown in Figure 7-3. (See page 12 of the Gateway Plan for the above referenced cross sections. These will be the new Figure 7-3)**

The **Additional** cross-section standards are provided in Figure 7-3 for of OR 99E, Figure 7-4 for arterial streets, Figure 7-5 for collector streets, and Figure 7-6 for neighborhood routes and local streets.

To ensure suitability for roadway improvements, final cross-section designs must be coordinated with City of Canby staff and are subject to City Staff approval. **Design specifications for improvements on OR 99E must also be approved by ODOT.**

## **Municipal Code Title 16 Planning & Zoning Amendments:**

Many of the improvements identified in the Gateway Plan will take place in public right-of-way and will be constructed by the City or adjacent property owners, particularly improvements to the pedestrian and bicycle elements of the highway facility. Improvements to OR 99E roadway (between the curbs) generally would be constructed by the state except when off-site mitigation is required as conditions of approval for land development. Generally speaking, private properties will be responsible for dedicating right-of-way and constructing building-to-curb improvements (i.e., sidewalks and planting strips) as development or redevelopment occurs. As such, language in the existing code is generally sufficient to support and implement the improvements and design standards identified in the Gateway Plan. This section recommends some amendments intended to eliminate conflicts between standards and implement some specific elements of the Gateway Plan.

## **Chapter 16.08 GENERAL PROVISIONS**

### **16.08.090 Sidewalks required.**

A. In all commercially and industrially zoned areas, the construction of sidewalks and curbs improvements between the building line and curb line (including sidewalks, planting strips, and curbs) with appropriate ADA ramps for the handicapped on each street 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. Width and design of sidewalk improvements shall be consistent with the cross sections identified in the Canby TSP.

## **Chapter 16.22 C-1 DOWNTOWN COMMERCIAL ZONE**

### **16.22.030 Development Standards**

F. Other regulations:

2. Sidewalks a minimum of eleven (11) feet in width shall be required in commercial locations unless existing building locations or street width necessitate a more narrow design. For properties with frontage along OR 99E, sidewalk widths shall be consistent with the cross-sections in Figure 7-3 of the TSP.

## **Chapter 16.28 C-2 HIGHWAY COMMERCIAL ZONE**

### **16.28.030 Development Standards**

F. Other regulations:

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. However, for properties with frontage along OR 99E within the Gateway Plan area, sidewalk widths shall be consistent with the cross-sections in Figure 7-3 of the TSP.

## **Chapter 16.30 CM HEAVY COMMERCIAL MANUFACTURING ZONE**

### **16.30.030 Development Standards**

F. Other regulations:

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. However, for properties with frontage along OR 99E within the Gateway Plan area, sidewalk widths shall be consistent with the cross-sections in Figure 7-3 of the TSP.



## Chapter 16.32 M-1 LIGHT INDUSTRIAL ZONE

### 16.32.030 Development Standards

#### F. Other regulations:

- 5. For those properties with frontage along OR 99E within the Gateway Plan area, sidewalks shall be required consistent with the cross-sections in Figure 7-3 of the TSP.**

#### C. Comprehensive Plan Consistency Analysis

##### iv. **TRANSPORTATION ELEMENT**

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

Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

*Analysis: The City has a very good relationship with representatives of Clackamas County and the Oregon Department of Transportation. As mentioned, representatives of both of these groups have been involved in the development of the TSP and the Gateway Plan. All jurisdictions are committed to cooperating on street development projects.*

##### v. **PUBLIC FACILITIES AND SERVICES ELEMENT**

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

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

*Analysis: Street projects in the City of Canby are a cooperative effort between the Public Works Department, the Planning Department, the City Civil Engineer, the City Traffic Engineer, and other service providers. The collective efforts of all these City groups are joined with County and State interests when appropriate.*

Policy #2: Canby shall utilize all feasible means of financing needed public improvements and shall do so in an equitable manner.

*Analysis: Street projects in Canby are financed through the following methods, when applicable: System Development Charges, advanced*

*financing districts, local improvement districts, Urban Renewal, Street Maintenance Fee, State Highway Fund (gas taxes), Federal Fund Exchange, local gas tax, construction excise tax, street repair fees and erosion control fees, interest revenue, private financing, and grants. A combination of these sources is typically utilized in the completion of improvements to the transportation system.*

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

*Staff concludes that the proposed Comprehensive Plan Amendment and text amendments are consistent with the policies of the Comprehensive Plan. Adoption of the Canby OR 99E Corridor and Gateway Design Plan will help to guide future improvements on sections of OR 99E within city limits to reflect the city's "Canby the Garden Spot" theme to enhance motorist awareness as they transition from rural to urban Canby, and support community livability.*

**IV. CONCLUSION**

*Most of the Comprehensive Plan's goals and policies are not germane to this application. The proposed plan amendments will not have a negative effect on the City's environment, natural resources, economy, housing supply, transportation system, or public facilities and services. The proposed amendments will, however, help implement the design standards set forth in The Canby OR 99E Corridor and Gateway Plan and will assure that future development along OR 99E within the city limits reflects those standards. The Citizen Involvement Element has been met via the public hearing for this application, and the review and endorsement of these amendments by the Gateway Plan Advisory Committee, the community open houses, stakeholder interviews, the Project Management Team, the Consultants and City staff.*

**Criteria for Legislative Comprehensive Plan Amendment/Text Amendment**

- A. The remainder of the Comprehensive Plan of the City, as well as the plans and policies of the county, state or any local school or service districts which may be affected by the amendment;**

*The commentary under section C of the staff report addresses the remainder of the Comprehensive Plan.*

- B. A public need for the change;**

*OR 99E functions as both a gateway and a main street for Canby's business community. However the highway does not accurately reflect the values embodied in the City's theme of "Canby the Garden Spot". The Gateway Plan provides direction for future development to more clearly align OR 99E design elements to reflect "Canby The Garden Spot".*

*The proposed amendments serve the public by helping to implement the Gateway Plan. The adoption of Plan will aid the City in its search for future funding for improvements identified in the Plan.*

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

*Staff believes that the proposals effectively update and clarify our Transportation System Plan, Municipal Code and Comprehensive Plan.*

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

*Staff believes this criterion has been met, as detailed above.*

**E. Statewide Planning Goals.**

The following Statewide Planning Goals apply to this application:

Goal 1: Citizen Involvement.

*The Planning Commission will make a recommendation on this application in a public hearing. Furthermore, the Plan has been reviewed and approved by the Project Management Team, the Gateway Plan Advisory Committee, the project Consultants, and City staff.*

Goal 8: Economic Development

*The adoption of the Plan (and proposed amendments) will encourage the revitalization and redevelopment of OR 99E corridor within city limits and thereby provide the citizens of Canby with additional economic and employment opportunities.*

Goal 12: Transportation

*The amendments to the Transportation System Plan will encourage a safe and convenient environment for pedestrians and bicyclists within the 99E corridor.*

**V. RECOMMENDATION**

Based on the findings and conclusions presented in this report, and without benefit of a public hearing, staff recommends that the Planning Commission advance a recommendation of approval on to the City Council on CPA 12-02/TA 12-03.

**Exhibits:**

1. Draft Canby OR 99E Corridor and Gateway Design Plan
2. Draft Canby OR 99E Corridor and Gateway Design Plan Appendix

### AFFIDAVIT OF POSTING

STATE OF OREGON       )  
                                  )  
County of Clackamas    )       ss:  
                                  )  
CITY OF CANBY         )

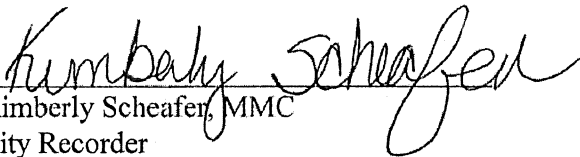
I, Kimberly Scheafer, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 5<sup>th</sup> of December 2012 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1368 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

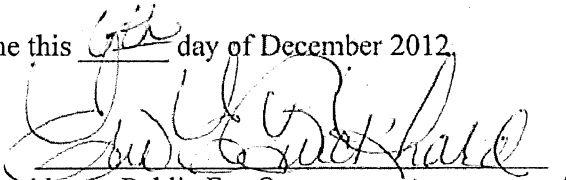
Thereafter, on the 6<sup>th</sup> day of December 2012, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

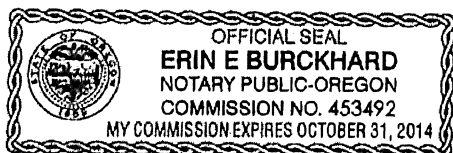
1. Canby City Hall Bulletin Board - outside
2. Canby Public Library Bulletin Board
3. Canby Post Office

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of five (5) days and until the very 2<sup>nd</sup> day of January 2013.

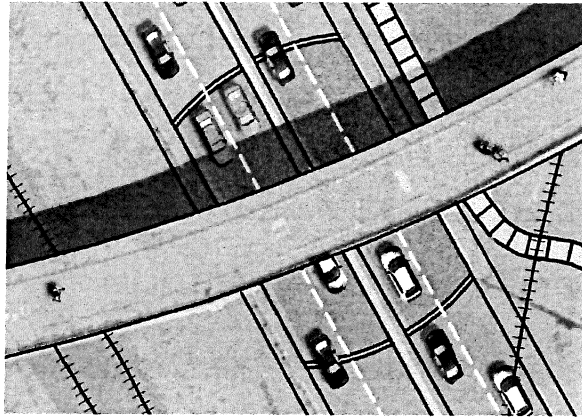
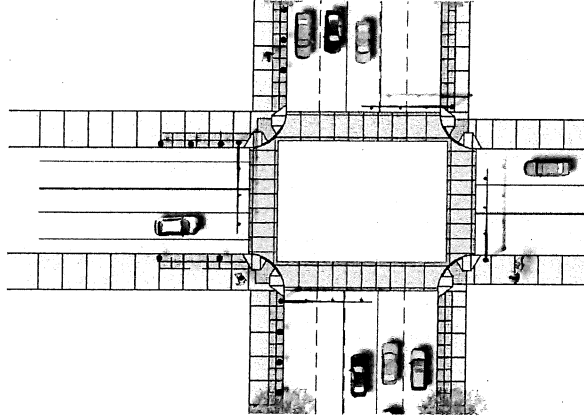
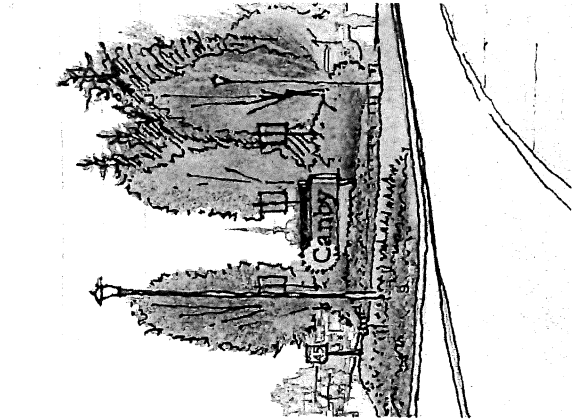
  
Kimberly Scheafer, MMC  
City Recorder

Subscribed and sworn to before me this 6<sup>th</sup> day of December 2012.

  
Notary Public For Oregon  
My Commission Expires: 10/31/2014



# Canby OR 99E Corridor and Gateway Design Plan



City of Canby  
**OR 99E**

June 2012



Hanmi Global Partner



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# Acknowledgements

This project was partially funded by a grant from the Transportation Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation (ODOT), and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and State of Oregon funds. The contents of this document do not necessarily reflect views or policies of the State of Oregon.

This report was prepared through the collective effort of the following people:

## PROJECT MANAGEMENT TEAM

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# Project Overview

## PROJECT OVERVIEW

The Canby OR 99E Corridor and Gateway Plan (Plan) was recently completed by the City of Canby and will guide future improvements on the section of OR 99E within city limits. The Plan illustrates potential highway improvements and design concepts for four segments of the highway and three community gateways along OR 99E. The Plan envisions a safe and efficient multi-modal highway with design elements that reflect the city's "Oregon's Garden Spot" theme. Highway design elements enhance motorist awareness as they transition from rural to suburban to urban settings, support community livability, accommodate multi-modal activity, and provide statewide travel and freight movement.

## PUBLIC AND AGENCY PARTICIPATION

The Plan was prepared with public and agency participation. It was developed in close coordination with the City of Canby and Oregon Department of Transportation (ODOT) staff and received input and direction from the Gateway Plan Advisory Committee (GPAC), which was formed specifically to advise the City and consultant team in the preparation of this Plan.

The Plan also received input from interested citizens through City staff efforts to visit businesses along the highway, at two public open houses, and at the GPAC meetings, which were open to public attendance and participation. Work sessions and hearings with the Planning Commission and City Council were also held to allow elected officials and citizens to comment on the Plan, make suggestions, voice concerns, and provide feedback.

## PLANNING CONTEXT

The Plan supplements the recently adopted *City of Canby Transportation System Plan (TSP)*<sup>1</sup> in three ways. It replaces the standard cross-sections for OR 99E within Canby city limits, refines the non-capacity improvements for the designated Special Transportation Area (STA) on OR 99E between Elm and Coast Streets, and identifies additional corridor improvements outside the STA. Furthermore, the adopted Plan will be forwarded to the Oregon Transportation Commission (OTC) for their approval, as an amendment to the *Oregon Highway Plan (OHP)* as it applies to OR 99E in Canby.

## PENDING THE IMPROVEMENTS

To fund improvements, the City will rely in part on existing sources of revenue identified in the TSP, such as gas taxes, urban renewal funds, and system development charges (SDCs). However, the estimated total cost exceeds that projected revenue of the City; therefore, additional funding sources will be

<sup>1</sup> *Canby Transportation System Plan (TSP)*, December 2010.

necessary. Several potential supplemental sources of funding for transportation improvements include state and county contributions, developer exactions, urban renewal, increases to the City's transportation SDC, local improvement districts, special assessments, and grants. Some of these, such as ODOT's Transportation Enhancement (TE) grant may be appropriate for funding improvements identified in the Plan, and could be combined with ODOT highway preservation projects along the highway corridor.

## RIGHT-OF-WAY AND CONSTRUCTION

The highway cross-section and gateway design improvement concepts would primarily be constructed within the OR 99E right-of-way and on public structures (such as the Molalla River Pathway Bridge and on lighting and signal poles). However, in some locations, the cross-sections for OR 99E identified in the Plan will require the purchase or dedication of additional right-of-way width (typically ranging from 11- 15 feet) to provide the full build-out of design concepts. Some of this right-of-way acquisition may include easements obtained from private property. Additional right of way may also be needed at intersections to meet standards for truck turning radii. However, to avoid impacting existing development, only partial improvements (for example, narrower sidewalks) could be provided until opportunities arise to acquire additional right-of-way through dedication at the time of site redevelopment or redevelopment.

As properties along OR 99E within the Plan area develop or redevelop, the City's development code will allow the City to require right-of-way dedication and frontage improvements consistent with the adopted corridor segment cross-sections. When only a small portion of a highway frontage improvements would be modified, and the results would be inconsistent with the surrounding conditions, a fee-in-lieu mechanism is being considered for the City of Canby as an alternative to requiring the improvements. With the fee-in-lieu, the City could charge the development an amount equal to the cost of constructing the improvements and then use those funds at a later date to fund the improvement when the timing is appropriate. Currently, the City does not have a formalized process for accepting in-lieu fees for transportation-related improvements.

## TIME FRAME AND PHASING

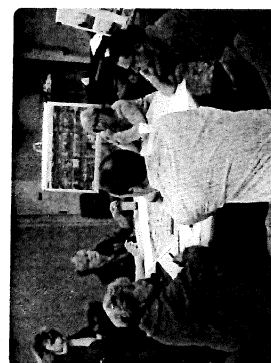
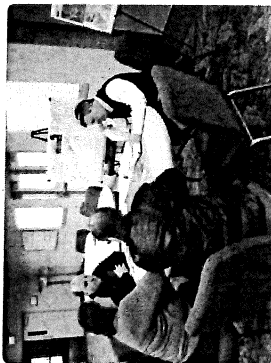
The Plan is intended to be implemented over 20 years longer. Construction of the improvements identified in the Plan is contingent on the availability of funding and will likely occur incrementally. The timing of corridor property development or redevelopment would also affect project feasibility. For example, if a number of properties along one segment of OR 99E were to redevelop and dedicate right-of-way and fees-in-lieu for frontage improvements, the City could prioritize funding improvements for that segment. Timing may also depend on the availability of state and federal funds.

## GATEWAY PLAN ADVISORY COMMITTEE

The GPAC served as the primary citizen and agency reviewers throughout the project and provided valuable input that informed the conceptual designs. Citizens involved included property owners, business owners, and residents. Representatives from the City's Planning Commission, City Council, Chamber of Commerce, and Bike and Pedestrian Advisory Committee also participated. Agency involvement included City staff from Planning, Economic Development, Public Works, the Main Street programs, Canby Area Transit (CAT), City Engineer, and ODOT staff.

Informally, the City has identified the Molalla River Pathway Bridge improvements and the Downtown and Molla River Pathway Bridge gateways as priority projects; however, these projects are not proposed to be included on the financially constrained project list in the Canby TSP. The implementation of these priority improvements will be based on funding availability.

# Vision and Guiding Principles



The Vision and Guiding Principles for the Plan were established to provide direction for the development of the Plan and ensure the final product supports the interests of the City of Canby, ODOT, other stakeholders, and the community at large. They reflect the goals and objectives from prior planning efforts in Canby, such as the TSP<sup>2</sup>, as well as current state and local policies. As part of the project's public involvement effort, the Vision and Guiding Principles were refined based on input from the GPAC and at public meetings. Improvement alternatives and strategies developed through this project were evaluated for conformance with the final Vision and Guiding Principles, as is demonstrated in subsequent chapters.

## OR 99E CORRIDOR AND GATEWAY PLAN VISION

The vision for the Plan is a safe and efficient multi-modal highway with design elements that reflect the city's "Oregon's Garden Spot" theme. Highway design elements enhance traveler awareness as the highway transitions from rural to suburban to urban settings, support community livability, accommodate multi-modal travel modes, and provide for regional travel and freight movement.

## GUIDING PRINCIPLES

When highway design is integrated with community planning, the result is a balance of technical, functional, and economic considerations that support a "sense of place" for the community. The community is defined by what physically surrounds the roadway because the highway creates both a first and last impression for visitors. To ensure this planning effort achieves its vision, the following guiding principles were developed to serve as evaluation criteria for proposed elements of the Plan. These principles can continue to provide guidance as implementation occurs.

### GUIDING PRINCIPLE 1: DESIGN AND CHARACTER

*Design OR 99E to tell a story to highway travelers that Canby is "Oregon's Garden Spot" and is an attractive location to live and recreate.*

- Objective a. Provide gateways at transition areas or locations that call attention to unique features and destinations.
- Objective b. Protect Canby's "small town" character.
- Objective c. Beautify the corridor by providing aesthetic improvements and addressing maintenance needs.

- Objective d. Promote context-sensitive transportation facility design, which fits the physical context, responds to environmental resources, yet maintains safety and mobility.
- Objective e. Ensure that highway design reflects adjacent land uses and has appropriate transitions from rural to highway commercial to downtown commercial settings.
- Objective f. Improve the aesthetics and operational coordination between OR 99E and the Union Pacific Railroad (UPRR).

### GUIDING PRINCIPLE 2: MULTI-MODAL INTEGRATION

*Integrate pedestrian, bicycle, transit, and motor vehicle facilities to provide multi-modal access to local destinations and encourage downtown pedestrian activity.*

- Objective a. Construct a seamless and coordinated transportation system that is accessible to all members of the community, including children, seniors, and people with low incomes or disabilities.
- Objective b. Provide bikeway and walkway systems that recognize their users as "design vehicles" of the transportation system.
- Objective c. Create pedestrian and bicycle-friendly streetscapes that reflect the transition from rural to urban conditions.
- Objective d. Coordinate with CAT to ensure improvements are consistent with transit plans and objectives, including bus stops and a potential park-and-ride lot or relocated transit center.

### GUIDING PRINCIPLE 3: SAFETY

*Develop and maintain a safe and secure transportation corridor.*

- Objective a. Follow best practices for designing and maintaining safe and secure pedestrian and bicycle ways (or parallel routes) along and across OR 99E and the UPRR.
- Objective b. Follow best practices for designing and maintaining safe motor vehicle facilities.
- Objective c. Increase the safety of bus stops along OR 99E.
- Objective d. Reduce the barrier effect by facilitating bicycle and pedestrian crossings of OR 99E and the UPRR.



# Vision and Guiding Principles

## GUIDING PRINCIPLE 4: ECONOMIC VITALITY

*Enhance the economic vitality of the City and local businesses by efficiently funding and constructing transportation improvement projects that both encourage and serve future growth.*

- Objective a. Integrate bicycle and pedestrian facility improvements into all street planning, design, construction, and maintenance activities.
- Objective b. Coordinate with ODOT to install landscaping and other aesthetic treatments as part of highway projects or as conditions of adjacent development. Establish City-ODOT maintenance agreements for special roadway features and gateways.
- Objective c. Minimize private property impacts. This includes ensuring that driveway accesses are not impacted by center medians or street trees along OR 99E.
- Objective d. Balance local access with the need to serve regional traffic needs.
- Objective e. Ensure that OR 99E supports existing and planned land uses throughout the city, consistent with the City's Comprehensive Plan.
- Objective f. Identify and develop diverse and stable funding sources to implement recommended projects in a timely fashion and ensure sustained funding for transportation projects and maintenance.

## GUIDING PRINCIPLE 5: SUSTAINABILITY

*Provide a sustainable transportation corridor that meets the needs of present and future generations.*

- Objective a. Provide transportation options that reduce reliance on the automobile and increase the use of other modes to minimize transportation system impacts on the environment and cultural resources.
- Objective b. Practice stewardship of air, water, land, wildlife, botanical, and cultural resources. Take into account the natural environments in the planning, design, construction and maintenance.
- Objective c. Incorporate natural stormwater drainage systems and/or reduce surface storm water run-off where feasible.

## GUIDING PRINCIPLE 6: RELIABILITY AND MOBILITY

*Develop and maintain a well-connected transportation system that reduces travel distance, improves reliability, and manages congestion.*

- Objective a. Plan for the construction of all applicable Financially-Constrained Solutions Package projects identified in the Canby TSP.
- Objective b. Ensure safe, efficient, and continuous operation to allow timely freight movement to, from, and through Canby on OR 99E.

## GUIDING PRINCIPLE 7: PLAN PROCESS AND IMPLEMENTATION

*Involve the appropriate stakeholders in the plan process and provide tools to facilitate the implementation of the highway design features.*

- Objective a. Coordinate and cooperate with ODOT to develop a unified streetscape design concept for the City of Canby. Ensure the transportation improvements included in the plan benefit and are consistent with the standards of the city, region, and state as a whole.
- Objective b. Advocate for ODOT programming of identified improvements into the State Transportation Improvement Program.
- Objective c. Engage property owners, the public at large, and other stakeholders to obtain feedback and build consensus. Ensure that public input is respected and considered.
- Objective d. Prepare implementation and maintenance plans that are consistent with applicable adopted policies and regulations of the City of Canby and ODOT. Ensure the plans clarify roles and responsibilities.



# Recommended Design Concepts

## CORRIDOR SEGMENTS AND CROSS-SECTIONS

Four corridor segments of OR 99E were identified and are illustrated in Figure 1. Existing land uses, existing right-of-way and roadway conditions, and posted speeds are the distinguishing characteristics.

### SEGMENT 1 - MOLALLA RIVER PATHWAY BRIDGE TO ELM STREET

Segment 1 is located at one end of the STA and is intended to serve the adjacent urban areas while also helping highway traffic transition between the nearby urban-rural areas and downtown Canby. It includes the Berg Parkway Gateway.

### SEGMENT 2 - ELM STREET TO LOCUST STREET

The City of Canby TSP recommended the establishment of a Special Transportation Area for OR 99E between Elm Street and Locust Street, which was recently approved by the OTC. The STA designation provides greater flexibility for streetscape design and is supportive of a multi-modal downtown. The City's vision is for a more pedestrian friendly highway with narrower travel lanes, wider sidewalks, reduced speeds, and features to improve pedestrian crossings.

### SEGMENT 3 - LOCUST STREET TO MOLALLA RIVER PATHWAY BRIDGE

Segment 3 is located at one end of the STA and is intended to serve the adjacent urban areas while also helping highway traffic transition between downtown Canby and the nearby urban-suburban areas. It includes the Molalla River Pathway.

### SEGMENT 4 - MOLALLA RIVER PATHWAY BRIDGE TO TERRITORIAL ROAD

Segment 4 is located in the suburban-rural transition area on the east side of OR 99E, through Canby. There is future development potential along the southeast side of the highway in this section. However, on the northwest side, the UPRR line runs immediately adjacent to the highway and precludes development.

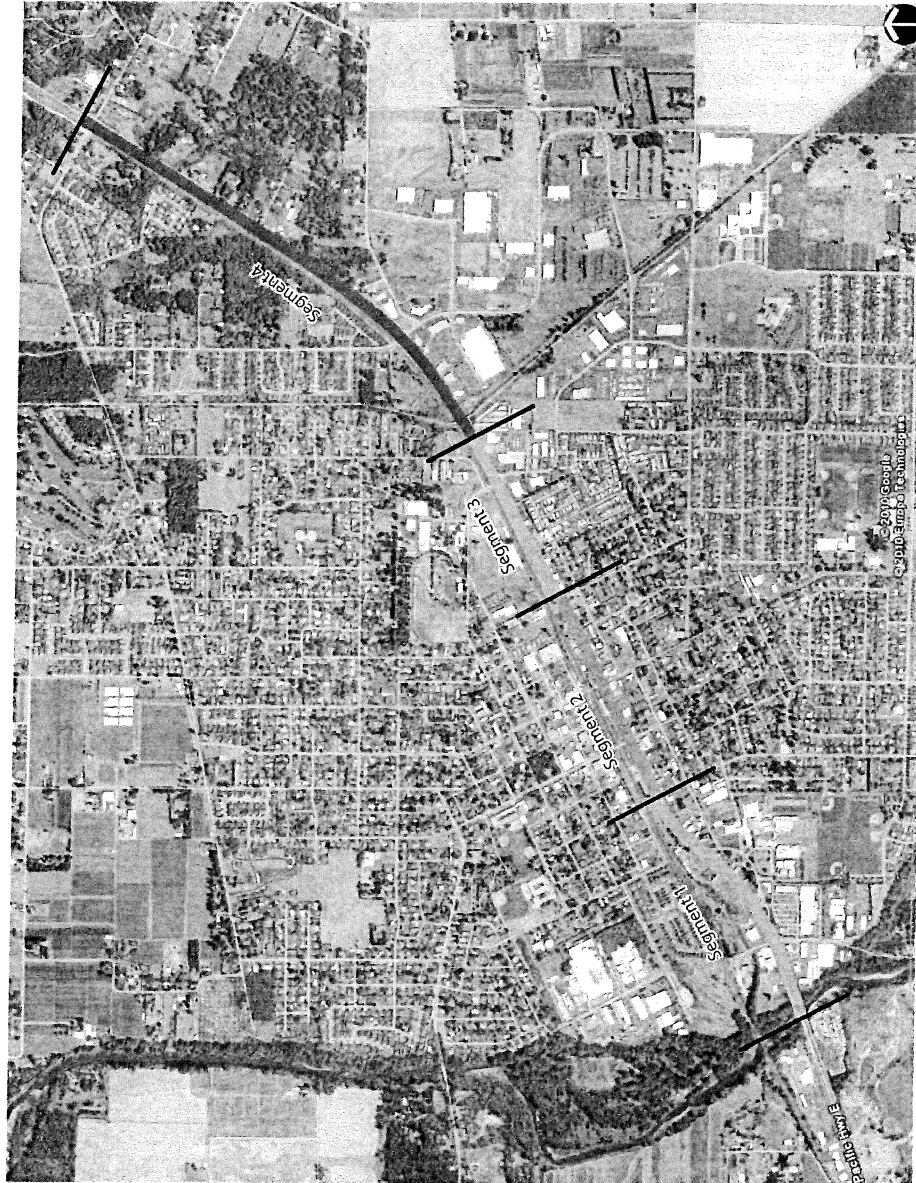


Figure 1 – OR 99E Corridor Design Segments

# Recommended Design Concepts

## CORRIDOR SEGMENTS AND CROSS-SECTIONS

### RECOMMENDED OR 99E CROSS-SECTIONS

Cross-section standards have been developed for each corridor segment. Segment 1 and 3 will have the same cross-section, which is consistent with the ODOT Highway Design Manual standard. Segment 2 through the STA will require a design exception, which has received preliminary support from ODOT. Table 1 lists the highway segments and associated cross-section standards.

Table 1: OR 99E Highway Segments

Highway Segment	Location	General Description	Cross-Section Standard
Segment 1	West City Limits to Elm Street	Urban area outside the STA	Shoulder Bike Way
Segment 2	Elm Street to Locust Street	STA through downtown	Wide Sidewalks for Pedestrians and Bicycles
Segment 3	Locust Street to the Molalla Forest	Urban area outside STA with adjacent railroad track on north side	Shoulder Bike Way
Segment 4	Molalla River Parkway Bridge to East City Limits	Rural-urban transition area with adjacent railroad track on north side	ODOT Urban Standard for 45 MPH

### CROSS-SECTION DESIGN CONSIDERATIONS

The following design considerations were factors in developing and apply to all three OR 99E cross-sections. They reflect ODOT functional requirements and design standards, community aspirations and preferences for specific design features that were initially proposed.

**Bicycle Facilities.** State law requires that bicycles be accommodated on arterials and collectors, such as OR 99E, or on approved alternate routes. Using the road right-of-way to construct a multi-use trail (as recommended in the City's TSP) subsequently was determined to be infeasible. In addition, while it would be beneficial to accommodate bicyclists on NW/NE 3rd Avenue and SW/SE 2nd Avenue, ODOT staff did not consider these alternate bike routes to be adequate to eliminate bike facility needs on OR 99E. Bikeway-shoulders also provide a place for vehicle breakdowns out of the travel lanes.

Bike facilities along OR 99E considered include standard bike lanes, buffered bike lanes, a cycle track (which is located on one side of the road and serves two-way bicycle traffic), or wide sidewalks. Based on public and ODOT feedback, the recommendation is to accommodate bicycles by providing a wide sidewalks

on the north side in the STA and bike lanes-shoulders on the other segments. Crossing treatments (to connect the eastbound bike lanes on the south side of OR 99E to the wide sidewalk on the north side of OR 99E) and bike ramps between the bike lanes and sidewalks (which may require additional sidewalk width) will need to be provided at Elm Street and Locust Street.

**Freight Accommodations.** OR 99E is a freight route on the national highway system. The ODOT Freight Advisory Committee has reviewed and approved the recommended OR 99E cross-sections, and the ODOT Region 1 Freight Mobility liaison has been engaged. To ensure that there are no freight capacity reductions introduced by highway improvements, all curb-to-curb distances must be greater than the existing pinch points that exist at the Molalla River Parkway Bridge on the west end of town. In addition, adequate turning radii must be provided where City truck routes intersect OR 99E (e.g., Elm Street, Pine Street, and Sequoia Parkway).

**On-street parking.** ODOT would allow on-street parking in sections of OR 99E where speeds are at or below 35 mph. The community did not support on-street parking on OR 99E due to the motor vehicle speed and heavy truck volumes.

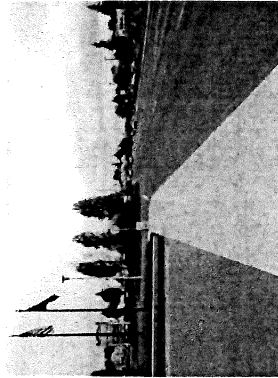
**Transit.** Bus pull-outs may be incorporated into the cross-sections in the future, but no specific locations have been identified at this time.

**Railroad Quiet Zone.** The City is working with Union Pacific to obtain a Quiet Zone designation through town. Therefore, planned railroad crossings improvements should facilitate achieving a quiet zone. Additional discussion regarding a Quiet Zone is provided in the Canby TSP.<sup>3</sup>

**Overhead Utilities.** The goal is to replace overhead utility poles and power lines by underground power lines when feasible with highway reconstruction (i.e., it can be coordinated with utility providers and accommodated within project budget). However, this is not expected to be feasible for the high-voltage steel utility poles on the north (railroad) side of OR 99E, where poles are expected to be located within or next to the sidewalk area.

**Medians.** The community did not generally support raised medians on the highway as they would limit driveway access. There was, however, support for a pedestrian refuge island at Locust Street to provide safer crossing opportunities and for a short median as part of the Berg Parkway Gateway.

**Bioswales.** The community did not express interest in incorporating bioswales to manage and treat stormwater run-off within the OR 99E right-of-way.



Segment 1



Segment 2



Segment 3

<sup>3</sup> Canby Transportation System Plan (TSP), December 2010.

# Recommended Design Concepts

## CORRIDOR SEGMENTS AND CROSS-SECTIONS

OR 99E is a state highway so development of proposed roadway cross-sections was coordinated with multiple ODOT disciplines (e.g., preliminary design, bicycle and pedestrian program, freight mobility, planning, and District 2B). Their technical review was necessary to define the mobility parameters, highway speeds, design speeds, baseline over-dimensional freight, and highway classifications for OR 99E that affect design of any new features within the right-of-way. Coordination included formal meetings with ODOT staff and continued meetings and correspondence with ODOT design staff to review cross-section alternatives—with special emphasis placed on the STA—that would be acceptable to ODOT. The graphics to the right show the recommended cross-section for each of the corridor segments that would be supported by ODOT. Additional information about the cross-section is provided in the notes.

### SEGMENTS 1 AND 3 - URBAN AREAS OUTSIDE THE STA

In these segments, the roadway cross-section needs to facilitate transitions into the downtown focused STA as well as back out of the urban business environment and into a more rural highway context. How to accommodate bicycle travel was one of the primary design considerations. Buffered bike lanes were initially considered for these highway segments, and supported by ODOT. However, due to increased right-of-way needs, the GPAC did not support the buffered bike lanes option. The roadway shoulder, which serves as a break-down lane for temporarily disabled vehicles, will provide the bikeway.

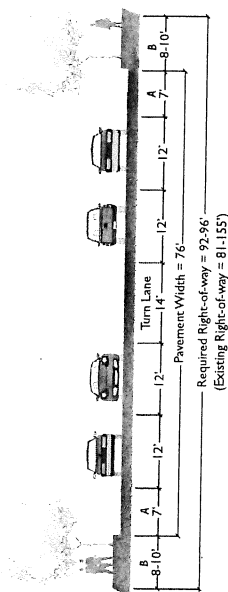
### SEGMENT 2 - SPECIAL TRANSPORTATION AREA

The recommended STA cross-section has a 14-foot wide sidewalk on the north (railroad) side of the highway and is expected to best meet the City's objectives for the STA. ODOT has reviewed the concept and indicated their support of a design exception needed to eliminate the standard shoulder-bikeway. Two other potential cross-sections for the STA were identified during the course of the project and were also approved by ODOT for the City's consideration (see Evaluation Report in the Technical Appendix provided as a separate document). One option was to use the standard STA cross-section indicated in the TSP. A second option was to add a 2-foot striped buffer to the bike lanes. However, the improvements supported by the GPAC and community input are reflected in Figure 2.

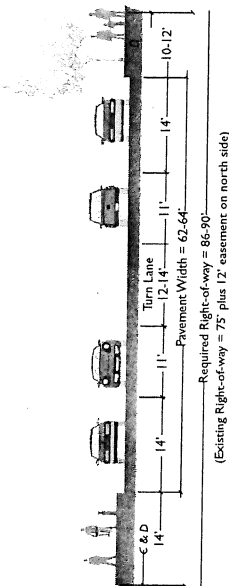
### SEGMENT 4 - RURAL-URBAN TRANSITION

The recommended cross-section for this highway segment is based on higher vehicle speeds. The wider and striped bike lane for cyclists and the clear zone setback for vertical elements such as street trees are both reflections of safety concerns at posted highway speeds of 45 mph. This corridor segment is likely to see the adjacent land to the south develop in the future. No other optional cross-sections were considered during the planning process.

Segments 1 & 3 - Shoulder Bike Way



Segment 2 - Wide Sidewalks for Pedestrians & Bicycles



#### Notes:

- A) Roadway shoulder, and bikeway
  - B) Sidewalks on both sides narrow to approximately 5-6' at right-of-way pinch-points
  - C) Wide sidewalk on north side is intended to be used by pedestrians and bicyclists
  - D) Sidewalks on both sides narrow to approximately 9-10' at right-of-way pinch-points
- For segments 1, 2 and 3 approximately 11-15 feet of total right-of-way would need to be secured from the railroad to implement the cross-sections. Right-of-way acquisition will occur on both sides of the corridor. Specific locations and property impacts will be identified during future planning.

Segment 4 - Urban Standard for 45 MPH

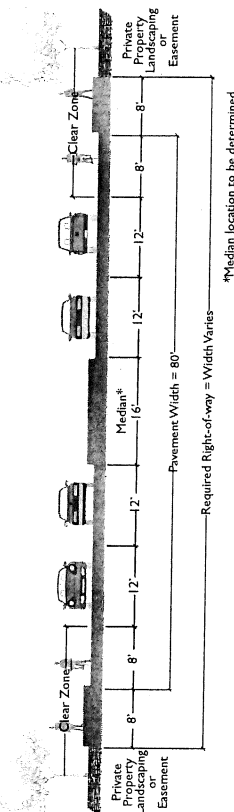


Figure 2 - Corridor Segment Cross-Sections

# Recommended Design Concepts

## GATEWAYS

The highway offers locations for two types of gateway treatments for Canby. Community gateways are best located near the city limits on the rural-to-urban transitional segments. For travelers, these gateways will announce arrival into the community and become highway landmarks over time. A Downtown Gateway will be a visual marker for the uniqueness of the STA segment and can reinforce awareness of downtown. The following themes for OR 99E gateway locations were developed with community input:

**Garden Spot Theme.** Highlights Canby as "The Garden Spot" using landscaping as an important element, provided a stable maintenance funding source can be identified.

**Downtown Gateway.** Gateway features should be consistent with styles used in other City design projects, particularly the NW 1st Avenue improvements and on decorative fencing for the railroad right-of-way. Use simple designs and continuous elements.

**Size of Features.** The scale of the gateway features needs to match vehicle speeds, allowing them to be seen while not distracting drivers.

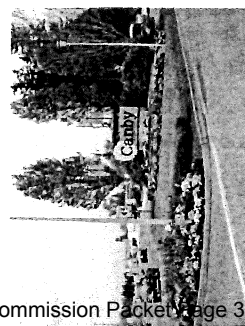
**Community Art.** The artistic elements of the gateways could be prepared by local artists, through a submission and selection process that involves interested citizens.

**Maintenance.** Maintenance of landscaping and other non-standard features will be City of Canby's responsibility. This should be carefully considered when any gateway improvements are made, and a funding source should be identified.

**Implementation Priorities.** The Downtown Gateway should be constructed first if funding becomes available. However, if funding specific to Molalla River Parkway Bridge Gateway is identified first, then it should be constructed while funding for the Downtown Gateway is sought. The Berg Parkway Gateway is lowest priority.



Figure 3 – Corridor Gateways



Existing Berg Parkway Gateway



Existing Downtown Gateway



Existing Molalla River Parkway Bridge Gateway



# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY

The Molalla River Pathway Bridge (also known as the Logging Road Trail Bridge Path - see Figure 10) provides an exceptional opportunity to create a new community gateway on the east side of Canby. The gateway will alert motorists that they are entering Canby and should prepare for a business and downtown environment. Pedestrians and cyclists routinely use the pathway, which enhances the gateway significance. The bridge needs to be re-painted, so it would be beneficial for the gateway treatments to be installed at the same time as the bridge painting if the necessary funding sources are available.

The design should reflect artful blending of two themes: Canby as "The Garden Spot" and as a "gateway." It should include the following design elements:

- Continue the decorative railroad fencing and traditional theme from the Clackamas County Fairgrounds to the bridge (agricultural/garden motifs);
- Pedestrian-scale lighting on the bridge walkways and along the pathway approaches to the bridge;
- Architectural accent lighting for the bridge structure;
- Column decoration using stonework (similar to the Clackamas County Fairgrounds sign)<sup>1</sup> with possible architectural lighting on the columns;
- Enhance the bridge with artistic metal work consistent with "The Garden Spot" theme (using a competitive artistic design process);
- Decorative paving consistent with other gateways (ensure simple designs and durable materials); and
- Landscaping<sup>5</sup> (removal of the existing vegetation around the bridge abutments and replacement with attractive gateway landscaping).

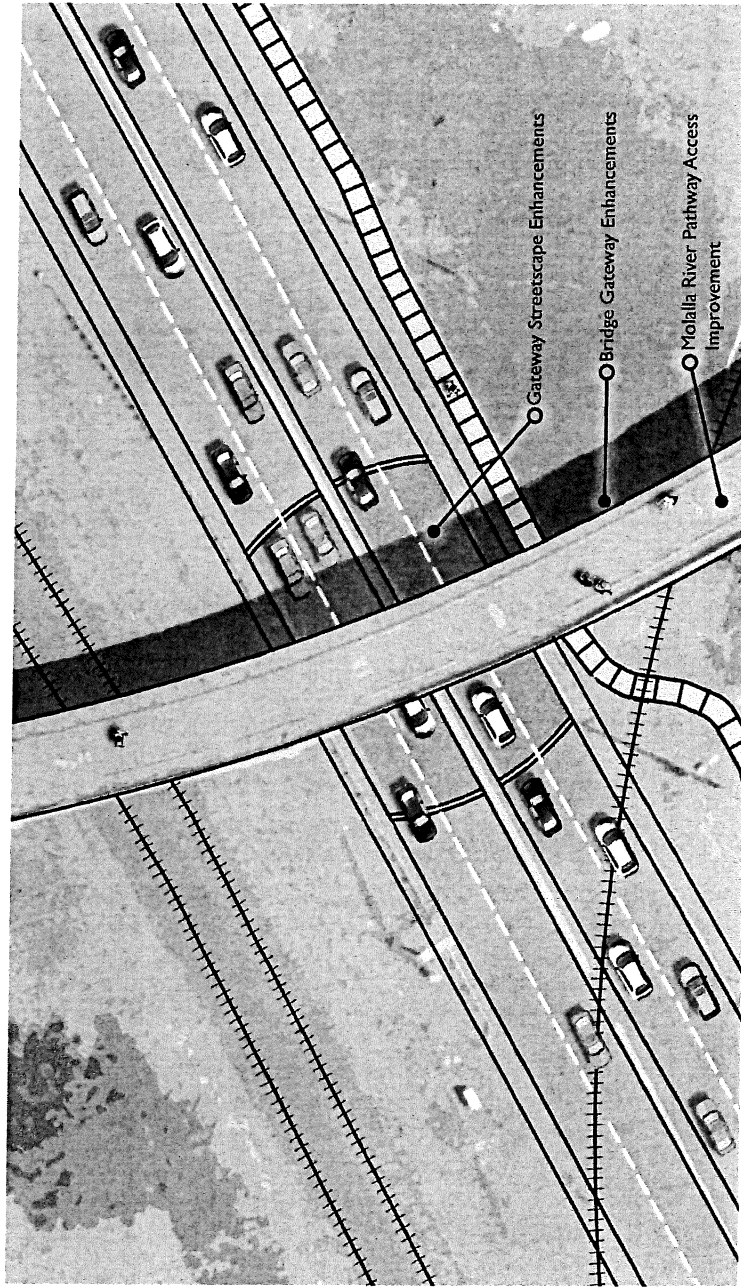


Figure 4 – Molalla River Pathway Bridge Gateway Enhancements

<sup>1</sup> Confirmation would be needed that applying this type of material to the bridge would not compromise any structural or historic qualities or impeded travel inspections of the bridge's condition.

<sup>5</sup> Implementation of new landscaping should take place only when an on-going maintenance fund has been identified and approved by City Council.



# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY - DECORATIVE FENCING

### TRADITIONAL DESIGN ELEMENTS

The addition of decorative fencing to the existing bridge barrier is a key opportunity to create a gateway presence at the trail bridge over OR 99E. Many styles of fencing were presented by the consultant team and considered by the GPAC and the public. A traditional looking, picket-style fence, fabricated from tubular steel, was the most widely supported option. The fence should be designed and sized with details that are complementary to ornamental steel fencing installed along the railroad tracks. This style of fencing will also be cognitively consistent with many of the traditional downtown design elements along NW 1st and NW 2nd Streets. Once the design and materials for the fencing have been selected, the bridge barrier can be repainted in a complementary color.

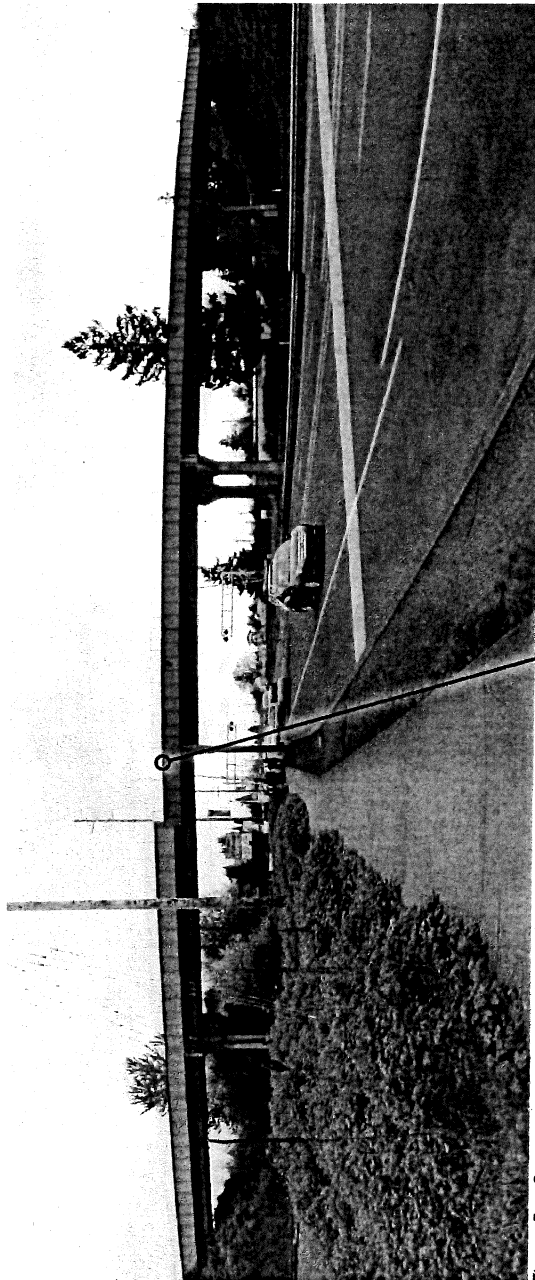
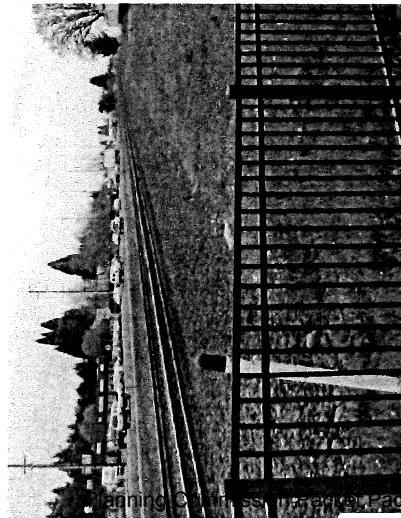
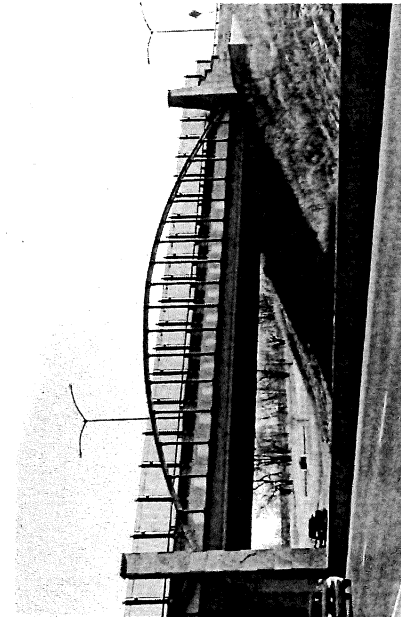


Figure 5 – Opportunity to add Decorative Fencing

### TRADITIONAL DESIGN ELEMENTS AND MATERIALS



Picket style fencing similar to railroad fencing



Architectural iron work added to picket style fencing

# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY - DECORATIVE FENCING

### GARDEN DESIGN ELEMENTS

The theme of Canby as "The Garden Spot" also inspired several options for ornamental bridge fencing. One approach was to express that by referencing the agricultural history, perhaps including elements of a covered bridge. However, there was preference for elements more suggestive of garden flowers and vines. It was suggested that these elements could be better integrated with the more simple design and proportions of the traditional fence. Some consideration was also given to using metal flower-design sculpture for "landscaping" around the bridge, especially if actual landscaping around the bridge abutments could not be included due to lack of stable maintenance funding.

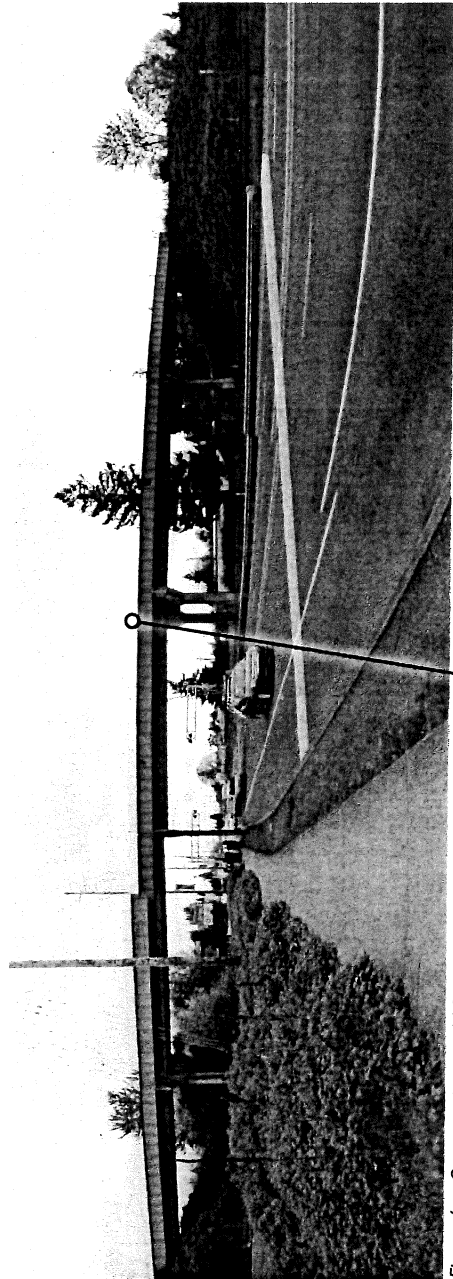
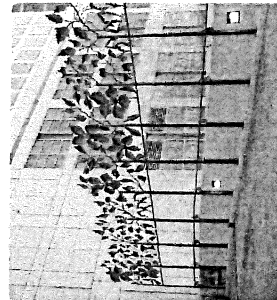
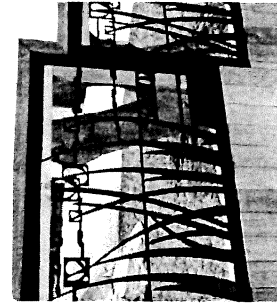


Figure 6 – Opportunity to add Decorative Fencing

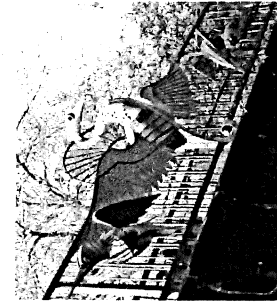
### DECORATIVE FENCING WITH GARDEN OR ARTISTIC THEMES



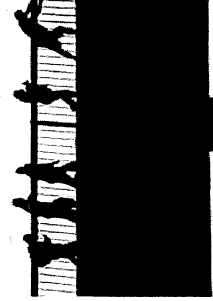
Flower and vine metal work



Agriculture metal work



Metal decorative additions



Metal decorative silhouettes

# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY - LIGHTING

### CREATING A NIGHTTIME PRESENCE FOR THE GATEWAY

Aesthetic lighting of bridge features has grown in popularity, both regionally and nationally. While lighting was once primarily used on bridges over waterways, aesthetic lighting is becoming a more common feature along highway overcrossings, even freeway interchanges. It is a way for communities to say "Welcome to Town, the Lights are On." For the Molalla River Pathway Bridge Gateway, two types of special lighting will create a distinctive presence. Pedestrian-scale lighting with a traditional and ornamental style for the poles and fixtures will be placed on the bridge as pathway lighting. This lighting will improve user safety and comfort, as well as illuminating the decorative fencing. Also, soft glow uplights will be used to accentuate the bridge substructure. Light-emitting diodes (LED) lamps will be used throughout to increase longevity and reduce electricity consumption and maintenance. The exact color scheme and array of fixtures will be determined during design of the gateway.

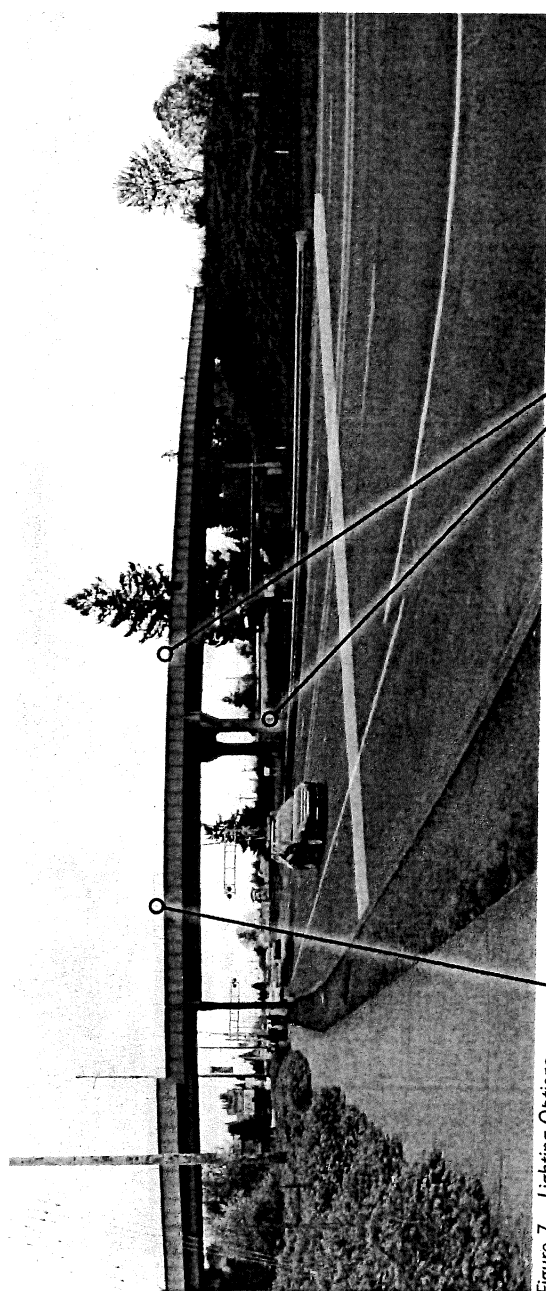
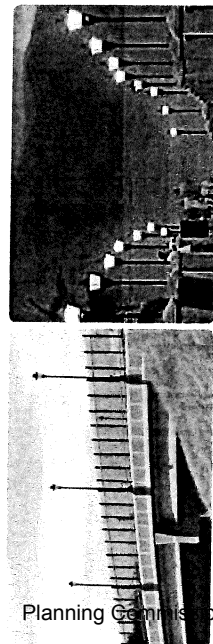


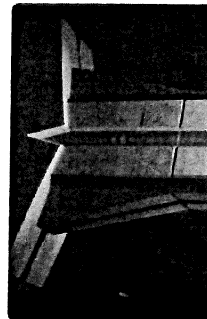
Figure 7 – Lighting Options

PEDESTRIAN SCALE LIGHTING

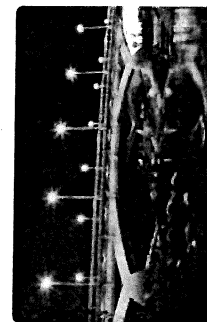
ARCHITECTURAL ILLUMINATION



Ornamental pathway lighting



Lighting for bridge structures



Lighting for bridge structures

# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY - STREETSCAPE

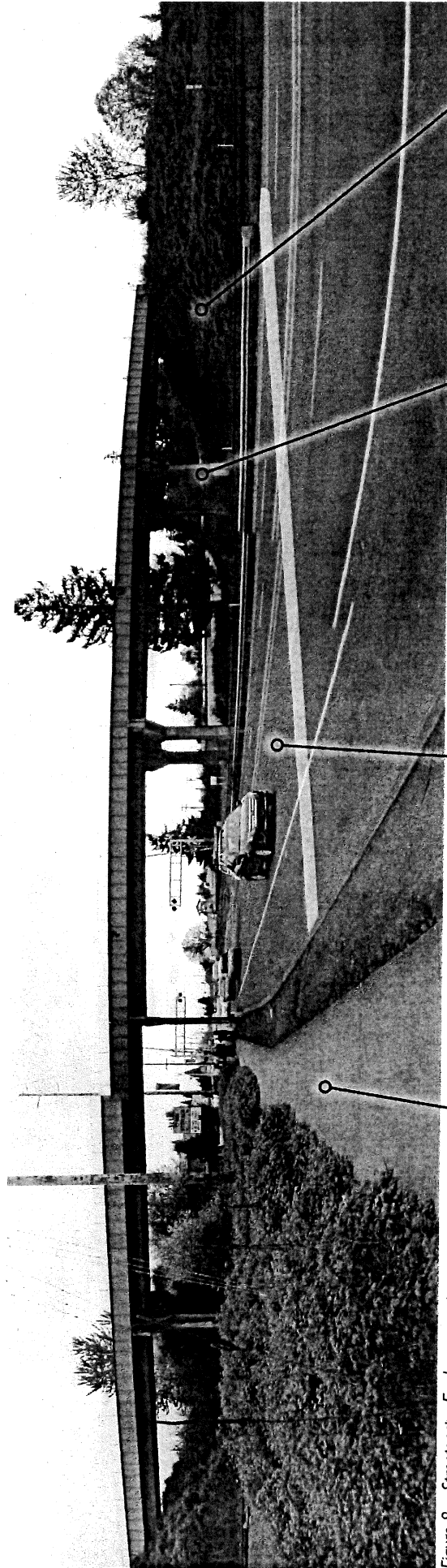


Figure 8 – Streetscape Enhancements

SIDEWALK ENHANCEMENTS

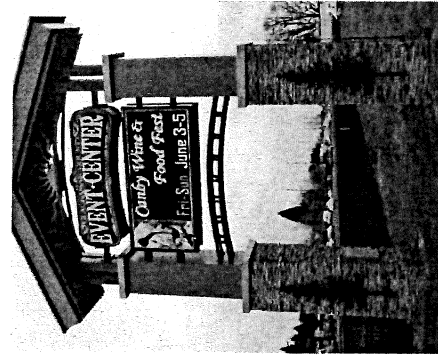
DECORATIVE PAVING

COLUMN DECORATION

LANDSCAPING



Muted color paving



Event Center stonework

Attractive landscape design creates a good fit between highway and content. Whenever motorists are surveyed, they consistently cite landscaping as important to their perception of attractiveness.

The existing vegetation around the bridge abutments will be removed and replaced with attractive gateway landscaping. The chosen design should reflect the Canby as "The Garden Spot" theme. Implementation of new landscaping should take place only when an on-going maintenance fund has been identified and approved by City Council.

# Recommended Design Concepts

## MOLALLA RIVER PATHWAY BRIDGE GATEWAY - ACCESS IMPROVEMENTS

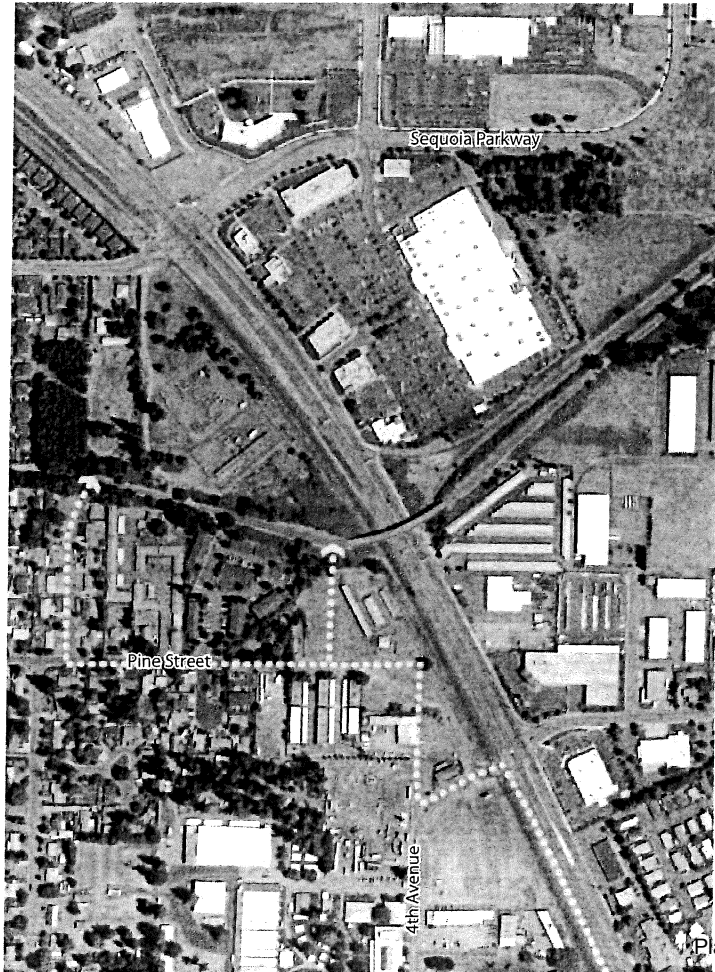


Figure 9 – Potential Future Access to Molalla River Pathway to the North of OR 99E

### FUTURE TRAIL ACCESS IMPROVEMENTS

The trail does not have a useable connection directly to the highway. The City is currently planning to provide access between the south side sidewalk on OR 99E and the Molalla River Pathway by constructing the planned 600-foot path, which will require a retaining wall and fencing due to the slope traversal (two trail alignment options have been identified). Gateway improvements should also provide access to the north side of the Molalla River Pathway. This access could be developed in conjunction with the Pine Street improvements recommended in the TSP and the relocation of the Depot Museum.

### Molalla River Pathway Access Improvements

- Provide access to the north side of the Molalla River Pathway in conjunction with the Pine Street improvements and the relocation of the Depot Museum
- Provide access between the south side sidewalk on OR 99E and the Molalla River Pathway by constructing the planned 600-foot path, which will require a retaining wall and fencing due to the slope traversal (two trail alignment options have been identified)

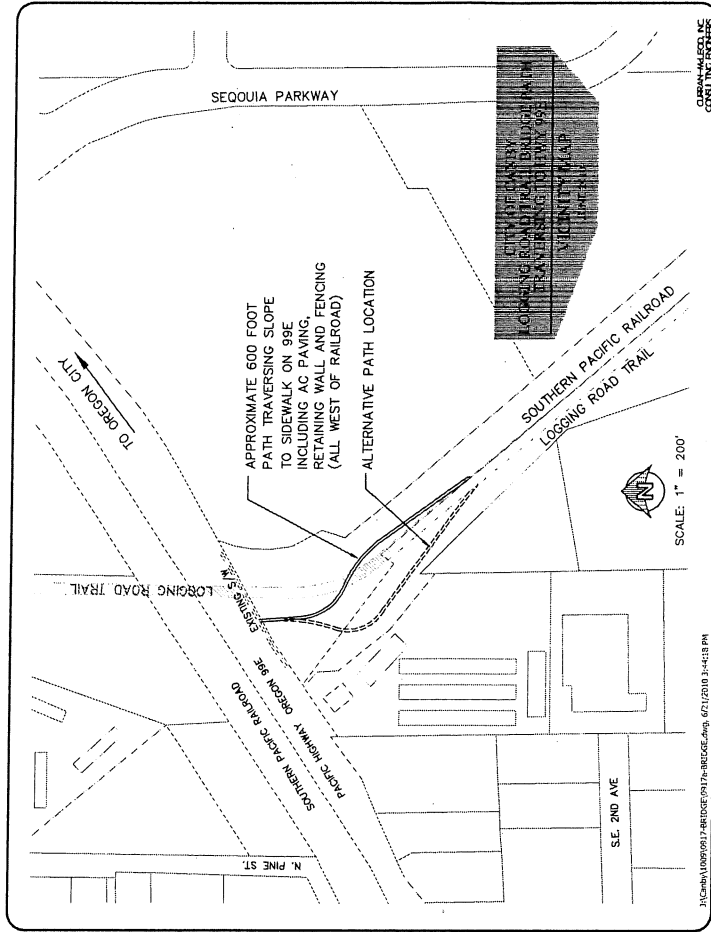


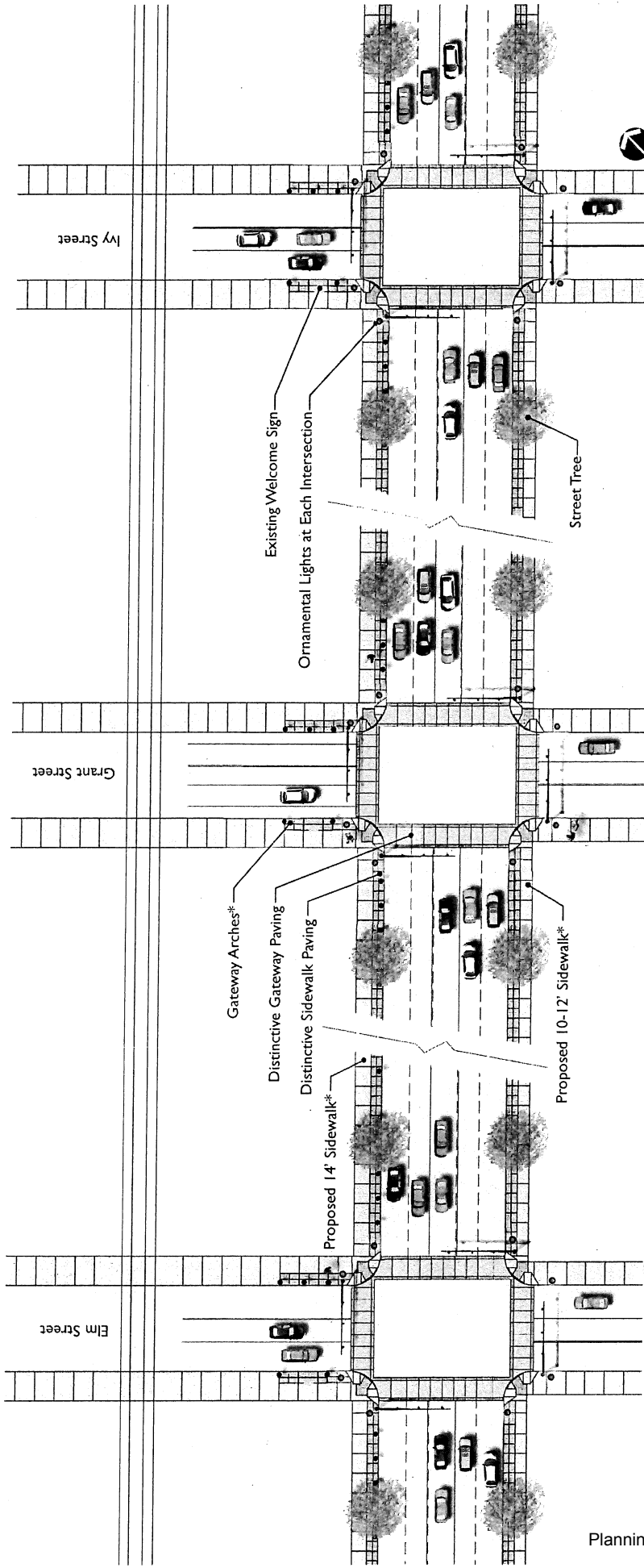
Figure 10 – Potential Future Access to Molalla River Pathway to the South of OR 99E

Bridge ornamentation that suggests covered bridges or agricultural practices where considered but not widely supported by the GPAC or through public comment. The preference was for elements more suggestive of garden flowers and vines integrated with the traditional look of the decorative fencing. Some consideration was also given to using metal flower-design sculpture for "landscaping" around the bridge. The consensus preference was for actual landscaping subject to available maintenance funding.



# Recommended Design Concepts

## DOWNTOWN GATEWAY

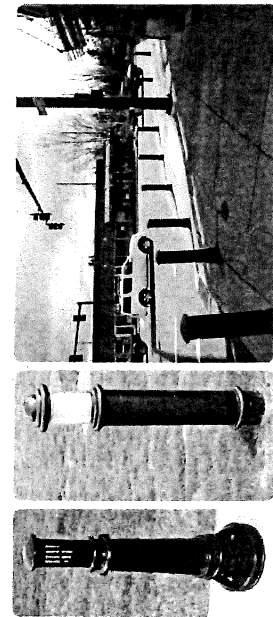


Segment 2 - Wide Sidewalks for Pedestrians & Bicycles

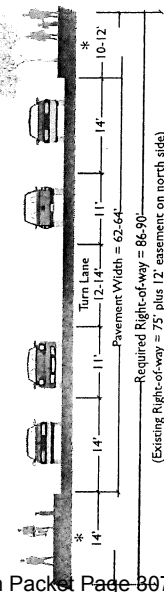
Figure 11 - Downtown Gateway

### \* Notes:

- Gateway arch location and final concept to be determined.
- Proposed sidewalks on both sides narrow to approximately 9-10' at right-of-way pinch-points.
- Wide sidewalk on north side is intended to be used by pedestrians and bicyclists.
- For this segment approximately 11-15 feet of total right-of-way would need to be acquired to fully implement the cross-section. Right-of-way acquisition will occur on both sides of OR 99E. Specific locations and property impacts will be identified during future planning.



Bollard examples



Canby OR 99E Corridor and Gateway Design Plan



# Recommended Design Concepts

## DOWNTOWN GATEWAY

### CONTINUOUS STREETSCAPE FEATURES AS A GATEWAY

The Downtown Gateway is a continuous a streetscape design within the STA segment of the highway from Elm Street to Ivy Street. Concern was expressed by local businesses along NW 1st Avenue that the large pine trees on the north (railroad) side of OR 99E block visibility to their storefronts. If possible, the Downtown Gateway elements should support motorists in finding businesses located just off the highway. For example, with the 1st Avenue improvements there may be opportunities to use the back side of the new parking lot fence for placing signs to attract highway traffic to downtown, though permissions would be needed.

The concept builds on the roadway cross-section recommended for this segment and the design features being proposed for the NW 1st Avenue Improvement Project. Key features include:

- Distinctive gateway paving (consistent with other gateways)
- Distinctive sidewalk paving and ornamental bollards (simple designs with potential for lighting at night)
- Potential gateway arches or other vertical elements on Grant Street, Ivy Street, and or Elm Street (consistent with the final NW 1st Avenue improvements)

Revisions to the concept may be needed based on coordination with the NW 1st Avenue project.

### GATEWAY ARCH STUDY FOR GRANT, ELM AND IVY STREETS

Community discussion about arches over streets has been part of multiple planning processes for downtown. Most of those discussions have been focused on some kind of gateway arch over Grant Street, near the intersection with OR 99E. Community outreach for this project expanded that discussion to include the possibility of arches over all three of the gateway streets (Elm, Grant and Ivy). The support for arches as gateway element was mixed. It is the recommendation of this plan that continued community discussion about gateway arches should be facilitated. The discussion should include location, design character and materials based on the constructed design of NW 1st Avenue.

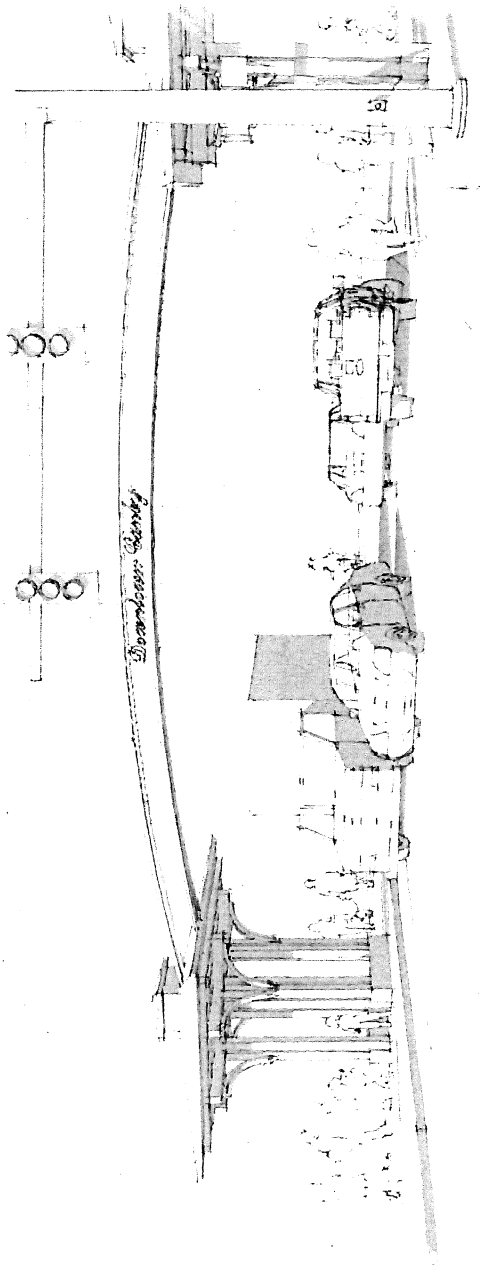


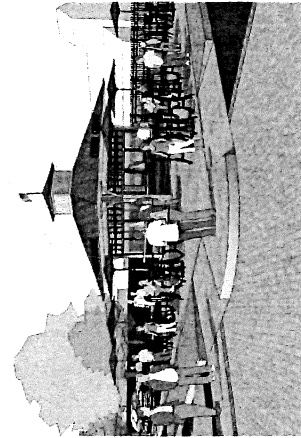
Figure 12 – Gateway Arch Study for Grant, Elm, and Ivy Streets



Ornamental street light



Distinctive gateway paving



Proposed NW 1st Avenue improvements

# Recommended Design Concepts

## BERG PARKWAY GATEWAY

### ENHANCING AN EXISTING GATEWAY

The concept for a Berg Parkway Gateway builds on an existing gateway at that location. The gateway elements should be designed to avoid impacting the OR 99E/Berg Parkway intersection, and consideration should be given to whether they would affect a planned future Berg Parkway bridge.

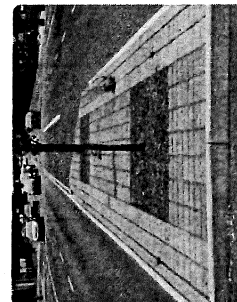
Recommended features are:

- Distinctive gateway paving (consistent with other gateways);
- Planted or paved median with optional columnar or vase-shaped street trees or low landscaping;
- Replace existing ornamental street lights with poles and fixtures consistent with those used in the downtown core
- Future speed reduction (from 45 mph to 35 mph)

The median is critical to the design. It creates a sense of passage into a more urban environment. The median would prohibit left-turns from being made directly into the Panda Express site, but vehicles coming from the west would have access to the site via the signalized intersection at Berg Parkway. There were some concerns raised about eliminating the ability for a two-stage left turn out of the Safeway site onto OR 99E with the proposed median, but that site has an alternate access to Berg Parkway. The GPAC also discussed the high volume of pedestrian crossings that this location (including high school students) and wondered if the median could be designed as a pedestrian refuge island; however, a refuge island is not likely to be permitted by ODOT due to the proximity to the signalized crossing at Berg Parkway.



Planted median example



Paved median example

*All proposed features within the OR 99E right-of-way are subject to ODOT approval. Median street trees should be used with posted speed of 35 miles per hour (mph) on key and conform to all other requirements in the Highway Design Manual (HDM).*

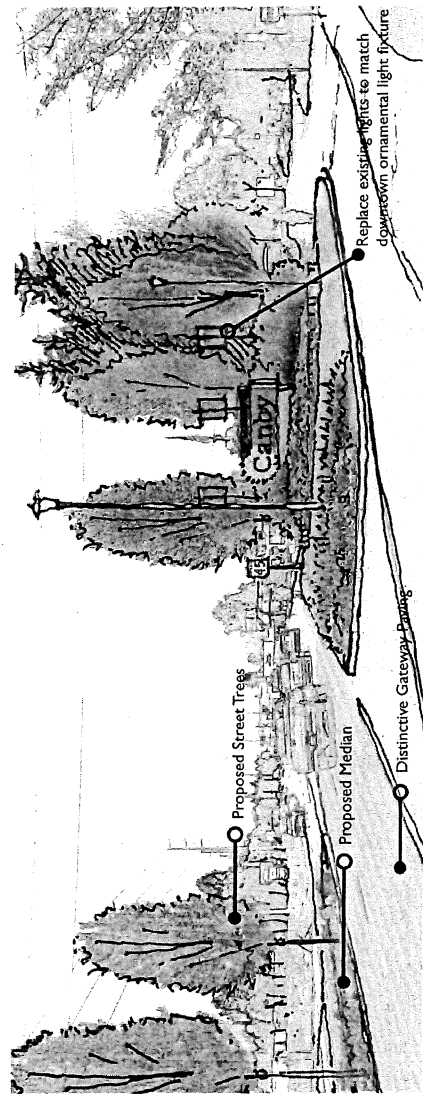
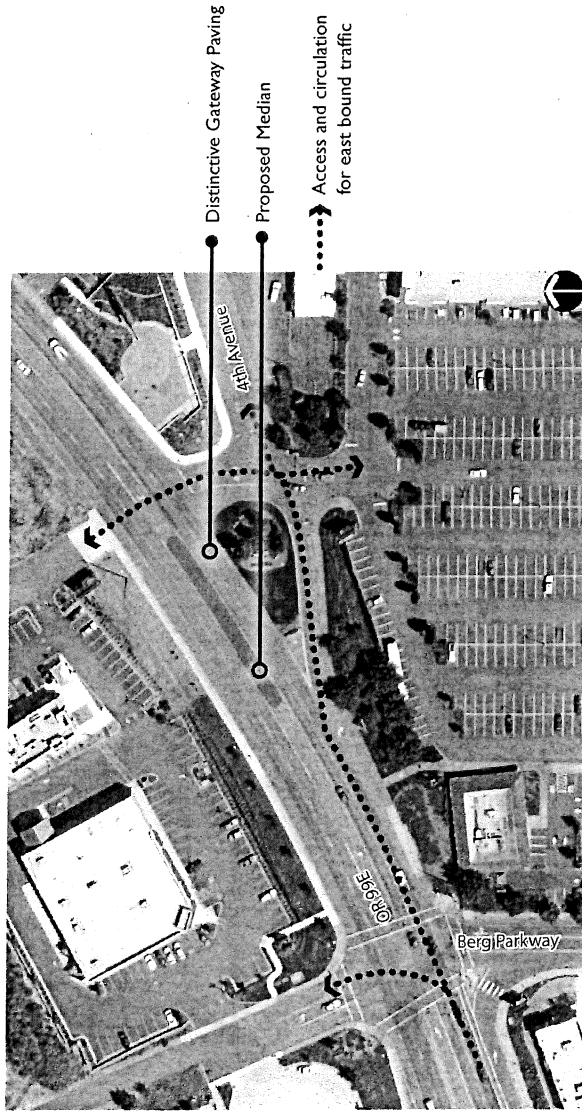


Figure 13 – Enhancing an Existing Gateway

# Implementation

The recommended strategies to implement the Plan include:

- Planning-level cost estimates
- Funding strategies
- Recommended time frame and phasing for improvements
- Actions to protect and obtain right-of-way for future improvements
- Recommended amendments to the Canby TSP and Canby Municipal Code (CMC) as needed to implement the Plan.

ODOT regulates access to OR 99E, supported by City TSP policies. No new policies or standards for access management are being considered as part of this Plan.

## PLANNING LEVEL COST ESTIMATES

Planning level cost estimates were prepared for the improvements proposed in the Plan and are listed in Table 1. The cost estimates are intended to assist the City in obtaining funds and allocating budget for the projects and were developed using similar assumptions as the Canby TSP. They are based on general unit costs for transportation improvements, but do not reflect many of the unique project elements that could significantly increase project costs. As projects are pursued, each of these project costs will need further refinement to determine right-of-way requirements, costs associated with special design details, maintenance, and other project-specific needs.

Many of the Downtown Gateway elements consist of ornamental or decorative upgrades that would be installed as part of the OR 99E Segment 2 (STA) corridor improvements. To account for the upgrades, the Downtown Gateway cost estimates provided in Table 1 only include the difference in costs between the decorative items and the standard design features. Higher costs would be

Table 2: Planning-level Cost Estimates for Corridor and Gateway Improvements

Improvement Project	Description	Cost Estimate
<b>Corridor</b>		
OR 99E Segment 1: West City Limits to Elm Street (0.6 miles)	Typical lane widths with shoulder bikeway	\$5,100,000
OR 99E Segment 2 (STA): Elm Street to Locust Street (0.5 miles)	Narrow lane width with wide sidewalks on north side for pedestrians and bicycles (TSP Motor Vehicle Project N1)	\$4,700,000*
OR 99E Segment 3: Locust Street to Molalla River Pathway Bridge (0.5 miles)	Typical lane widths with shoulder bikeway	\$3,900,000
OR 99E Segment 4: Molalla River Pathway Bridge to Territorial Road (1.1 miles)	Typical lane widths with shoulder bikeway and wide center median (ODOT Urban Standard for 45 miles per hour)	\$8,800,000
<b>Gateway</b>		
Briggs Parkway Gateway	Decorative street paving, planed or paved median with street trees or low landscaping, and ornamental lights	\$600,000
Downtown Gateway	Decorative intersection paving and sidewalk treatments; ornamental traffic signal poles, street lights, and bollards; and a potential gateway arch	\$900,000*
Molalla River Pathway Bridge Gateway	Decorative street paving, railroad fencing, bridge railing, and columns; pedestrian-scale and architectural lighting; and landscaping	\$900,000
<b>Other</b>		
Molalla River Pathway Access Improvements	Provide access between the south side sidewalk on OR 99E and the Molalla River Pathway (TSP Pedestrian Project T1)	\$360,000*
	<b>Total Cost</b>	<b>\$25,250,000</b>

\*Canby the OR 99E Segment 2 (STA) corridor improvements (Motor Vehicle Project N1) were identified in the Canby TSP. However, a higher cost is now assumed because additional information is known regarding right-of-way needs on the north side of OR 99E (due to an existing easement). In addition, this project will construct the crosswalk and ramp improvements identified in the TSP at the three signalized intersections (see Pedestrian Projects C1, C2, and C3).

Canby Downtown Gateway improvements are based on construction of decorative signals at the time of OR 99E Segment 2 (STA) corridor improvements.

Canby the Molalla River Pathway Access Improvements (TSP Pedestrian Project T1) were identified in the Canby TSP.

incurred if the Downtown Gateway improvements were to be constructed separately from the OR 99E Segment 2 (STA) corridor improvements because they would require removal and replacement of infrastructure.

## FUNDING STRATEGIES

Table 7-6 of the Canby TSP lists the financially constrained motor vehicle projects and includes non-capacity improvements to OR 99E between Elm and Locust Streets associated with the STA designation for this portion of OR 99E. Those improvements include repaving the highway and providing bikeway shoulders and sidewalks. To fund the projects on the TSP financially constrained projects list, the City will rely in part on existing sources of revenue such as gas taxes, urban renewal funds, and SDCs. However, the TSP notes that the estimated total cost for the financially constrained project list exceeds that of projected revenue and therefore, additional funding sources will be needed. Furthermore, the corridor improvements identified in the Plan outside the STA are not included in the financially constrained package, meaning additional funding sources will be needed to implement those improvements.

The TSP (p. 9-8) identifies several potential supplemental sources of funding for transportation improvements; these include state and county contributions, developer exactions, urban renewal, increase to the City's transportation SDC, local improvement districts, special assessments, and grants. Some of these may be appropriate for funding improvements identified in the Plan, as follows:

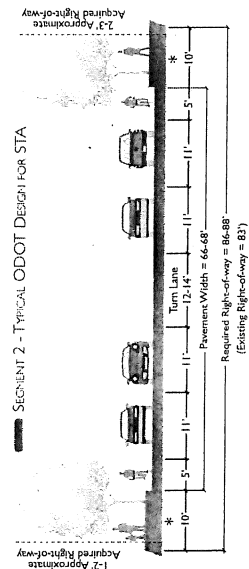
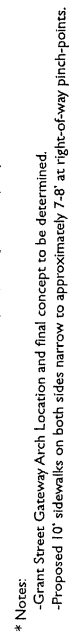
**Developer exactions and fee-in-lieu.** As properties along the OR 99E corridor develop or redevelop, the City will have the ability to require right-of-way dedication and frontage improvements consistent with current practice (and provided for in Chapters 16.49 and 16.86). Frontage improvements typically include sidewalks and curbs, planting strips, street trees, associated drainage and any other improvements specified between the curb and building lines. If a development is anticipated to contribute a high volume of traffic to OR 99E intersections, the City may also be able to exact roadway (adjacent or off-site) improvements proportionate to the anticipated impacts on the facilities. Examples include traffic signal upgrade, new or lengthened turn lanes, traffic channelization or pedestrian crossing enhancements. As an alternative to requiring actual construction of the improvement, the City could require a fee in-lieu equal to the cost of constructing the improvements. The City could use those funds at a later date to fund the improvement when the timing is right. Currently, the City does not have a formalized process for accepting in-lieu fees for transportation-related improvements. City staff has expressed interest in incorporating fee-in-lieu language in the CMC. Therefore, a section from the City of Milwaukee's development code is included as an example in the Technical Appendix.

# Appendix

## ALTERNATIVE CONCEPT PLANS

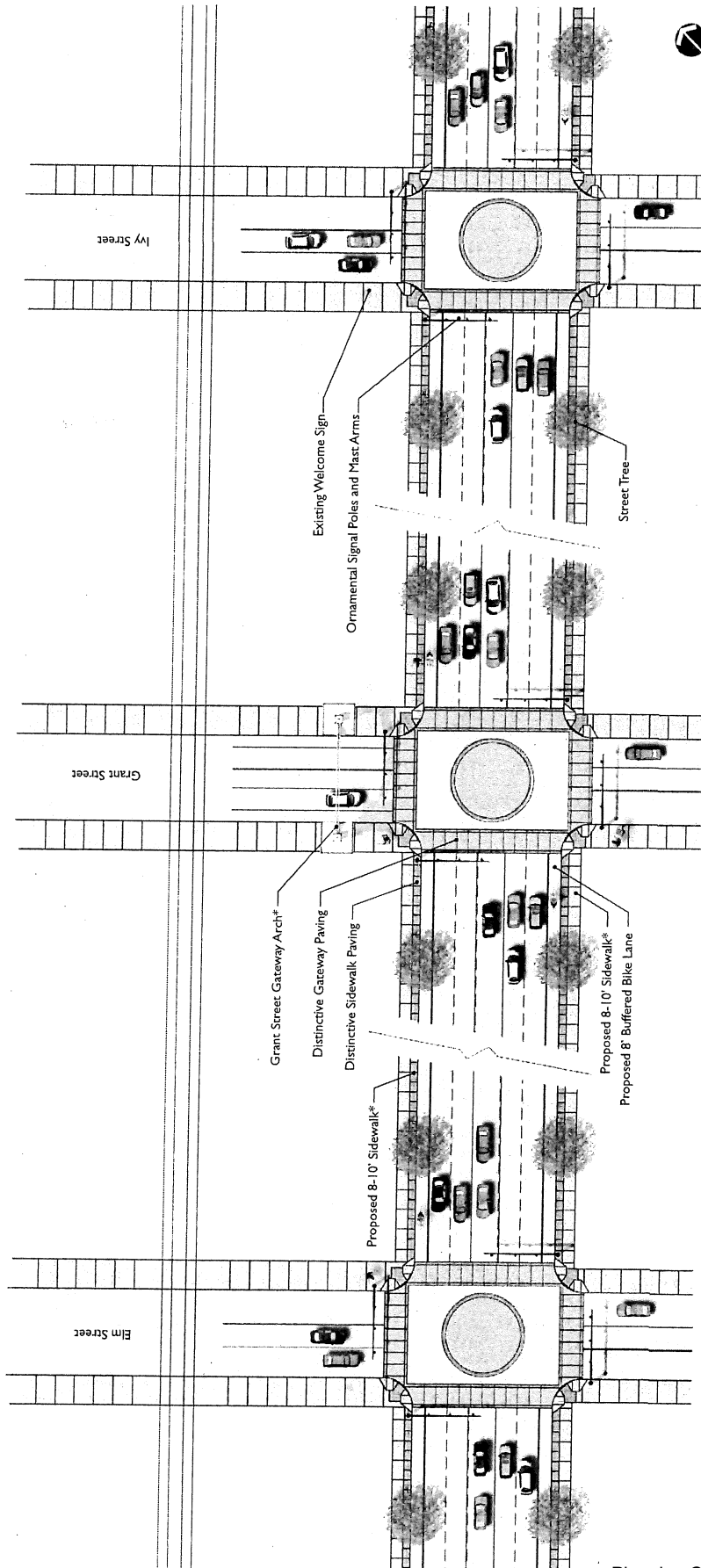
The preferred concept for the Downtown Gateway is illustrated on page 20. Two other alternatives were developed and considered by the GPAC during the course of the project, and have been included on the following pages. Each alternative reflects roadway cross-sections for the STA segment of OR99E proposed during concept design development for the project. A primary reason that these alternatives were not preferred is that both include an on-street bicycle lane in this segment, which was not the strongly supported by the GPAC or other community input.

## DOWNTOWN GATEWAY - OPTION A

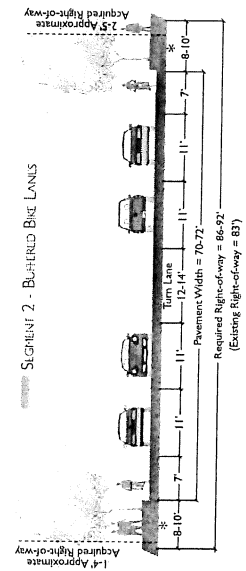


# Appendix

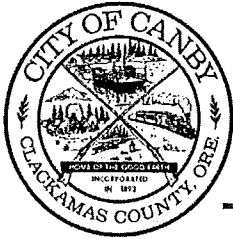
## DOWNTOWN GATEWAY - OPTION C



\* Notes:  
 -Grant Street Gateway Arch Location and final concept to be determined.  
 -Proposed 8-10' sidewalks on both sides narrow to approximately 5-6' at right-of-way pinch-points.





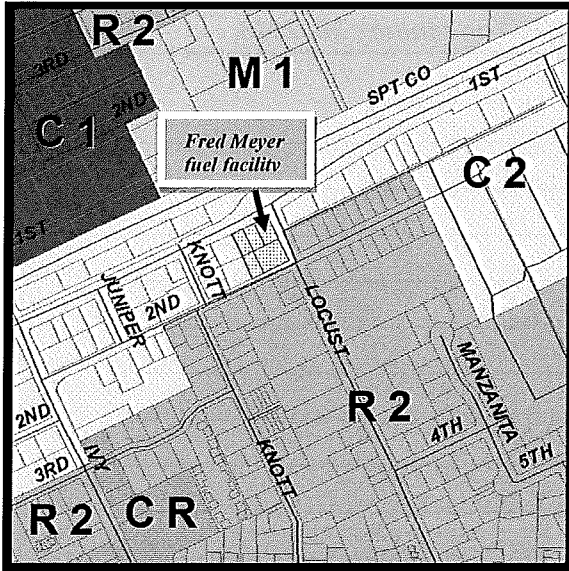


# City of Canby

## **NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS**

The purpose of this notice is to invite you to comment on the Design Review for a proposed Fred Meyer fuel-dispensing facility.

**Comments due**—Any written comments to be included in the Planning Commission packet which is distributed prior to the public hearing are due to staff by Noon on January 16, 2013.



**Public Hearing Schedule:** Planning Commission, Monday, January 28, 2013 at 7pm at City Council Chambers at 155 NW 2nd Avenue, Canby, OR.

**Location:** 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2<sup>nd</sup> Ave.

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

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

**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

**Application Type:** Site and Design Review

**City File Number:** DR 12-03

**Contact:** Angie Lehnert at 503-266-0762

**What is the Decision Process?** The Canby Planning Commission will make a final decision on the Design Review application, unless it is appealed to City Council.

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

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, January 18, 2013 at the Canby Planning Department or on the City's website. Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Criteria:** Canby Municipal Code Chapters:

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

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

## CITY OF CANBY –COMMENT FORM

If you are unable to attend the Planning Commission 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 2nd Avenue, Canby OR 97013  
**E-mail:** [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

***Written comments for Planning Commission are due by 7:00 PM on January 28, 2013***

COMMENTS: COMMUNICATION SERVICES WILL BECOME  
AVAILABLE THROUGH THE DEVELOPMENT

YOUR NAME: DINH VU

ORGANIZATION or BUSINESS (if any): CANBY TELCOM

ADDRESS: 190 SE 2<sup>ND</sup> AVE, CANBY, OR 97013

PHONE # (optional): 503-266-8201

DATE: JAN 25<sup>TH</sup> 2013

Thank you!

## Angeline Lehnert

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**From:** Laney Fouse  
**Sent:** Thursday, January 17, 2013 8:16 AM  
**To:** Angeline Lehnert; Bryan Brown  
**Subject:** Fred Meyer Comments

---

**From:** VanLieu, Ray [<mailto:RayVan@co.clackamas.or.us>]  
**Sent:** Thursday, January 17, 2013 6:50 AM  
**To:** Laney Fouse  
**Subject:** RE:

Hi Laney,

I currently do not have any comments on this project. If the Architects have questions about submittal requirements they can contact me.

Thank you,

*Ray Van Lieu*

Plans Examiner,  
Clackamas County Building Codes  
Phone 503-742-4787  
Fax 503-742-4741  
[rayvan@co.clackamas.or.us](mailto:rayvan@co.clackamas.or.us)

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**From:** Laney Fouse [<mailto:FouseL@ci.canby.or.us>]  
**Sent:** Tuesday, January 08, 2013 4:10 PM  
**To:** Laney Fouse  
**Subject:**

Hello,

Please find attached a Public Hearing Notice and Request for Comments form for the Fred Meyer Fuel Station (DR 12-03). The applicant's drawings are also attached. The Request for Comments form can be filled in on your computer and returned to us by email if you prefer.

Thanks, Laney

Laney Fouse  
Planning & Economic Development  
City of Canby  
503-266-0685  
Fax 503-266-1574  
[fousel@ci.canby.or.us](mailto:fousel@ci.canby.or.us)

PUBLIC RECORDS LAW DISCLOSURE

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

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## Angeline Lehnert

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**From:** Nancy Muller  
**Sent:** Monday, January 14, 2013 4:45 PM  
**To:** Angeline Lehnert

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

***Written comments for Planning Commission are due by 7:00 PM on January 28, 2013***

**COMMENTS:** \_Thank you for this opportunity. This project adversely affects three bus stops that are currently used by our riders. There is a southbound bus stop on SE 2<sup>nd</sup> Avenue between S Knott and S Locust Streets. This stop is on the North side of SE 2<sup>nd</sup> Ave where the proposed project is located. The northbound bus stop is across the street and will also be impacted. Because CAT currently does not operate fixed routes locally at this time riders in this neighborhood ( heavily populated with apartments ) frequently board and deboard at these two stops. The third stop is on the corner of S Locust St and 99E. This stop is the Express 99 stop for four of our routes in the morning and two in the afternoons. This is also very popular with our riders needing to connect with TriMet for work or school. This has a profound impact on CAT and our customers. Thank you for the opportunity to voice this concern.

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With Kind Regards,

*Nancy Muller*  
**Transit Coordinator II**  
**City of Canby**  
**Transit Department**  
**503.266.0717**  
**FAX: 503.263.6284**  
[mullern@ci.canby.or.us](mailto:mullern@ci.canby.or.us)

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### PUBLIC RECORDS LAW DISCLOSURE

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

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## CITY OF CANBY - COMMENT FORM

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By mail: Planning Department, PO Box 930, Canby, OR 97013  
In person: Planning Department at 111 NW 2nd Avenue, Canby OR 97013  
E-mail: [lehner@ci.canby.or.us](mailto:lehner@ci.canby.or.us)

Written comments for Planning Commission are due by 7:00 PM on January 28, 2013

COMMENTS: THERE IS NO UTILITIES PLAN SUBMITTED.

PG C2.1 #20 STATES THAT STORM WATER WILL GO TO AN OFF SITE CONNECTION. ANY OVER FLOW STORM WATER FROM THE SWALE NEEDS TO GO TO AN ON SITE FACILITY. IF INSTALLING A DRYWELL IT MUST BE RULE AUTHORIZED BY D.E.R.

THERE SHOULD ALSO BE CATCH BASINS THAT ARE CONNECTED TO A SEPARATOR BEFORE GOING TO THE SWALE. THE CATCH BASINS THAT MAY BE CONSIDERED IN A SPILL AREA SHOULD GO THROUGH A SEPARATOR WITH EMERGENCY SHUT OFF & THEN CONNECTED TO SAN. SEWER.

I'M ALSO NOT CRAZY ABOUT THE 'LEFT OUT' ONTO 99-E BUT THAT MAY BE AN ODOT CALL.

AN EROSION & SEDIMENT CONTROL PLAN WITH APPLICATION MUST BE SUBMITTED BEFORE WORK BEGINS

YOUR NAME: DAN MICKELSEN

ORGANIZATION or BUSINESS (if any): CITY OF CANBY.

ADDRESS: 1470 NE TERRITORIAL RD. P.O. BOX 930

PHONE # (optional): \_\_\_\_\_

DATE: JAN 14, 2013

Thank you!



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**E-mail:** [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

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**COMMENTS:** The City will require a defined stormwater discharge plan. Please note that the City does not allow off site discharge of stormwater. All stormwater will be disposed of on site. The drainage of the concrete surfaces underneath the fuel island canopy will be plumbed to a minimum 500 gallon oil water separator (Interceptor). In addition the City will require that an automated emergency shut off valve be installed on the discharge side of the interceptor and an emergency shut off switch be located near the center of the fuel island.

YOUR NAME: DARVIN TRANEL

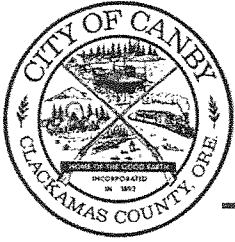
ORGANIZATION or BUSINESS (if any): City of Canby

**ADDRESS:**

PHONE # (optional): 503-266-0636

DATE: 1/14/13

# Thank you!

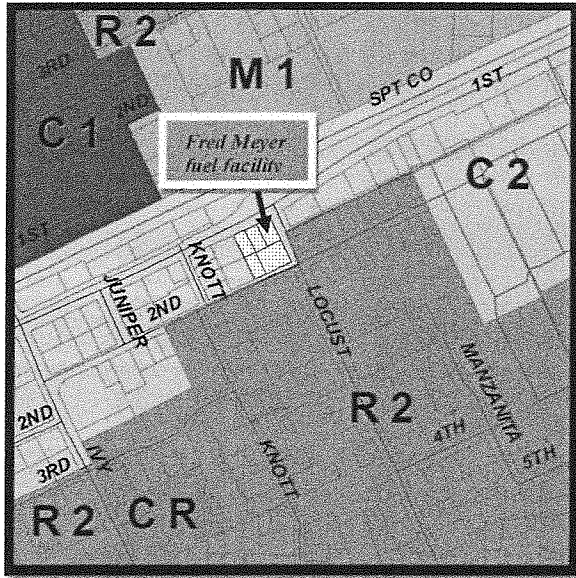


# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

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**Public Hearing Schedule:** Planning Commission, Monday, January 28, 2013 at 7pm at City Council Chambers at 155 NW 2nd Avenue, Canby, OR.

**Location:** 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2<sup>nd</sup> Ave.

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

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

**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

**Application Type:** Site and Design Review

**City File Number:** DR 12-03

**Contact:** Angie Lehnert at 503-266-0762

**What is the Decision Process?** The Canby Planning Commission will make a final decision on the Design Review application, unless it is appealed to City Council.

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

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**Applicable Criteria:** Canby Municipal Code Chapters:

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

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

## **CITY OF CANBY –COMMENT FORM**

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

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

***Written comments for Planning Commission are due by 7:00 PM on January 28, 2013***

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- COMMENTS:**
1. Prior to the start of construction, the developer's engineer shall submit a utility plan to include provisions on how the storm drainage will be disposed on-site in accordance with City Standards and Clackamas County Plumbing requirements.
  2. The fueling area under the canopy needs to be directed into a petroleum scavenge device or a valved oil/water separator, then into the sanitary sewer.
  3. The fueling area under the canopy shall be hydraulically isolated by means of surface grading or gutters, the remaining site can be discharged on-site into an approved storm drain system.
  4. Demo the existing driveway on Locust Street and replace with a new curb and sidewalk.
  5. Conform to the vision triangle requirements (30'x30') at the NE corner of Locust and Hwy 99E.
  6. All new driveways shall be constructed to conform to the current ADA standards.
  7. Dedicate any needed right-of-way or grant an easement at the SE and NE corners of the site to accommodate the sidewalk/ ADA ramps access.
  8. Grant a 6-foot wide sidewalk easement along the site frontage with SE 2<sup>nd</sup> Ave if one does not exist.
  9. All ADA ramps shall conform to the current ADA standards.

**YOUR NAME:** Hassan Ibrahim

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

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

**PHONE # (optional):**504-684-3478

**DATE:** January 10, 2013

**Thank you!**

## City of Canby Pre-Application Meeting Notice

PO Box 930, Canby, OR 97013  
City Shops 1470 NE Territorial Road

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

TO:	Canby Planning, Bryan Brown	503-266-9404	Public Works, Dan Mickelsen	503-266-4021
	CUB Water Dist., Doug Quan	503-263-4309	Canby Telephone, Dinh Vu	503-266-8201
	CUB Electric Dept., Gary Stockwell	503-263-4307	NW Natural, Terry Smith	503-585-6611 x8144
	CUB, Operation Superint, Larry Hepler	503-266-1156	NW Natural, Greg Bronson	503-585-6611 x8166
	Fire District #62, Todd Gary	503-266-5851	Cumran-McLeod, Curt McLeod	503-684-3478
	Clackamas Co., Wayne Siefert	503-742-4400	Wave Broadband, Mike Mance	503-793-5650
	Public Works, Jerry Nelzen	503-266-4021	Econ Dev. Dir, Renate Mengelbert	503-266-7001
	ODOT, Access, Loretta Kiefer	971-673-6228	ODOT, Utilities, Melinda Griffith	971-673-6226
cc:	Steve Mayes, Oregonian	503-294-5915		
	Dan McMillian, US Postal Service	503-266-7720		

**From:** Shop Complex, Ronda Rozzell

**Date:** February 13, 2012

**Subject:** Pre-Application Meeting for Fred Meyer Gas Station

Attached is a request for a pre-application meeting.

A meeting with the applicant has been scheduled for **Tuesday, February, 28, 2012 at 11:00 am** at the **City Shops Conference Room**, 1470 NE Territorial Road, Canby.

Please come prepared to discuss any issues that the applicant will need to address when submitting a site and design review application.

**If you are unable to attend** the meeting, but have comments please submit them in writing or call Ronda at 266-4021 ext. 298. They will be forwarded to the applicant.

### Comments:

1. See attached mark-ups on drawing for electric service information. Please note the required easements
2. Please see the attached scope of work for electric service information.
3. Please contact Gary Stockwell at Canby Utility for any other information  
503 263 4307 gstockwell@canbyutility.org

  
Signature

Line Foreman  
Title

2-21-12  
Date

Canby Utility Elect.  
Company

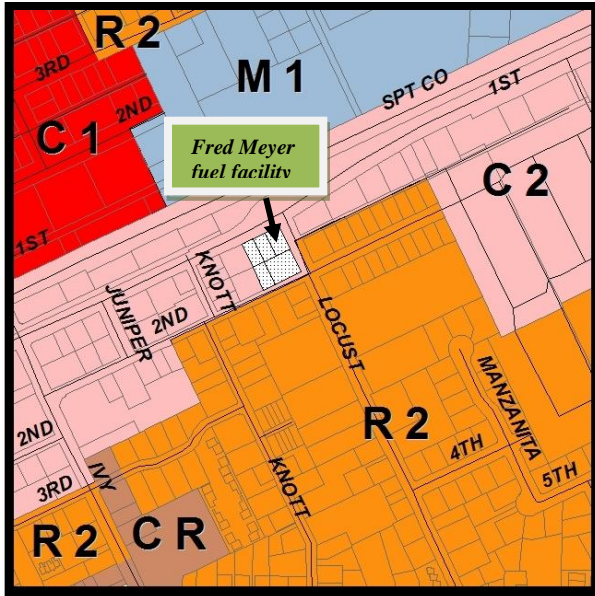


# City of Canby

## **NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS**

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**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

**Application Type:** Site and Design Review

**City File Number:** DR 12-03

**Contact:** Angie Lehnert at 503-266-0762

**What is the Decision Process?** The Canby Planning Commission will make a final decision on the Design Review application, unless it is appealed to City Council.

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**E-mail:** [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

***Written comments for Planning Commission are due by 7:00 PM on January 28, 2013***

[illegible]

**YOUR NAME:** \_\_\_\_\_

**ORGANIZATION or BUSINESS (if any):** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**PHONE # (optional):** \_\_\_\_\_

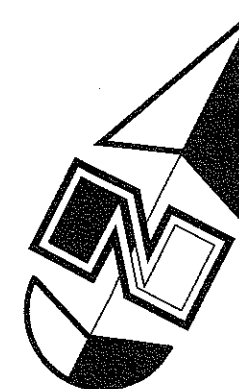
DATE: \_\_\_\_\_

**Thank you!**

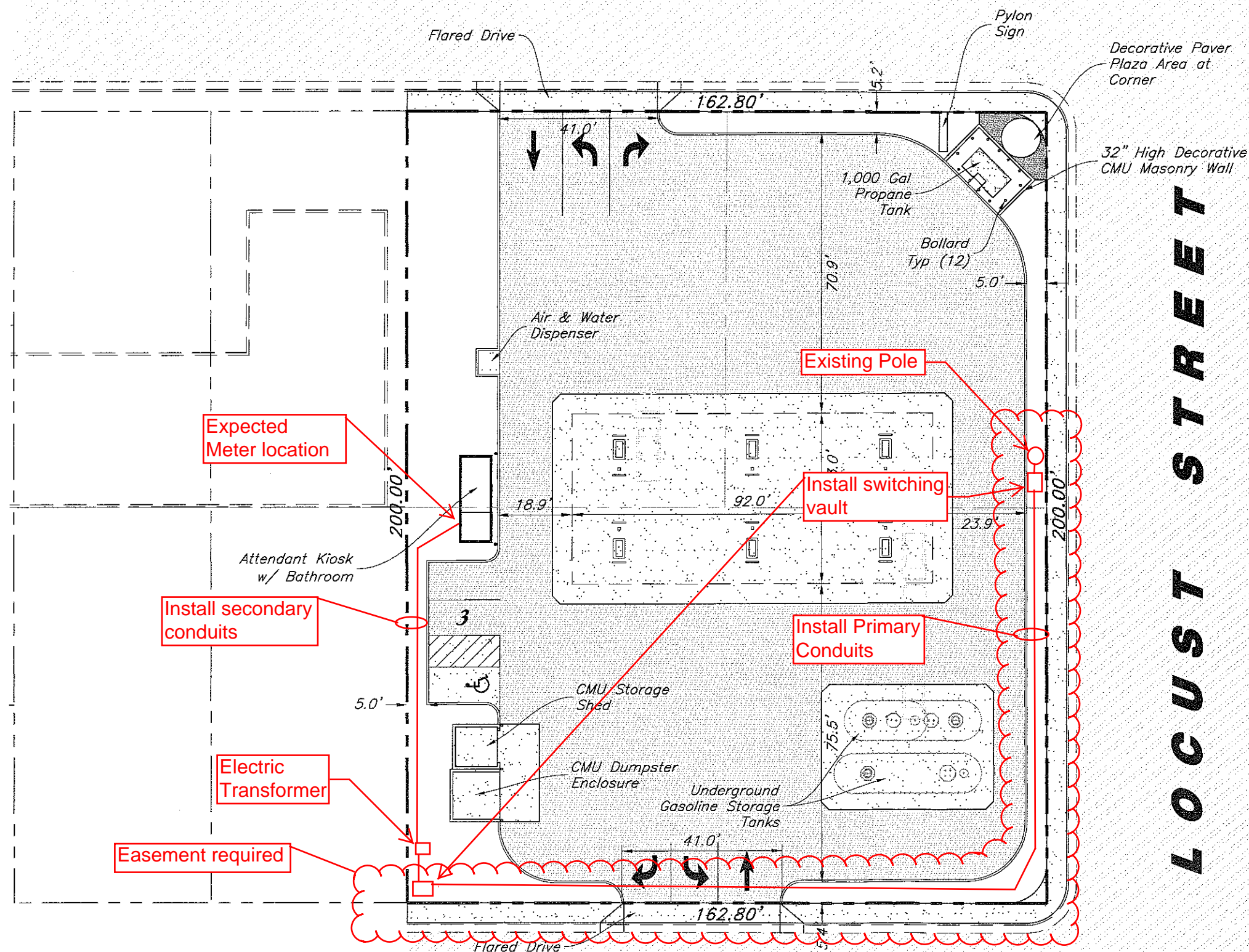


W:\fm651\dwgs\FM651A.dwg, 2/9/2012 3:19:41 PM, 1:1, JT

SE 1ST AVENUE (HWY 99)



Scale : 1" = 30'



SE 2ND AVENUE

LOCUST STREET

**Fred Meyer**

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

**#651**

Canby, Oregon Packet Page 32 of 448

REV	DATE	DESCRIPTION

Designed by: JT  
Drafted by: JT  
Client Name: Fred Meyer

FM651B

**GREAT BASIN ENGINEERING - SOUTH**  
CONSULTING ENGINEERS and LAND SURVEYORS  
2010 North Redwood Road, P.O. Box 16747  
Salt Lake City, Utah 84116  
Salt Lake City (801) 221-8829 Ogden (801) 394-7288 Fax (801) 351-8551

Site Plan

**Fred Meyer Fuel - #651**  
SE 1st Avenue (Hwy 99) & Locust Street  
Canby, Oregon

9 Feb, 2012

SHEET NO.

A

## **CITY OF CANBY –COMMENT FORM**

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**COMMENTS:**

Natural gas is available in the 1st Avenue and 2nd Avenue right-of-ways to serve the subject property with natural gas.

Contact 1-800-422-4012 or 1-503-226-4211 for natural gas service to the new facility.

**YOUR NAME:** Dan Kizer, Salem Resource Center Engineer

**ORGANIZATION or BUSINESS (if any):** NW Natural

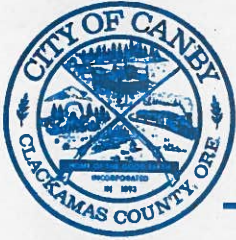
**ADDRESS:** 3123 Broadway NE, Portland, OR 97228

**PHONE # (optional):** 503-226-4211 ext 8166

**DATE:** 1/09/2013

**Thank you!**



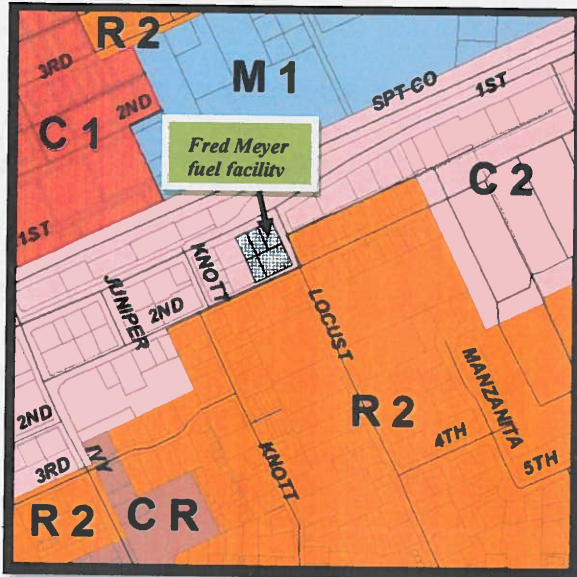


# City of Canby

## **NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS**

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E-mail: [lehnerta@ci.canby.or.us](mailto:lehnerta@ci.canby.or.us)

**Written comments for Planning Commission are due by 7:00 PM on January 28, 2013**

COMMENTS: *I am all for a Fred Meyer station  
in that location.  
I believe this has dragged on far too  
long, costing tax payers too much money.  
It is my desire to see this process  
streamlined.*

YOUR NAME: *Larry A. Burgin Sr.*

ORGANIZATION or BUSINESS (if any):

ADDRESS: *210 S. Knott St - Canby*

PHONE # (optional): *503-651-4395*

DATE: *1/8/13*

Thank you!

**From:** [Todd Gary](#)  
**To:** [Angeline Lehnert](#)  
**Cc:** [Troy Buzalsky](#)  
**Subject:** DR 12-03 Fred Meyer Fuel Station  
**Date:** Wednesday, January 09, 2013 7:56:27 AM  
**Attachments:** [image001.png](#)

---

This proposal meets the requirements of Canby Fire District for access and fire flow.

***TODD GARY***

**Canby Fire District**

**Deputy Fire Marshal**

503-266-5851 x 2761

[garyt@canbyfire.org](mailto:garyt@canbyfire.org)





900 S.W. Fifth Avenue, Suite 2600  
Portland, Oregon 97204  
main 503.224.3380  
fax 503.220.2480  
www.stoel.com

October 15, 2012

STEVEN W. ABEL  
Direct (503) 294-9599  
swabel@stoel.com

**VIA EMAIL AND HAND DELIVERY**

Planning Commission  
Attn: Bryan Brown, Planning Director  
City of Canby  
111 NW Second Street  
Canby, OR 97013

**Re: Fred Meyer Final Written Argument, File #ZC 12-01 and #TA 12-01**

Dear Commissioners:

Fred Meyer, Inc. ("Fred Meyer") filed three land use applications seeking approval of the proposed fuel station in the City of Canby ("City"). These three land use applications are consolidated, but at this point in the proceeding, the Planning Commission is only considering whether to recommend approval of Applications #ZC 12-01 and #TA 12-01 to the City Council. As described below, recommending approval is the proper course.

The three applications, in combination, would (1) allow Fred Meyer to use the design standards of the Outer Highway Commercial ("OHC") subarea of the Downtown Canby Overlay ("DCO") for the proposed fuel station rather than the design standards of the Core Commercial subarea (Applications #ZC 12-01 and #TA 12-01, or "Text and Map Amendment"), and (2) demonstrate that the project does in fact meet the OHC design standards and other DCO requirements (Application #DR 12-03 or "SDR"). Save Downtown Canby business owners ("SDC Business Owners") have tried to overcomplicate this proceeding and confuse the issues. Trying to create confusion is a common approach taken by project opponents. Fred Meyer's request, however, is straightforward and the record demonstrates there are no outstanding substantive or procedural issues.

With respect to substantive City requirements, Fred Meyer has demonstrated that the Text and Map Amendment application meets the applicable criteria in the Canby Municipal Code ("CMC"), specifically CMC 16.54 and 16.88. See City Staff Reports and Fred Meyer submittals included in the record. The SDC Business Owners raised traffic as a substantive concern, but Fred Meyer demonstrated that the Text and Map Amendment does not result in a change to the underlying zone or permitted uses, and therefore, no additional transportation considerations





must be addressed in order to recommend approval of the Text and Map Amendment. The Planning Commission may rely on, among other things, Fred Meyer's letters dated September 4, 2012 and October 8, 2012, including the Group Mackenzie's TPR Analysis response, when making this conclusion. Traffic considerations related to the fuel station development itself will be considered when the Planning Commission hears the SDR application. At that time, Fred Meyer will demonstrate to the Planning Commission that the SDR application raises no transportation concerns.

With respect to procedural City requirements, the City is following the proper process when reviewing the Text and Map Amendment and SDR applications. ORS 227.175(2) directs the City to establish a consolidated procedure "by which an applicant may apply at one time for all permits or zone changes needed for a development project." ORS 227.275(2) "facilitate[s] consolidated review of multiple applications, including zone changes, that will be required for a development project." See *North East Medford Neighborhood Coalition v. City of Medford*, 53 Or LUBA 277, 281-82 (2007) (determining that development applications requiring a zone change are judged by the standards and criteria that apply under the new zoning designation). Under ORS 227.175(2), the applications do not need to be filed on the same date to be considered filed "at one time," and nothing prevents the City from processing the applications on different timelines, recognizing that different applications have different procedural requirements. *Id.*; see also *Devin Oil Co., Inc. v Morrow County*, 62 Or LUBA 227, 260-61 (2010) (challenge by competing gas station owners to local government procedure denied). Accordingly, the City may proceed with the Text and Map Amendment, and when it comes time to review the SDR, the SDR application will be reviewed against the applicable CMC and comprehensive plan requirements in place at the time the SDR application was filed, *as amended* by the Text and Map Amendment. SDC Business Owners' arguments, to the contrary, are simply wrong as a matter of law.

Finally, recommending approval of the Text and Map Amendment does not establish a precedent that could undermine the DCO policy. The City reviews each land use application against the criteria applicable to the request. There is no requirement that a local government's actions must be consistent with past decisions, but only that the decision must be correct when made. See, e.g., *Reeder v. Clackamas County*, 20 Or LUBA 238, 244 (1990); *Okeson v. Union County*, 10 Or LUBA 1, 5 (1983). See also *BenjFran Development v. Metro Service District*, 17 Or LUBA 30, 46-47 (1988); *S & J Builders v. City of Tigard*, 14 Or LUBA 708, 711-12 (1986). In every proceeding, each applicant has the burden to demonstrate that the applicable criteria from the CMC have been met. Therefore, in recommending approval of the Text and Map Amendment, the City is not binding itself to approve any future adjustments to the DCO subarea boundaries.

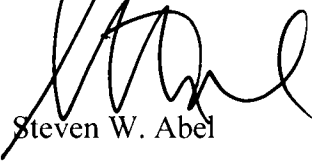


Planning Commission  
October 15, 2012  
Page 3

In fact, the City is doing what it should – using its regulatory authority to create positive economic conditions in the City.

Thank you for your consideration, and we encourage the Planning Commission to recommend approval of the Text and Map Amendment to the City Council.

Very truly yours,



Steven W. Abel

cc: Michael Connors (via email)



900 S.W. Fifth Avenue, Suite 2600  
Portland, Oregon 97204  
main 503.224.3380  
fax 503.220.2480  
www.stoel.com

October 8, 2012

STEVEN W. ABEL  
Direct (503) 294-9599  
swabel@stoel.com

**VIA EMAIL AND HAND DELIVERY**

Planning Commission  
Attn: Bryan Brown, Planning Director  
City of Canby  
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Canby, OR 97013

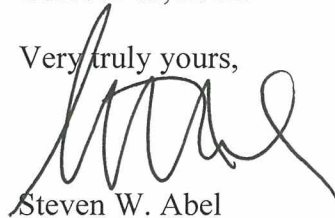
**Re: Fred Meyer Submittal, File #ZC 12-01 and #TA 12-01**

Dear Commissioners:

On behalf of Fred Meyer, Inc. ("Applicant"), please find enclosed Applicant's rebuttal evidence for the pending text and map amendment applications. The Group Mackenzie letter explains succinctly why the allegations raised by Save Downtown Canby in its submittal dated October 1, 2012 are not relevant in this proceeding.

Thank you for your consideration, and we look forward to submitting final written argument by October 15, 2012.

Very truly yours,



Steven W. Abel

Enclosure

cc: Michael Connors (*via email and hand delivery*)

# GROUP MACKENZIE

October 8, 2012

City of Canby  
Attention: Bryan Brown  
111 NW 2<sup>nd</sup> Avenue  
Canby, OR 97013

Re: **Fred Meyer Map and Text Amendment TA 12-01/ZC 12-02**  
*TPR Analysis Response*  
Project Number 2120130.00

Dear Mr. Brown:

This letter has been prepared in response to the October 1, 2012 letters from Michael Connors of Hathaway Koback Connors LLP and Michael Ard of Lancaster Engineering. Specifically, we are responding to comments related to the Transportation Planning Rule (TPR) and our Transportation Impact Analysis (TIA) report.

The TPR is a different traffic analysis than that performed as a part of the TIA. The TIA relates to a specific development proposal whereas a TPR is a big-picture analysis that is sometimes triggered during a comprehensive plan or zoning code amendment. The TIA was prepared for the Site and Design Review application for the Fred Meyer fuel station and supports findings that the proposed development meets the applicable development standards. Comments related to the TIA's content, such as those in the Lancaster Engineering letter, are not relevant to Text and Map Amendment applications and therefore, are not addressed.

With respect to the applicability of the TPR to the Text and Map Amendment applications, as noted in the September 4, 2012 letter from Steve Abel with Stoel Rives LLP, Fred Meyer is not proposing to change the underlying C-2 zone. The requests only change the boundary between two subareas of the Downtown Canby Overlay Zone (DCO). The change from Core Commercial (CC) to Outer Highway Commercial (OHC) only affects the design and development standards that apply to the site, not the allowed uses under the C-2 zone or the DCO. The TPR requires analysis of a worst-case scenario when considering a zone change, with the difference in traffic impacts between the existing and proposed zones being addressed. For example, when a residential zone is changed to a commercial zone, the increased trips associated with possible new uses of the land must be analyzed to ensure that the existing transportation system can accommodate any increased traffic. Here, there is no change in the allowed uses, and therefore Fred Meyer does not need to provide a TPR analysis.

The following support the fact that no TPR analysis is required:

- The City's Staff Report for the Text and Map Amendment application clearly states on pages 8 and 9, "the base C-2 Zone allows fuel stations". On page 5, the City notes "A retail fuel station is permitted within the C-2 zone. The site is also located within the Core Commercial (CC) area of the Downtown Overlay Zone. A fuel

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City of Canby  
Fred Meyer Map and Text Amendment TA 12-01/ZC 12-02  
Project Number 2120130.00  
October 8, 2012  
Page 2

station could be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea; therefore not conflicting with the base C-2 Zone's permitted fuel station use."

- The Pre-Application Conference summary provided by the City of Canby states on page 5, "the proposed use is clearly permitted outright within the underlying C-2 zone". Staff also suggests in the summary that the applicant consider submitting a text amendment to modify the boundary between CC and OHC subareas in order to move the property into the more "suitable" OHC, where compliance with the applicable design guidelines can be more easily demonstrated.
- At no time in the application process did the City of Canby, its consultant DKS Associates, or the Oregon Department of Transportation (ODOT) require a TPR analysis. This includes any comments at the pre-application conference, where staff suggested the Text Amendment, and which was attended by Seth Brumley and Abraham Tayar from ODOT. Further, the March 29, 2012 traffic study scoping letter prepared by DKS Associates well after the pre-application meeting only addressed the need for a TIA for the site and design review application. No mention was made of the need for a TPR analysis. A copy of the scoping letter is attached.

It is clear that the proposed amendments to simply change from CC to OHC do not result in any change in allowed uses in the underlying C-2 zone, but only the design standards that are applied to those uses. With no change in allowed uses, there is no additional transportation impact, and therefore no requirement for an analysis per the Transportation Planning Rule. A TIA was prepared for the Site and Design Review application for the specific fuel station development, but that application has yet to be considered by the Planning Commission.

From a transportation engineering perspective, the pending Text and Map Amendment applications do not raise any new transportation system concerns and should be approved.

Sincerely,



Brent Ahrend, PE  
Senior Associate | Traffic Engineer

Enclosure: DKS Scoping Memo

- c: Steve Abel – Stoel Rives  
James Coombes – Fred Meyer  
Jake Tate – Great Basin Engineering  
Lee Leighton – Westlake



## MEMORANDUM

**DATE:** March 29, 2012  
**TO:** Bryan Brown, City of Canby  
**FROM:** Chris Maciejewski, PE, PTOE  
**SUBJECT:** Canby Fred Meyer Fuel Station Traffic Impact Study (TIS) Scope

P11010-015

This memorandum describes the scope of services to evaluate the transportation impacts associated with the proposed Fred Meyer Fuel Station in the City of Canby. This scope of services has been prepared through our on-call services contract and coordination with ODOT staff<sup>1</sup>. The proposed fuel station would consist of twelve fueling stations (6 fuel pumps), a 3,956 square foot covered canopy, a 176 square foot kiosk with bathroom, two underground storage tanks, three employee parking spaces, an air dispenser station, and a 1,000 gallon propane fuel station<sup>2</sup>. No convenience store will be provided.

The project site is located on the southwest corner of the intersection of Highway 99E (SE 1<sup>st</sup> Ave) and S Locus Street. Highway 99E is a state facility and is classified as a regional highway and state truck route<sup>3</sup>. Both S Locus Street and SE 2<sup>nd</sup> Avenue are classified as local City streets.

The site is made up of five property lots all of which are currently vacant. All lots are currently designated as Highway Commercial (HC) per the City's Comprehensive Plan and are zoned Highway Commercial (C-2). A service station is an outright permitted development based on the current zoning of the site; therefore no zone change would be required for the proposed application.

### Scope of Services

#### Task 1: Existing Conditions Analysis/Data Collection

An existing conditions analysis will document the existing transportation conditions within the project study area. A description of the surrounding transportation network will be provided

<sup>1</sup> Phone conversation with Abraham Tayar, ODOT, March 14, 2012

<sup>2</sup> Fred Meyer Gas Station Pre-Application Meeting, February 28, 2012.

<sup>3</sup> 1999 Oregon Highway Plan, Appendix D: Highway Classification by Milepoint.



including functional classification of roadways, roadway cross-sections, posted speed limits, and pedestrian/bicycle/transit facilities.

The study intersections will be reviewed to determine the existing geometry, traffic control, and operations during the peak hours. Existing intersection operating conditions will be analyzed to establish the current peak hour performance. The critical peak periods for this evaluation will be the weekday morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm). These are the times during a typical weekday when the study area street system would be expected to experience the highest vehicle volumes. DKS will collect vehicle turn movement counts at the study area intersections during each of the identified peak periods.

The study area intersections include the following:

- Highway 99E/S Locust Street
- S Locust Street/SE 2nd Avenue
- Onsite and Offsite study intersections (see Access Management Plan)

Furthermore, collision records at study intersections will be reviewed and summarized in a table.

Preliminary trip generation and distribution estimates indicate that trip levels would not trigger analysis to be conducted at any other intersections based on the City's and ODOT's intersection analysis evaluation guidelines. In addition, it does not appear that a Neighborhood Through-Trip Study would be required<sup>4</sup>.

## Task 2: Project Trip Generation/Trip Distribution

The amount of new vehicle trips generated by the proposed fuel station to the site will be estimated using traffic counts collected by DKS at one similar land use within the surrounding area. DKS will collect traffic counts (entering/exiting volume) during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods. The counts collected will be compared to trip generation estimates published in the ITE Trip Generation Manual for similar land use type<sup>5</sup>. The greater trip generation estimate will be used for analysis to evaluate worst case impacts. Trip generation estimates will be provided for daily, morning, and evening peak hour periods. The project trip generation estimate will be summarized in a table, including pass-by trip reductions.

The distribution of site vehicle traffic will be based on the existing travel patterns as determined by traffic counts at surrounding intersections, the City of Canby Travel Forecast Tool, and input from the project team. The project trip distribution will be shown on a study area figure.

<sup>4</sup> City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010

<sup>5</sup> Trip Generation Manual, Institute of Transportation Engineers, 8<sup>th</sup> Edition.

### Task 3: Traffic Impact Analysis

A transportation impact analysis for the proposed project will be conducted in accordance to the City's requirements<sup>6</sup>. The new vehicle trips generated by the proposed project will be added onto the existing traffic volumes to identify the expected traffic operating conditions once the project is built and fully operational. The traffic conditions will be evaluated at the same study intersections as was considered in the Existing Conditions analysis. At this time, there are no significant approved but un-built projects in the study area, so a future background growth scenario will not be evaluated.

Street facilities and intersections that are shown to fall below the minimum acceptable operating thresholds will be identified for possible mitigation measures. Typical mitigation measures can include traffic control strategies, access management plans, intersection widening for turn lanes, and roadway widening. Transportation performance criteria will consider City of Canby and ODOT standards, where applicable.

### Task 4: Site Access and Circulation Review

The forecasted site traffic accessing the public road system via the sites access will be evaluated for performance and safety. DKS will collect video recordings during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods at a similar land use site to assist with estimating vehicle stacking within the proposed site. The video recordings will take place simultaneously with the traffic counts collected as part of Task 2.

Internal circulation routes will be examined using the AutoTURN<sup>TM</sup> turn simulation software to determine adequacy for serving fuel delivery vehicles, emergency vehicles, and motor vehicle traffic. In addition, site access for non-auto modes of travel (pedestrians and bicyclists) will be evaluated for connectivity to the surrounding transportation system. Any inadequacies discovered during the evaluation will be identified and mitigation measures will be recommended, as needed.

Sight distance will be verified at all site access locations and vision triangles will be checked to ensure that they are clear from any obstructions.

### Task 5: Access Management Plan

The preliminary site plan indicates two proposed full accesses to the site. One is located along Highway 99E and the other along SE 2<sup>nd</sup> Avenue. Proposed access locations will be compared to both ODOT and the City's access spacing requirements. Preliminary review of the proposed site plan reveals that the City's access spacing standards would not be able to be met based on the close proximity of adjacent intersections (S Locust Street). The City's standard requires that accesses be located at least 330 feet away from any street intersection; therefore an access management plan

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<sup>6</sup> City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010.



will be prepared per the City's requirements to assess the potential impacts of the proposed access locations<sup>7</sup>. At a minimum the access management plan will include:

- The minimum study area shall include the length of the site's frontage plus 250 feet measured from each property line or access point(s), whichever is greater.
- The potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.
- A comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the City standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.
- A list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.
- References to standards or publications used to prepare the access management plan.

The access management plan will examine access alternatives such as the relocation of proposed access locations and the potential for shared use with adjacent accesses (property to the west). The plan will include the following alternative scenarios:

- No Access to Highway 99E
- Shared access to Highway 99E with the development to the west
- Restricted movement access to Highway 99E
- Full Access to Highway 99E

Based on the preliminary access management plan study area, approximately seven access points along Highway 99E and one additional intersection (Highway 99E/S Knott Street) would need to be analyzed. DKS will collect traffic counts at these locations during the critical peak morning (7:00 to 9:00 am) and evening (4:00 to 6:00 pm) periods. These counts will be collected in conjunction with those identified in Task 1.

#### Task 6: Documentation

The findings and recommendations of this traffic impact analysis will be presented in a Draft Report that will be submitted to the City and ODOT (one electronic copy). The report will document data collection, analysis procedure, results, and mitigation measures for the proposed project traffic if necessary. A technical appendix supporting calculations will accompany the report. After the City

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<sup>7</sup> City of Canby Transportation System Plan, Chapter 10: Implementation Plan, December 2010.

and ODOT have reviewed the Draft Report, we will make appropriate edits and submit a revised Draft Report. Once comments are received, DKS will make appropriate edits and submit a Final Report (one electronic copy).

#### **Task 7: Meetings**

The DKS project manager will attend up to one (1) coordination meeting or hearing as part of this project. Additional meetings as directed by the City will be provided for an additional fee on a time and expenses basis.

#### **Budget**

The level of effort for these tasks is up to 130 hours in addition to data collection efforts. Therefore, including expenses, our fee estimate for this effort is \$17,000.

If the applicant chooses to utilize another consultant to complete this task, our assistance with forecasting (using the Canby TSP Travel Forecast Tool) and review with written response of the applicant's TIS would be approximately \$1,500.

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



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**VIA EMAIL**

October 1, 2012

Planning Commission  
c/o Brian Brown, Planning Director  
Angie Lehnert, Associate Planner  
City of Canby  
PO Box 266-9404  
Canby, OR 97013

Re: Fred Meyer Fuel Station  
Application Nos. DR 12-03/TA 12-01/ZC 1201  
Save Downtown Canby – Supplemental Evidence/Argument Letter

Dear Commissioners:

As you know, this firm represents Save Downtown Canby (“SDC”), a group of local business owners concerned about the above-referenced Text Amendment, Zone Change and Site and Design Review applications filed by Fred Meyer Stores, Inc. (the “Applicant”) for a new Fred Meyer fuel center. At the September 24, 2012 public hearing, the Planning Commission left the record open to allow all parties to submit supplemental evidence and argument by October 1, 2012 pursuant to ORS 197.763(6). This letter and the attached letter from Lancaster Engineering, dated October 1, 2012 (“Lancaster’s October 1<sup>st</sup> Letter”), constitute SDC’s supplemental submittal.

1. The City’s approval of the Text Amendment and Zone Change will establish precedent for future development in the downtown area.

Acknowledging that it would be detrimental to establish a precedent that the City will not strictly enforce the Downtown Canby Overlay (“DCO”) and will amend it to accommodate development proposals that cannot satisfy the standards, the Applicant argued at the September 24<sup>th</sup> hearing that the City should not be concerned because there is no precedent in land use cases. The Applicant’s claim that the City’s decision will not establish a precedent nor have any bearing on future development in the downtown area is flawed in several respects.

The Applicant’s claim that there is no precedent in land use cases and the City can freely apply different standards and interpretations to different applications is wrong. The Oregon Court of Appeals specifically rejected the authority of local governments to selectively apply different standards and interpretations to different applicants. *Holland v. City of Cannon Beach*, 154 Or



App 450, 458-59, 962 P2d 701 (1998); *Alexanderson v. Clackamas County*, 126 Or App 549, 552, 869 P2d 873, rev. den. 319 Or 150, 877 P2d 87 (1994).

The Applicant's argument is particularly problematic because its justification for the Text Amendment and Zone Change are based on broader concerns about the DCO, not the specific facts of this application or characteristics of this property. The Applicant argues that the Text Amendment and Zone Change are primarily justified because the current CC sub-area regulations have not fostered development since their adoption and the CC sub-area boundary is too broad. These same principles obviously apply to other properties in the CC sub-area and the DCO as a whole. If the City approves the Text Amendment and Zone Change based on these justifications, it is adopting broad policies and principles that will apply to the entire DCO.

Regardless of whether or not the City will be legally bound by the precedent established in this case, the City should make its decision based on the DCO as a whole and not just this application. The City is not allowed to give preferential treatment to the Applicant. The City should assume that the DCO policies and interpretations it adopts in this case will apply to other property owners and applicants. Other property owners and applicants will demand and are entitled to similar treatment. If the City does not apply the DCO policies and interpretations consistently, it will open itself up to accusations that the City is not enforcing the DCO fairly and equitably and legal challenge.

The City's approval of the Text Amendment and Zone Change will establish a bad precedent and its adoption of the Applicant's rationale will call the entire DCO into question. The City should not jeopardize the DCO for this single development.

2. The City cannot rely on the Text Amendment/Zone Change applications for purposes of reviewing the Site and Design Review application.

In its July 24, 2012 letter, SDC requested that the City clarify if it is processing the Text Amendment/Zone Change and Site and Design Review applications as consolidated applications. It is apparent from the September 24<sup>th</sup> public hearings that the City is not processing the applications as consolidated applications. The Planning Commission is considering the applications separately and has yet to hold a public hearing for the Site and Design Review application. The City staff stated at the September 24<sup>th</sup> hearing that the Planning Commission's decision on the Site and Design Review application is subject to an appeal to the City Council, which indicates that this application is being processed under the Type III process as opposed to the Type IV process for the Text Amendment/Zone Change applications. If all of the applications were consolidated, they would all be processed pursuant to the Type IV process.

Since the applications are not going through a consolidated process, the City cannot rely on the Text Amendment/Zone Change applications for purposes of reviewing the Site and Design Review application. The fixed goal-post rule requires the City to review all land use applications based on the acknowledged comprehensive plan and land use regulations in effect on the date the applications are filed. ORS 227.178(3)(a) provides that "approval or denial of the application shall be based upon the standards and criteria that were *applicable at the time the application was first submitted.*" (Emphasis added). Even if the Comprehensive Plan and Canby Municipal Code ("CMC") provisions change as a result of the approval of the Text Amendment/Zone



Change applications, the City must review the Site and Design Review application based on the provisions in effect when the application was filed since the applications are not consolidated.

The Applicant and the City staff acknowledge that the proposed fuel station does not comply with the City's regulations without the Text Amendment/Zone Change. Therefore, the City cannot approve the Site and Design Review application.

3. The Applicant's Traffic Analysis is flawed and unreliable.

The attached letter from Lancaster Engineering, dated October 1, 2012 ("Lancaster's October 1<sup>st</sup> Letter"), addresses additional flaws with the Applicant's traffic analysis. Lancaster Engineering confirmed that the Applicant's Transportation Impact Analysis, dated May 17, 2012 (the "TIA"), is inconsistent with ODOT and the City's traffic engineer's instructions based on recent conversations with ODOT and a review of ODOT and the City's traffic engineer (DKS Associates) written instructions. ODOT advised Lancaster Engineering that it intends to conduct an internal safety audit related to this proposed development and the potential safety and operational impacts prior to the City Council hearing for the project, a highly unusual step for ODOT and indicative of the problem with the TIA. Finally, Lancaster's October 1<sup>st</sup> Letter includes data from the Fred Meyer fuel station in Cornelius demonstrating that the trip generation for the proposed facility will likely be far in excess of the volumes relied on by the TIA.

Additionally, it is important to emphasize that the Applicant's traffic engineer acknowledged at the September 24<sup>th</sup> hearing that Applicant could have done more to accurately assess the traffic impacts of an off-site fuel station. In response to a question from the Planning Commission, the Applicant's traffic engineer confirmed that the Applicant could have performed surveys of Fred Meyer fuel stations located off-site from the Fred Meyer stores but chose not to do so because it would be too labor intensive. The Applicant's traffic engineer acknowledged that it "certainly" could have performed a survey of the Oak Grove fuel station since it is located approximately 0.6 miles from the store, but that it did not do so because it assumed that the traffic impact analysis was "pretty close to reality" and a survey would have required "quite a bit more effort" and would be too "labor intensive." The Applicant should not be allowed to cut corners simply because it requires more analysis than the Applicant wants to do, especially given that the Applicant did not provide *any* evidence of the impacts of an off-site fuel station. Given the existing traffic safety and congestion problems along Highway 99 and the significant problems projected in the future, the Applicant should be required to provide all of the available information to fully assess the traffic impacts.


Conclusion

This supplemental evidence and argument continues to demonstrate that SDC's concerns about the project are well-founded. The entire DCO would be undermined if the City approved the Text Amendment and Zone Change applications based on the rationale provided by the Applicant. Moreover, the Applicant has significantly underestimated the traffic impacts of the proposed fueling station and failed to adequately evaluate the impact on the surrounding transportation system. Regardless of how the City feels about this project, it should not approve such a flawed proposal that will have broader repercussions well beyond this particular property.

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



E. Michael Connors

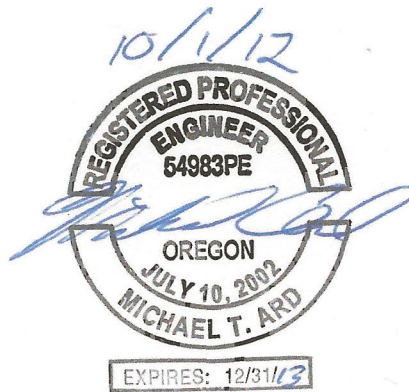
EMC/df

Enclosure

cc: Save Downtown Canby

October 1, 2012

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*RE: Fred Meyer Canby – Fuel Facility*

Dear Mike:

This letter is written to provide additional information related to the proposed Fred Meyer Fuel Facility in Canby, Oregon. We have continued investigating the many concerns we raised in our letter dated September 24, 2012 and we now are supplementing that letter with this additional information.

#### *Zone Change Analysis*

Our concerns regarding the need for a Transportation Planning Rule analysis have not yet been addressed. In order to make a finding of “no significant effect” which would indicate that no mitigation is needed for the proposed text amendment and zone change, an analysis is needed to demonstrate the reasonable worst case development scenarios under the existing and proposed conditions. Since this analysis is still conspicuously absent, there is insufficient information in the record to conclude that the proposed actions will not result in a significant effect. In the absence of this data, the proposed text amendment and zone change should not be approved.

#### *Shared Trip Reductions*

As described in detail in our previous review letter dated September 24, 2012, there are significant problems with utilization of “internal” or “shared trip” reductions for this project. We have subsequently reviewed comments provided by DKS Associates and the Oregon Department of Transportation that also express concerns about utilization of “shared trip” data.

I spoke with Avi Tayar of ODOT, and he informed me that he had expressly instructed Group Mackenzie **not** to use shared trip data. This instruction is also included in his email correspondence with Group Mackenzie (contained in the appendix to May 17, 2012 Transportation Impact Analysis), which stated “ODOT has concerns regarding applying diverted and internal trip reductions for this development. ODOT suggests that the analysis follow ITE’s Trip Generation Handbook with its recommendation for pass-by trip reduction for the proposed land use for the site.”



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October 1, 2012  
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Chris Maciejewski of DKS Associates also expressed concerns regarding utilization of “shared trips”, stating “Also, I’m not sure that the internal reductions reasonably apply when the site is not adjacent to the Fred Meyer store... I’ll think more about that as I review the survey information.”

Despite the specific instruction from ODOT and the concerns expressed by DKS Associates, Group Mackenzie persisted in utilizing the shared trip data, and have recently asserted that these “shared trips” will have a lesser impact on the highway than would typical primary trips. This assertion is directly contradicted by the text of Group Mackenzie’s own Transportation Impact Analysis, which describes the shared trips as “Distribution for shared trips is simply between the fuel facility and the Canby Fred Meyer store location, **similar to primary trips.**”

In order to have a reduced impact on the street system, the “shared trips” would need to function in a manner similar to pass-by traffic. However, since an explicit pass-by trip reduction has already been taken, it is inappropriate to assume that additional trips will act as pass-by trips. Again, there is no reliable data in the record supporting any kind of reduction.

Group Mackenzie has also asserted that the “shared trip” reductions were taken in a manner consistent with standard transportation engineering procedures. The concerns expressed by ODOT, DKS Associates and Lancaster Engineering are ample evidence that the utilization of a “shared trip” reduction for non-conjoined sites is highly unusual. In fact, the ITE Trip Generation Handbook does not provide for nor is there any precedent for utilization of “internal” trip reductions for a project in which the secondary “shared trip” destination is wholly outside the study area of the project. These trips can in no way be considered as internal, and the reductions taken are not reflective of the standard practice of transportation engineering.

It is clear from a cursory review of the “shared trip” analysis that inadequate thought was put into the application of the reductions, and the result is not just inconsistent with standard transportation engineering procedures, but wrong. No consideration was given to the fact that internal trips are made principally because they are convenient, and travel to a site ½ mile distant greatly reduces that convenience. Similarly, no consideration was given to the fact that the trip distribution drawn from the City’s planning model already accounts for trips to and from the Fred Meyer site, resulting in an effective “shared trip” rate well in excess of the reported 38 percent.

The “shared trip” data utilized in the Transportation Impact Analysis is not applicable at the proposed development site due to lack of proximity, the application of the data is inconsistent with the standard practice of transportation engineering, and the resulting site trip distribution is not reflective of the actual impacts of the proposed development.

#### *Traffic Impact Study Scoping*

We have also spoken to ODOT regarding the scoping of the traffic impact study. ODOT plans to conduct an internal safety audit related to the Fred Meyer Fuel Facility development and the potential safety and operational impacts prior to the City Council hearing for this project. Specifically, since there has been no analysis provided for the intersection of Highway 99E at Ivy

Mike Connors  
October 1, 2012  
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Street, it is unknown whether the addition of site trips from the proposed development may have adverse operational and safety impacts on this intersection. ODOT's safety review of this intersection will focus on the likely impacts of the added traffic from the proposed development and the nature of the historical crashes at the intersection to determine whether additional traffic may exacerbate the existing safety hazards. It will be critical to correct all errors associated with the site trip generation and distribution prior to the safety analysis so that the impacts can be appropriately assessed.

It is unusual that analysis tasks need to be undertaken by ODOT rather than the applicant in order to determine whether site trips from a proposed development will have unacceptable safety impacts on nearby streets and intersections. It is the purpose of a transportation impact analysis to provide this specific information. In this instance, the lack of relevant information in the record demonstrates the incompleteness of the analysis provided by the applicant. There remains at this time insufficient information to make an appropriate determination as to whether operational or safety mitigations will be needed at the intersection of Highway 99E and Ivy Street as a result of the proposed development.

#### *Trip Data*

Since the applicant chose to use data from similar sites to estimate traffic impacts from the proposed development without collecting relevant "shared trip" data from the comparable site at Oak Grove, we also investigated another Fred Meyer fuel facility located in a suburban area where specific data was available that relates to trip generation and traffic volumes.

The Fred Meyer fuel facility in Cornelius, Oregon is subject to a two-cent-per-gallon tax, and the City keeps records of taxes paid, providing insight into the fuel sales of the Fred Meyer facility as well as the other fuel stations in town. Records for fiscal year 2012 (July 2011 through June 2012) show that Fred Meyer paid \$89,317.06 in taxes, which equates to sales of 372,000 gallons of fuel per month. Fuel sales for July and August of 2012 (September data was not yet available) show an average of 466,000 gallons of fuel sold per month.

For comparison, according to the NACS (National Association of Convenience Stores), the average convenience store in the United States sold 121,000 gallons of fuel per month in 2009. The Fred Meyer store in Cornelius sold 3 times this average. Within the City of Cornelius, the Fred Meyer fuel facility sold 2.35 times more fuel than the second-highest sales fuel station. These comparisons demonstrate that Fred Meyer fuel facilities generate far more traffic than typical fuel stations.

Fred Meyer provided trip generation data taken from Fred Meyer fuel facilities for use in the traffic impact study, and demonstrated that expected traffic volumes are slightly in excess of typical traffic volumes for a fuel station, however the above fuel tax data demonstrates that a reasonable expectation of the trip generation for the proposed facility may be far in excess of the volumes studied. Accordingly, there remains a serious concern that low-traffic sites may have been purposefully or inadvertently chosen as a basis for comparison.





Mike Connors  
October 1, 2012  
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In order to ensure that the trip data is representative of typical Fred Meyer facilities, one of two things should occur:

- 1) Fred Meyer should provide sales data for all facilities in the Portland Metropolitan area demonstrating that the sales volume at the selected comparable sites are reflective of typical fuel sales volumes; or
- 2) The City of Canby should randomly select the locations at which comparable trip generation data will be collected.

#### *Access Control*

In the DKS Associates review material, several comments were made regarding the potential need for a right-in, right-out restriction at the site access driveway in the future. The need for this restriction was based on several potential triggers, including construction of a pedestrian refuge within Highway 99E at S Locust Street and potential queuing on Highway 99E at the site access. DKS Associates recommended that ODOT monitor, evaluate and design and needed improvements for this access location.

Although it is appropriate to have ODOT monitor, evaluate and design these improvements since it involves a state transportation facility, the recommendation does not account for some additional effects of the potential future turning movement restrictions that directly impact City transportation facilities. For instance, the DKS Associates review specifically notes that "...it appears that the site access to OR 99E could be modified to right-in/right-out movements only, **which should divert some traffic to the SE 2<sup>nd</sup> Avenue access** and still provide access for fueling trucks via S Locust Street to SE 2<sup>nd</sup> Avenue." However, a diversion of additional traffic to SE 2<sup>nd</sup> Avenue will increase impacts on this local residential street, exacerbating the need for a Neighborhood Through Trip Study. As previously described in our letter dated September 24, 2012, there will be a projected increase of 34 peak-hour trips along SE 2<sup>nd</sup> Avenue immediately southwest of the site, even with the preferred full access on Highway 99E. Implementation of a future right-in, right-out restriction will further increase the traffic volumes on this local street.

Since it is anticipated that the primary site access driveway on Highway 99E will be converted to a right-in, right-out access in the future, it is necessary to analyze the impacts of the proposed development within the context of this future restriction. The still-needed Neighborhood Through Trip Study should therefore explicitly account for this restriction.



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Mike Connors  
October 1, 2012  
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*Conclusions*

The concerns raised in our previous review letter dated September 24, 2012 have not been addressed, and further review of the project continues to raise red flags regarding the analysis assumptions including the fundamental attributes of trip generation and distribution for the site, as well as the operational and safety impacts of the proposed development.

The transportation analysis materials provided by the applicant include numerous unfounded assertions and draw several incorrect conclusions. Serious questions remain, and the material provided is insufficient to determine that the impacts of the development will not immediately compromise public safety at the intersection of Highway 99E and Ivy Street or neighborhood livability along SE 2<sup>nd</sup> Avenue adjacent to the site. Additionally, questions remain regarding the site access location on Highway 99E including when and how access control may be implemented to restrict the driveway to right-in, right-out movements only.

Sincerely,



Michael Ard, PE  
Senior Transportation Engineer

## APPENDIX

Fuel Tax  
Fiscal Year 2012

Summary FY2012 Turnover

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Fuel Tax  
Fiscal Year 2013

Summary FY2013 Turnover

	Total Remitted FY2013	June 2013	May 2013	April 2013	March 2013	February 2013	January 2013	December 2012	November 2012	October 2012	September 2012	August 2012	July 2012
Cornelius Fast Serv	6,042.76											3,166.60	2,876.16
EATA LLC	2,420.79											1,134.59	1,286.20
Baseline Market	2,424.94											1,086.16	1,338.78
Fred Meyer	18,655.72											9,249.54	9,406.18
Tarr, LLC	1,787.90											919.81	868.09
Mansfield Oil(Frontier)	-											-	-
Cornelius Oil LLC	2,195.26											1,028.56	1,166.70
Total collections	\$ 33,527.37	-	-	-	-	-	-	-	-	-	-	16,585.26	16,942.11
	33,527.37												



# Fueling America: Key Facts and Figures

NACS ANNUAL FUELS REPORT 2011



Convenience stores sell approximately 80 percent of the fuels purchased in the United States. Here are some facts and figures related to the industry.

## Demand

U.S. gasoline demand is projected to average 9.12 million barrels per day in 2011.

Americans are expected to travel 8.27 billion miles per day in 2011. This equates to an average of 33 miles per vehicle per day.

## Petroleum Infrastructure

The U.S. petroleum distribution industry includes:

- 148 refineries
- 38 Jones Act vessels (U.S. flag ships that move products between U.S. ports)
- 3,300 coastal, Great Lakes and river tank barges
- 200,000 rail tank cars
- 1,400 petroleum product terminals
- 100,000 tanker trucks
- Approximately 200,000 miles of oil and refined product pipelines

## Fueling Outlets

There were 159,006 total retail fueling sites in the United States in 2010.

A total of 117,297 convenience stores sell motor fuels in the United States. This represents 80 percent of the 146,341 convenience stores in the country.

Overall, 58 percent (67,504 stores) of the country's 117,297 convenience stores selling fuels are one-store operations. By contrast, about 1 percent are owned and operated by the integrated oil companies, of which only two (ChevronTexaco and Shell) still are committed to selling fuel at the retail level.

## Fuels Sales

The gross margin (or markup) on gasoline in 2010 was 16.3 cents/gallon, or 5.6 percent.

Motor fuels sales in convenience stores totaled \$328.7 billion in 2009. Motor fuels sales accounted for 68 percent of the convenience store industry's sales in 2009. However, because of low margins, motor fuels sales contributed only 27 percent of total store gross margins dollars.

The average convenience store in 2009 sold 121,000 gallons of motor fuels per month — approximately 4,000 gallons per day.

## Fuels Expenses

The federal excise tax on gasoline is 18.4 cents per gallon and 24.4 cents per gallon for diesel fuel.

In January 2011, motor gasoline taxes averaged 48.1 cents per gallon and diesel fuel taxes averaged 53.1 cents per gallon.

Factoring in all gasoline sales in 2009 transactions — whether the customer paid by cash, check or by either debit or credit card — credit and debit card fees averaged 4.7 cents per gallon.

Sources for this information include the U.S. Energy Information Administration, American Petroleum Institute, National Petroleum News, OPIS, National Petrochemical and Refiners Association, Association of Oil Pipe Lines, Nielsen TDLinx and NACS.



To: Canby Planning Commission

October 1, 2012

From: Curt Hovland Representing Hulberts Flowers

Subject: Proposed Development of Fueling Station

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

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

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

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

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

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

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

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

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

Thank you for your careful consideration of this important issue.



Ciurtis A. Hovland

President of CRACO Inc. DBA Hulberts Flowers





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## HAND DELIVERY

September 24, 2012

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

Re: Fred Meyer Fuel Station  
Application Nos. DR 12-03/TA 12-01/ZC 1201  
Save Downtown Canby – Comment Letter

Dear Commissioners:

This firm represents Save Downtown Canby (“SDC”), a group of local business owners concerned about the above-referenced Text Amendment, Zone Change and Site and Design Review applications filed by Fred Meyer Stores, Inc. (the “Applicant”) for a new Fred Meyer fuel center. SDC submitted written comments and testified at the Planning Commission’s July 23, 2012 public hearing addressing SDC’s concerns about the applications. This letter responds to the supplemental material submitted by the Applicant at and subsequent to the July 23<sup>rd</sup> hearing. SDC continues to be concerned about the Applicant’s proposal and believes that the Applicant has not adequately addressed all of the deficiencies with its applications. Accordingly, SDC requests that the Planning Commission recommend denial of the applications.

1. The City should not approve a significant change to the DCO solely to accommodate a fuel station.

As previously explained, SDC is very concerned about the long-term impacts of approving a significant change to the recently adopted Downtown Canby Overlay (“DCO”) zone solely to accommodate the proposed fuel station. Allowing a major change to the DCO simply because a proposed use cannot comply with its standards would establish a horrible precedent that the standards are not strictly enforced and can be amended to accommodate individual development proposals. Such a precedent would undermine the DCO and the Canby Downtown Plan which the City adopted to encourage economic vitality and revitalize Canby’s downtown center.

The Applicant’s supplemental material offers no new response or information to address SDC’s concern. Rather, the Applicant’s letter from its attorney, Steven W. Abel, dated September 4, 2012 (“Abel’s September 4th Letter”), references the Supplemental Recommended Findings for the Text Amendment Application, dated July 12, 2012 (“Supplemental Text Amendment

Findings”), which were written before SDC raised their concerns. While the Applicant claims that this is a minor change because the subject property is not very large, the Applicant failed to address the broader implications on the DCO. These impacts are exacerbated by the Applicant’s justifications for amending the DCO which question the entire DCO concept and would undermine the DCO goals.

- a. The Applicant’s acknowledgement that the sole reason for the proposed change to the DCO is to accommodate the fuel station is significant.

The Applicant and the City Staff confirmed that the proposed change to the DCO is designed solely to accommodate the fuel station since it cannot be sited under the Core Commercial (“CC”) sub-area overlay standards. The Applicant acknowledged that “the City’s text amendment alone facilitates the development of the six unit fuel-dispensing station” and that the public need for the change to the DCO is to “facilitate development that has not occurred under the existing designation.” Abel’s September 4th Letter, p.1 & 6. The revised Staff Report confirms that the Applicant requested the Text Amendment/Zone Change “because the proposed auto-oriented fuel station does not meet the intent of the CC sub-area.” Revised Staff Report, p.5.

This acknowledgment is significant because the City’s approval of this request will establish a clear precedent that the DCO is not strictly enforced and can be amended to accommodate individual development proposals that cannot satisfy the DCO standards. Other property owners and applicants will demand similar treatment or accuse the City of not enforcing the DCO fairly and equitably. The Planning Commission needs to determine if it is more important to maintain the integrity of the DCO or accommodate the Applicant’s fuel station. Given the importance and significant resources devoted to the recently adopted DCO, it would not be wise to jeopardize the DCO for a single fuel station.

- b. The Applicant’s justification for the proposed change to the DCO undermines the entire DCO.

Not only would the City’s approval of the Applicant’s request establish a precedent, but the Applicant’s justification for this change calls the entire DCO into question. The Applicant cites three primary justifications for changing the DCO that have much broader implications than these particular applications.

First, the Applicant argues that the proposed change to the DCO is necessary because the current CC sub-area regulations have not fostered development since the DCO was adopted. Supplemental Text Amendment Findings, p.4. If the City agrees with the Applicant, that same rationale would apply to *all* properties within the DCO. Since there has been little development or redevelopment in the downtown area since the DCO was adopted, the City’s adoption of this rationale would call the entire DCO into question.

Not only would it be dangerous for the City to adopt this rationale, but the Applicant’s assertion is glaringly flawed. The City Council adopted the DCO in the Fall of 2008 as part of a *long-term* plan to encourage economic vitality and revitalize the downtown center. The mere fact that a property has not been developed or redeveloped within a relatively short four-year period is not

an indication that the DCO is flawed. That is especially true given that this four-year period occurred in the middle of one of the worst real estate recessions in modern day history.

Second, the Applicant asserts that the DCO is flawed because the CC sub-area boundary is too spread out. The Applicant claims that the pedestrian-friendly Main Street design envisioned by the DCO requires a closer concentration of businesses and that “attempting to extend a ‘Main Street’ environment along a highway corridor for more than ¼ (0.25) mile tends to allow businesses to scatter rather than concentrate to the core, diluting the concentration effect.” Supplemental Text Amendment Findings, p.2. Since the focal point of the CC sub-area extends a distance of over ½ mile and the entire CC sub-area extends further, the Applicant argues that the City erred in establishing the CC sub-area boundary. If the City accepted this argument it would undermine the DCO as a whole.

Not only would it be dangerous for the City to adopt this rationale, but the Applicant’s claim is highly suspect. The City established the DCO sub-area boundaries after an extensive planning process involving key City officials, community stakeholders and several planning consultants. The mere fact that a planning consultant hired by the Applicant to support its fuel station proposal questions these boundaries is hardly sufficient to reconsider the boundaries as a whole. To the extent the City reconsidered the size of these boundaries, it should do so as part of a broader legislative effort.

Third, the Applicant relies on the existing development in the immediate area as a justification for changing the CC sub-area boundaries. Supplemental Text Amendment Findings, p.3. The Downtown Canby Plan is a long-term plan intended to encourage the redevelopment of the downtown area, not a reflection of the existing development. The purpose of the DCO is to change the downtown area to foster long-term economic growth. CMC 16.41.010(A)-(C). Amending the DCO on the basis that the existing development is not consistent with the goal would defeat the entire purpose of adopting the DCO.

- c. The property owner’s claim that the CC sub-area boundary was not clearly defined during the DCO adoption process is wrong.

At the July 23<sup>rd</sup> Planning Commission hearing, a representative of the property owner, Brian Oliver, testified that the City should not be concerned about changing the DCO in this instance because the CC sub-area boundary was not clearly defined during the DCO adoption process. Noting that he was part of the stakeholder group that helped with the DCO proposal, Mr. Oliver suggested that it was not clear that the CC sub-area boundary was intended to apply to the subject property.

Mr. Oliver is wrong. It is difficult to conceive how the CC sub-area boundary could have been any clearer and there is no question it was applied to the subject property. CMC 16.41.060(B)(2) provides: “The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust.” The DCO map clearly shows the CC sub-area boundary extending to Locust Street. CMC 16.41, Figure 11. Since the property is located on the corner of Highway 99 and Locust Street, there is no question it was intended to be part of the CC sub-area. The Applicant’s Text Amendment proposes to remove the reference to “Locust” in CMC 16.41.060(B)(2) and adopt a new Figure 11 precisely because the existing code expressly

designates the subject property as part of the CC sub-area. Supplemental Text Amendment Findings, p.2.

d. Conclusion.

Regardless of how the City feels about this particular development proposal, it must seriously consider the implications on the DCO as a whole. The City's approval of the Text Amendment/Zone Change will establish a bad precedent and its adoption of the Applicant's rationale will call the entire DCO into question. The City should not jeopardize the DCO for this single development.

2. The Applicant failed to demonstrate compliance CMC 16.88.160(D).

The Applicant's supplemental material continues to fall short of demonstrating that the Text Amendment/Zone Change complies with the approval standards set forth in CMC 16.88.160(D). While the Applicant purports to respond to the issues SDC previously raised, the Applicant relies primarily on the Supplemental Text Amendment Findings which SDC already refuted. Abel's September 4th Letter, p.5-6.

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

SDC previously noted that there are numerous Comprehensive Plan policies relevant to the Text Amendment/Zone Change that must be addressed under CMC 16.88.160(D)(1). The Applicant failed to address any of these Comprehensive Plan policies, continuing to rely on the general and unsubstantiated claim that the proposal is minor and therefore will have no significant impact.

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

Although the Applicant concedes that it erred in addressing the public need for a fuel station in its initial response to CMC 16.88.160(D)(2), it failed to demonstrate a public need for the Text Amendment/Zone Change. Abel's September 4th Letter, p.5-6. The Applicant's claim that there is a public need because the DCO failed to achieve its intended results and is inherently flawed is erroneous for two reasons. Abel's September 4th Letter, p.5-6; Supplemental Text Amendment Findings, p.4.

First, the Applicant's underlying assumptions are wrong. As previously explained, the mere fact that the property has not been developed during a severe real estate recession is not an indication that the DCO failed to achieve its intended results. The Applicant failed to provide any evidence that this property cannot be developed *at all* unless the CC sub-area is removed. Furthermore, the Applicant's mere assertion that the CC sub-area is too large is insufficient to disregard the extensive planning effort which led to the current CC sub-area boundary. The City should not ignore its previous legislative planning effort based solely on the opinion of a consultant hired by the Applicant specifically to support the Text Amendment/Zone Change proposal.

Second, if the City wants to reconsider the DCO goals and policies as the Applicant suggests, it should do so as part of a broader legislative effort. Since the City's adoption of the Applicant's

rationale would have broader implications on the DCO as a whole, the City should fully vet the issues with the community as a whole.

- c. The Applicant failed to demonstrate that the Text Amendment/Zone Change will better serve the public need than any other change undermines its own case.

The Applicant's claim that CMC 16.88.160(D)(3) is satisfied because the Text Amendment/Zone Change will better serve the public need than other alternatives available to accommodate the proposed fuel station completely misses the point. The public need that must be considered is the public need for the Text Amendment/Zone Change, not the fuel station. The alternatives considered by the Applicant relate exclusively to its desire to site a fuel station on this property. That does not address this criterion.

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

The Applicant's argument under CMC 16.88.160(D)(4) is the same argument raised under CMC 16.88.160(D)(2) – the DCO is fundamentally flawed. The City should reject this argument for the same reasons provided under CMC 16.88.160(D)(2).

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

As explained in SDC's July 23<sup>rd</sup> letter, the Applicant's responses to the Statewide Planning Goals are conclusory and wholly inadequate. The Applicant failed to address this deficiency.

- f. The Applicant failed to respond to the Staff Report and SDC's July 23<sup>rd</sup> letter addressing why the Text Amendment is not justified under CDC 16.88.160(D).

The original Staff Report identified a number of reasons why the Text Amendment is not justified under CMC 16.88.160(D). Staff Report p.8-9. SDC expanded on those problems in its July 23<sup>rd</sup> letter. SDC's July 23<sup>rd</sup> letter, p.7. Surprisingly, the Applicant did not even attempt to address these deficiencies. As a result, the City Staff reiterated these problems with the proposal in the revised Staff Report. Revised Staff Report, p.9. The Applicant's inability to even respond to these glaring flaws demonstrates that the Text Amendment/Zone Change does not comply with CDC 16.88.160(D).

While SDC will not reiterate points the Applicant did not even bother to refute, there is one issue addressed at the July 23<sup>rd</sup> hearing that needs to be clarified. The Applicant testified at the hearing that the proposed crosswalk at Locust Street will not create a conflict because the specific location of the crosswalk has not been approved. The City's own traffic engineer, however, explained that "the City's Transportation System Plan includes an enhanced pedestrian crossing of OR 99E in the vicinity of the site" and that currently under the Canby OR 99E Corridor and Gateway Design Plan process "the location for the enhanced pedestrian crossing was determined to be at S Locust Street." DKS Memorandum, dated July 17, 2012, p.2. The

City's traffic engineer further notes that the construction of the pedestrian refuge island at this location will require the Highway 99 access to be restricted to a right-in/right-out. DKS Memorandum, dated July 17, 2012, p.2. The Applicant's attempt to downplay this issue conflicts with the City own traffic engineer's assessment. Once again, the Applicant is expecting the City to modify the Canby Downtown Plan design to accommodate the Applicant's proposed development when it should be the other way around.

3. The Applicant's Traffic Impact Analysis is flawed and unreliable.

As explained in the attached Memorandum from Lancaster Engineering, dated September 24, 2012 ("Lancaster's September 24<sup>th</sup> Memorandum"), the Applicant's Transportation Impact Analysis, dated May 17, 2012 (the "TIA"), has numerous errors and deficiencies.

The TIA significantly underestimates the actual traffic impacts of the proposed fuel station by relying on data and assumptions that apply only to fuel stations located on the same site as the Fred Meyer store. In this case, the proposed fuel station is approximately one-half mile from the Fred Meyer store. The actual and correct traffic volume increases attributable to the proposed development will result in significant impacts on nearby intersections that were not studied, namely Highway 99/Ivy Street and Highway 99/Pine Street. It is critical that the Applicant analyze these additional impacts because the Highway 99/Ivy Street intersection is very near capacity and has existing safety problems.

The TIA scope, which is limited to the immediately surrounding intersections, is inconsistent with CMC 16.08.150(E)(1). CMC 16.08.150(E)(1) requires a study area comprised of "a ½-mile radius of the development site." The Applicant should have been required to study a wider area and more of the surrounding intersections.

The TIA failed to account for background growth rates. As a result, the TIA underestimates the background traffic conditions.

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

As explained in Lancaster's September 24<sup>th</sup> Memorandum, a long range Transportation Planning Rule ("TPR") analysis is required due to the Text Amendment/Zone Change application. See OAR 660-012-0060(1). The Applicant's assertion that it is not required to provide a Transportation Planning Rule ("TPR") analysis is inconsistent with OAR 660-012-0060(1) and CMC 16.88.190(B). Without a TRP analysis, the Applicant cannot demonstrate that the Text Amendment/Zone Change will not significantly affect the transportation system over the applicable planning period.

Although the Applicant acknowledged that the TPR requirements are triggered since it is proposing an amendment to the City's land use regulations and zoning map, the Applicant claims that it is not required to provide a TPR analysis because the Text Amendment/Zone Change will result in no change in potential traffic impacts. The Applicant's claim ignores the whole purpose for seeking the Text Amendment/Zone Change. The Applicant requested the Text Amendment/Zone Change because the fuel station is an auto-oriented use and auto-oriented uses are not consistent with the pedestrian-friendly CC sub-area. Revised Staff Report, p.5. The



proposed Outer Highway Commercial (“OHC”) sub-area is specifically designed to accommodate “automobile-oriented highway uses.” CMC 16.41.060(B)(2)(c). It is difficult to fathom how a change from a pedestrian friendly sub-area that does not permit auto-oriented uses to a sub-area that is specifically designed to accommodate auto-oriented uses will result in *no* change in potential traffic impacts. Auto-oriented uses clearly generate more traffic than a pedestrian friendly use. The Applicant cannot demonstrate that the additional traffic impacts created by applying a new sub-area that is specifically designed to accommodate auto-oriented uses will not significantly affect the transportation system over the applicable planning period without some kind of TPR analysis.

A TPR analysis is particularly important because the City’s Transportation System plan (“TSP”) concludes that there will be significant problems along this section of Highway 99 over the planning period (year 2030). TSP, p.1-5, 4-1, 4-12, 4-14 and 7-35. The TSP concludes that by 2030 “the majority of the OR 99E intersections are expected to exceed mobility standards” and that “these key locations and others projected to exceed capacity would experience excessive vehicle delays and long vehicle queues that could lead to operational and safety impacts at other intersections or rail crossings.” TSP, p.4-12. Therefore, *any* additional traffic impacts as a result of the Text Amendment/Zone Change will cause a significant effect on the transportation system under OAR 660-012-0060(1)(c)(C). The reason the Applicant does not want to provide a TPR analysis is that it knows it cannot satisfy the requirements.

It is also important to emphasize that the TSP addresses the significant challenges the City faces funding the improvements necessary to mitigate or avoid these future transportation problems. TSP, p.1-4 & 1-5. At a minimum, the City must ensure that the Applicant pays its fair share toward the cost of these improvements.

5. The City’s traffic engineer’s safety concerns must be resolved now.

The City’s traffic engineer raised safety concerns related to the queuing onto Highway 99 that may require the Highway 99 access to be restricted to a right-in/right-out access. DKS July 17<sup>th</sup> Memorandum, p.2. The City’s traffic engineer suggests that this issue be monitored by ODOT and addressed in the future through some undefined process. DKS July 17<sup>th</sup> Memorandum, p.2-3.

This safety concern must be resolved now and cannot be deferred through the recommended condition of approval. CMC 16.08.160 provides that “the City will not issue any development permits unless the proposed development complies with the city’s basic transportation *safety* and functionality standards.” (Emphasis added). The City cannot defer a finding of compliance through conditions of approval unless there is a defined process involving subsequent public notice and the opportunity for a hearing. *Moreland v. City of Depoe Bay*, 48 Or LUBA 136, 153 (2004); *Sisters Forest Planning Committee v. Deschutes County*, 45 Or LUBA 145, 154-55 (2003); *Rhyne v. Multnomah County*, 23 Or LUBA 442, 447 (1992). The City traffic engineer’s approach is flawed because it grants ODOT exclusive authority to monitor and resolve the issue, provides no measureable standard to determine compliance and provides no subsequent public process.

6. A neighborhood through-trip study is required.

As explained in Lancaster's September 24<sup>th</sup> Memorandum, the Applicant must provide a neighborhood through-trip study. CMC 16.08.150(H) requires a neighborhood through-trip study for "any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicles per day to an adjacent residential local street or neighborhood route." Lancaster's September 24<sup>th</sup> Memorandum demonstrates that if the actual and correct traffic volume increases attributable to the proposed development are applied, there will be more than 30 peak hour trips on SE 2<sup>nd</sup> Avenue. Therefore, a neighborhood through-trip study is required under CMC 16.08.150(H).

Even if the City did not account for this error in the TIA, the Applicant cannot demonstrate that there will be less than 300 daily vehicle trips. The TIA does not provide the number of daily trips on SE 2<sup>nd</sup> Avenue or Locust Street. Instead, the Applicant's *attorney* estimates that there will be less than 300 daily trips without any explanation of how he arrived at his estimates. Abel's September 4<sup>th</sup> Letter, p.10. The Applicant's attorney is not qualified to opine on traffic estimates and his unsubstantiated estimates do not constitute substantial evidence.

7. The Site and Design Review Board must review the Site and Design Review application.

The Site and Design Review Board, not the Planning Commission, is required to review the Site and Design Review application. CMC Chapter 16.49 requires the Site and Design Review Board to review and decide all Site and Design Review applications. CMC 16.49.020(A)(1); 16.49.025(A)(1); 16.49.035(B) and 16.49.040. The City's failure to have the Site and Design Review Board review the application is a procedural error that prejudices SDC's substantial rights because only the Board has the necessary expertise to review these types of applications.

8. The Applicant failed to demonstrate compliance with the Site and Design Review approval standards.

Although the Applicant attempted to address the approval standards set forth in CMC 16.49.040, it failed to adequately address the most important standard. CMC 16.49.040(E) provides:

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

- a. The development accumulates a minimum of 70 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and
- b. At least 15 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040.

The Applicant relies exclusively on its initial Site and Design Review application narrative and the Staff Report to demonstrate compliance with CMC 16.49.040(E). As explained in SDC's July 23<sup>rd</sup> letter, neither of these documents support a finding of compliance with the 70 percent/15 percent thresholds in CMC 16.49.040(E).

The Applicant's response to CMC Table 16.49.040 is littered with errors and inaccuracies as described in SDC's July 23<sup>rd</sup> letter. If the errors and inaccuracies were accounted for and the table was recalculated, the Applicant would be well below the 70 percent/15 percent thresholds. Even the Staff Report reached different results than the Applicant. SDR Staff Report, p. 23. The Applicant did not even attempt to respond to or correct these errors. Therefore, the Applicant cannot demonstrate that its analysis is reliable or demonstrates compliance with the minimum requirements.

Nor does the Staff Report support the Applicant's claim. The Staff Report concluded that the Applicant failed to meet the 70 percent/15 percent thresholds, but erroneously suggested that the required percentages can be rounded down to the benefit of the Applicant. There is nothing in CMC 16.49.040 or Table 16.49.040 to support such an interpretation. Since the 70 percent/15 percent thresholds are *minimum* requirements, the Applicant must demonstrate that it exceeds these requirements.

Contrary to the Applicant's suggestion, compliance with the 70 percent/15 percent thresholds in CMC 16.49.040(E) is not discretionary nor judged based on their compliance with the "intent" of these standards. CMC 16.49.040(E) expressly requires compliance with the 70 percent/15 percent thresholds. It does not mention anything about discretion or compliance with the intent of these requirements. While CMC 16.49.040(3) provides that under a Type III Site and Design Review application the City can consider compliance with the intent of the DCO site and design review standards set forth in CMC Chapter 16.41, there is no similar discretionary standard for CMC 16.49.040(E).

9. The Applicant failed to demonstrate compliance with the sign standards.

The Applicant acknowledges that its signs do not comply with the City's limitations on the maximum square footage and maximum number of signs set forth in CMC 16.42 Table 3, but it claims that those standards are superseded by State standards under OAR 137-020-0150. Abel's September 4<sup>th</sup> Letter, p.13 & 18. The problem with this claim is that OAR 137-020-0150 does not dictate any specific minimum size requirements. The Applicant fails to explain why compliance with the City's sign standards will somehow result in a violation of State standards or why its proposed sign size is the minimum size necessary to comply with the State standards.

Conclusion

It is not in the City and community's best interest to allow a significant change to the recently adopted DCO solely to accommodate a new fuel station on a site with numerous existing fuel stations in the immediate surrounding area. Moreover, there are still significant errors and deficiencies in the applications, in particular the TIA. The City should not and cannot approve the applications until these deficiencies are addressed. Therefore, the Planning Commission should recommend denial of the applications.

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP

A handwritten signature in cursive script, reading "E. Michael Connors".

E. Michael Connors

EMC/df

cc: Save Downtown Canby

## CITY OF CANBY - COMMENT FORM

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

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

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

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

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

ORGANIZATION or BUSINESS (if any): HULBERTS FLOWERS

ADDRESS: 334 SE 1ST CANBY

PHONE # (optional): 503-266-2282

DATE: 9/24/12

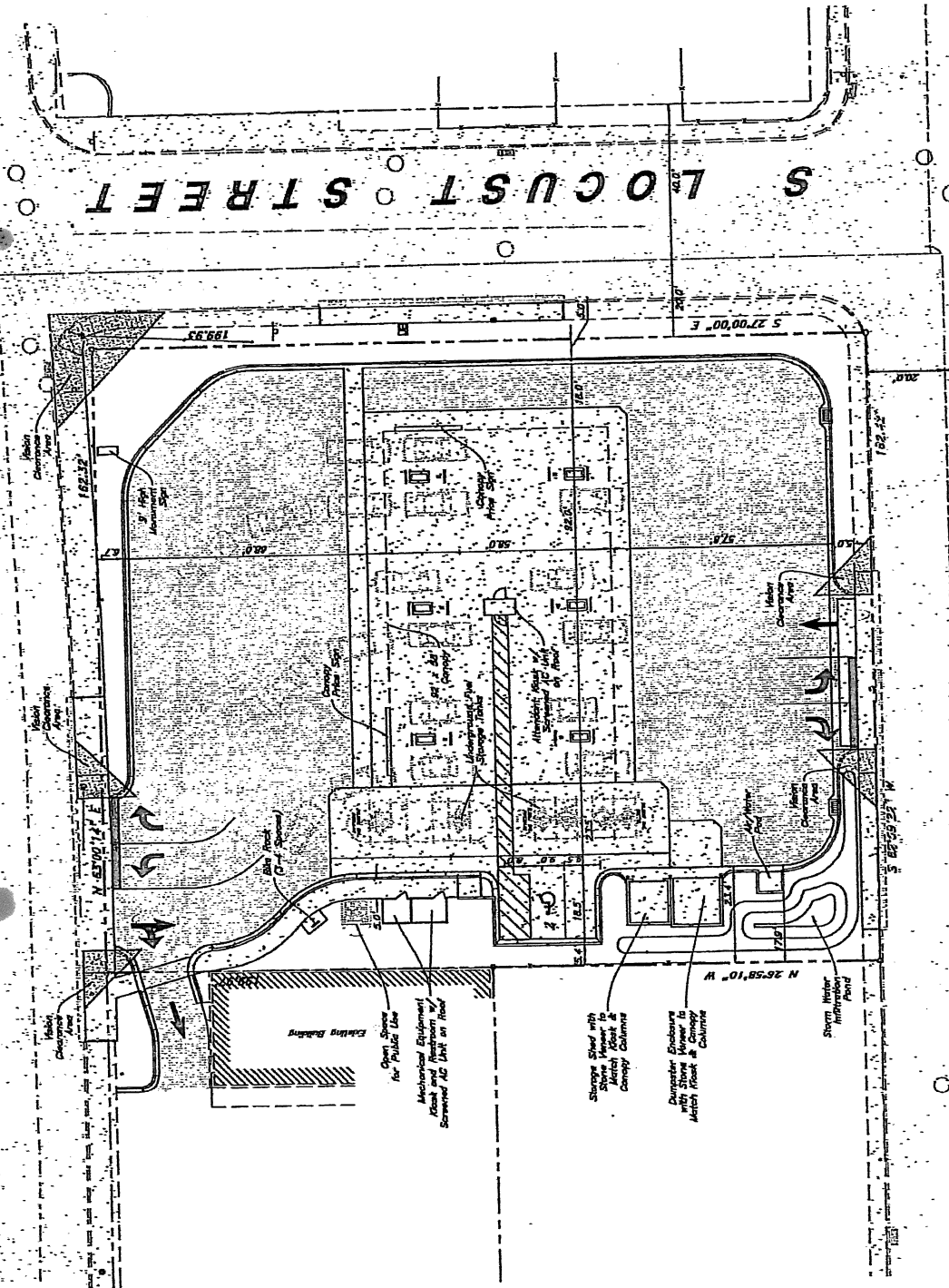
Thank you!

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

SE 1ST AVENUE (HWY 99 E)

S LOCUST STREET

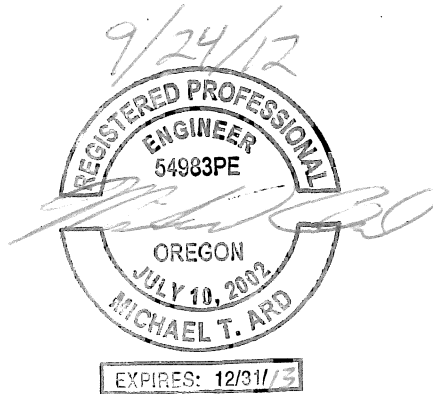
SE 2ND AVENUE





September 24, 2012

Mike Connors  
Hathaway Koback Connors LLP  
520 SW Yamhill Street, Suite 235  
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ENGINEERING  
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phone: 503.248.0313  
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lanasterengineering.com

*RE: Fred Meyer Canby – Fuel Facility*

Dear Mike:

At your request, we have reviewed the Fred Meyer Canby Fuel Facility Transportation Impact Analysis prepared by Group Mackenzie, dated May 17, 2012. This letter provides detailed comments regarding the analysis assumptions and methodologies, and identifies where relevant information was not included in the study. Overall, we identified numerous errors and omissions in the Transportation Impact Analysis that need to be addressed to accurately determine the impacts of the proposed amendments and the proposed fuel facility.

#### *Zone Change Analysis*

The proposed development includes a text amendment and a zoning map amendment. Since a text amendment and zone change may impact operation of critical transportation facilities through the long-range planning horizon and necessitate changes to long-range mitigation plans, these requested amendments require a Transportation Planning Rule (TPR) analysis. The applicant has asserted that the proposed site use is also an allowed use in the underlying zone; however there are three problems with this assertion.

First, a mere statement that the proposed zone change will not result in a significant effect as defined under the TPR is insufficient. If this is true, there needs to be information provided in the record documenting the assumptions used to make this determination. The Transportation Impact Analysis does not provide this information.

Second, a TPR analysis requires consideration not of the intended or proposed site use, but of the “reasonable worst case” development permitted under the zoning. Even if it were true that a fuel station would be permitted under the existing zoning, it may not be the most intensive traffic use permitted by the text amendment. There is no information in the study that addresses the maximum development potential under either the existing or the proposed zoning, and it is therefore impossible to determine whether the proposed amendments may have a significant effect on surrounding transportation facilities.

Third, as City of Canby staff have acknowledged, a fuel station is not consistent with the intent of the existing CC subarea because it is an auto-oriented use, and would therefore not be permitted under the existing zoning. Presumably, other auto-oriented uses would not be permitted in the CC subarea. Even if it was determined that a fuel station represented the “reasonable worst case”



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development scenario under the proposed zoning, it has not been demonstrated that this use would be permitted under the existing zoning. As such, the assertion that there is no change in traffic associated with the actual proposed development is also in error.

In order to determine whether the proposed text amendment and zoning map amendment comply with the TPR, a detailed analysis is required. In the absence of this information, there is no evidence in the record on which to base a conclusion that the relevant requirements are met. Accordingly, the proposed changes should not be approved without a detailed TPR analysis. This concern is heightened by the fact that the City's Transportation System Plan identifies future problems in the site vicinity along Highway 99E. The projected future traffic concerns in the immediate site vicinity make a proper TPR analysis even more critical for this project.

#### *Trip Generation Analysis*

The Group Mackenzie report includes a determination that the proposed development will result in a net increase of 47 trips during the morning peak hour and 79 trips during the evening peak hour. These "primary trips" represent 32 percent of the total site traffic.

It is appropriate to take reductions from the gross trip generation of a site, particularly for uses such as gas stations that attract vehicles passing by on the way to another destination. However, the specific reductions taken in the report are not justifiable for several reasons.

The first reduction taken from the gross trip generation was for internalization (shared trips). The intent of a shared trip reduction is to acknowledge that sites with multiple land uses may attract trips that visit more than one facility on the site in a single visit. If the gross trip estimates were not adjusted, each of these internal trips would be shown entering the site, exiting, then re-entering and re-exiting to visit the second land use. Since rational drivers will not exit and re-enter the site, a proper analysis must reduce the site traffic volumes to account for this behavior.

In this instance, however, there are three significant problems with taking the shared trip reduction shown in the transportation impact analysis.

First, the data showing an internal trip reduction of 38 percent was derived based on surveys taken at a facility where the fuel station was within the Fred Meyer parking lot. As such, it was very convenient for patrons to visit both sites in a single visit. In contrast, the proposed development is located half a mile from the Fred Meyer store, and requires drivers to enter the highway to make the trip. It is therefore very likely that the number of people making shared trips to both facilities will be greatly reduced from the 38 percent observed at the conjoined site. There is no specific data documenting the shared trip rate for facilities that are not contiguous, and therefore a shared trip reduction typically should not be taken. Notably, a remedy for this data deficiency was available to Fred Meyer, since the Oak Grove store location is similarly separated from its fuel station by approximately half a mile. However a survey of shared trips from this location was not provided.

Second, the trip distribution pattern used for the primary trips was derived based on data from a select zone assignment model provided by DKS Associates. This model includes end-point



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destinations within the City of Canby, and includes trips between the fuel station site and the existing Fred Meyer store. As such, the calculated “shared trips” percentage used in the transportation impact analysis are in addition to the trips already assigned to travel to and from that direction by the City’s planning model. Even if specific data for non-continuous shared trips were available, the documented shared trip percentage must be reduced to account for trips already shown travelling to and from the Fred Meyer store in the select zone assignment. The effective result of this error is that significantly more than 38 percent of site trips are currently assumed to travel between the site and the Fred Meyer store, despite the fact that the 38 percent estimate is already too high.

Third, as is acknowledged in the report, since shared trips must re-enter the public street system between the Fred Meyer store and the fuel facility, the shared trips will result in new trips on Highway 99E. Listing a trip reduction for this phenomenon implies that net traffic volumes will be lower than they are. A detailed look at the trip generation table on page 9 of the report shows that the shared trips actually account for more traffic than the listed primary trips. It is common practice in transportation engineering to report the net increase in site trips associated with a proposed development on the last line of such a table, often with these critical volumes shown in bold lettering. In this report, the table shows bold values that represent less than half of the net increase in traffic volumes directly attributable to the proposed development. This makes the table extremely misleading. Additionally, there is no part of the report in which the actual net increase in site trips is reported. The correct values would be the sum of the listed shared and primary trips, which amount to 102 trips during the morning peak hour and 172 trips during the evening peak hour.

This difference in trip generation is extremely important, not just because the apparent trip volumes attributable to the site are more than doubled, but because the net increase in trip generation is commonly used to determine the scope of an appropriate traffic analysis. In this instance, using the bottom-line primary trip numbers provided in the table, a reviewing analyst could conclude that the nearby intersection of Highway 99E at Pine Street would experience an increase of just 24 trips during the evening peak hour. This is below the threshold that would normally require detailed operational analysis. However, if the 93 shared trips are included with the primary trips, we find that the actual traffic increase projected by Group Mackenzie at this intersection is 116 trips during the evening peak hour. This is nearly five times higher than the increase implied by the trip generation table, and well above the threshold at which ODOT typically requires a detailed operational analysis.

In reality, since the shared trip percentage is likely to be substantially lower than the reported 38 percent, it is likely that traffic volumes to and from the south will be substantially higher than shown as well. Since appropriate shared trip data is not available for this use, these trips would normally be shown as primary trips and distributed accordingly. Such a trip distribution would result in 77 trips during the evening peak hour at the intersection of Highway 99E and Ivy Street and 52 trips during the evening peak hour at the intersection of Highway 99E and Pine Street. ODOT often requires analysis of intersections with projected increases of 25 or more peak hour trips, and routinely requires such analysis for increases of 50 or more site trips.

The actual traffic volumes increases attributable to the proposed development may have significant impacts on nearby intersections that were not studied. The intersection of Highway 99E at Ivy Street in particular was within 5 percent of ODOT’s maximum volume-to-capacity ratio mobility standard in 2009 per the City’s Transportation System Plan, and is projected to operate with

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volumes 43 percent above intersection capacity by 2030 if improvements are not made. The intersection may be operating above the allowable volume-to-capacity threshold under existing 2012 traffic conditions. Additionally, this intersection is listed on ODOT's Safety Priority Index System as a top 5 percent crash location, indicating that there is an existing safety problem at the intersection that may be exacerbated by increased traffic volumes. Based on these factors, a detailed operational and safety analysis of this intersection is essential to determine whether the impacts of the proposed development will be acceptable.

#### *Traffic Impact Study Scoping*

The City of Canby's Transportation System Plan establishes guidelines for the scoping of transportation impact studies in the Implementation Plan found in Chapter 10. It states:

*The study area will generally comprise an area within a ½-mile radius of the development site. If the city determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required. Required study intersections will generally include (in addition to primary access points) collector/collector and above intersections with an anticipated peak hour traffic increase of five-percent from the proposed project.*

Some interpretation of this language is required, since it is unclear whether the intent is to analyze collector/collector intersections and above within ½ mile of the site plus those at which an anticipated peak hour traffic increase of five percent is projected, or only those intersections that are both within ½ mile and experience an increase of five percent or more. Several additional intersections would require analysis under the first interpretation.

Regardless of the correct interpretation of the Implementation Plan scoping guidance, it is clear that variations from the typical scoping guidance are permitted in response to specific project needs, since it states that "The study area will **generally** comprise an area..." and "Required study intersections will **generally** include..." In this instance, since the intersection of Highway 99E at Ivy Street is likely to accommodate more than 50 additional peak hour trips, is already operating near or at the maximum allowable volume-to-capacity threshold and has been identified as a high-crash location, it is absolutely appropriate to require a detailed operational and safety analysis at this location. It may also be appropriate to prepare an operational analysis for the intersection of Highway 99E at Pine Street, depending on the projected traffic volume increases following revision of the site trip distribution.

#### *Local Residential Street Impacts*

The site trip distribution shows 20 percent of site trips travelling to and from the site via SE 2<sup>nd</sup> Avenue, which is a local residential street. The City of Canby requires a Neighborhood Through Trip Study for local residential streets when development is projected to add more than 30 peak hour trips or 300 daily trips. Since the 38 percent shared trip reduction was not corroborated with relevant

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data, this percentage should be applied to all of the non-pass-by trips. During the evening peak hour, SE 2<sup>nd</sup> Avenue would be projected to experience an increase of 34 trips (172 PM peak hour trips \* 20% = 34.4 peak hour trips). This indicates that a Neighborhood Through Trip Study should have been provided for the proposed fuel facility.

Although the calculated trip volumes for SE 2<sup>nd</sup> Avenue are slightly above the levels requiring analysis when using the trip distribution percentages, the actual impacts on this local residential street may be higher. This is because the 45 percent of site trips projected to exit the site toward the south must turn left onto Highway 99E from either the unsignalized site access driveway or the adjacent unsignalized intersection of Highway 99E and S Locust Street. These vehicles must yield to two lanes of northbound through traffic and merge with southbound traffic. The average delay associated with this turning movement is obscured in the traffic impact study, since the delays are averaged with much shorter delays for right-turning vehicles that share the same travel lane. However, from the analysis provided it is clear that the average delays for left-turning vehicles will be in excess of the reported average of 26 seconds. The left-turn delay can be avoided by exiting the site onto SE 2<sup>nd</sup> Avenue and approaching Highway 99E via the traffic signal at Ivy Street. If vehicles use SE 2<sup>nd</sup> Avenue to avoid making a difficult left turn onto Highway 99E, impacts on this local residential street will increase.

### *Background Growth*

The traffic impact study states that project completion is anticipated in 2012, and therefore concludes that "No background growth or in-process developments are included in this TIA, so no pre-development scenario is presented."

Traffic studies typically account for background growth attributable to development outside the immediate area of the site, in addition to any known, approved (in-process) developments. Since there are no in-process developments that will substantially impact the analysis intersections, it is appropriate that no adjustments were made for in-process trips. However, the lack of a background growth rate results in an inaccurate analysis of traffic conditions following completion of the proposed development.

Traffic count data for this project was collected on April 4, 2012. Nearly six months have passed with no construction on the subject property. It is likely that by the time the development is completed and operational, the area intersections will have experienced a full year of background volume growth.

In order to determine an appropriate growth factor for the area intersections, we reviewed the data from ODOT's Future Volumes Table. This data is generated by ODOT's planning models and represents the best estimates for long-range traffic volume growth on state highways. For ODOT highways, the background growth is assumed to be linear over the planning horizon. Based on the model data, traffic volumes along Highway 99E in the site vicinity are projected to experience a linear growth rate of 4 percent per year. Therefore, traffic volumes would be projected to have increased by 2 percent between the time count data was collected and now, and will likely

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experience a similar increase prior to completion of the proposed development. The operational analysis should be updated to account for this growth.

### *Conclusions*

Based on our detailed review of the Transportation Impact Analysis prepared by Group Mackenzie, we concluded that there are a number of error and deficiencies that need to be addressed as follows:

- A detailed long-range impact analysis should be provided demonstrating compliance with Oregon's Transportation Planning Rule.
- The trip generation estimate, which showed net trip increases that were less than half of the actual impact of the proposed development, needs to be corrected. The trip generation estimate should be corrected to reflect the actual impacts of the proposed development, and the impacts on the surrounding transportation system should be re-assessed using shared trip data derived from similar non-adjacent uses and adjusted to account for trips already shown between the site and the Fred Meyer store in the City's planning model. If new, reliable shared trip data is not provided, the trip distribution should be based on the primary trip distributions patterns.
- The nearby intersections of Highway 99E at Ivy Street and Highway 99E at Pine Street will experience traffic increases of more than 50 trips during the evening peak hour. The intersection of Highway 99E at Ivy Street has also been identified under ODOT's Safety Priority Index System as a top 5 percent crash location. Accordingly, analysis of the impact of the proposed development on these intersections should be provided.
- Traffic volume increases on SE 2<sup>nd</sup> Avenue are extremely likely to exceed 30 trips per hour and 300 trips per day. Since this is a local residential street, a Neighborhood Through Trip Study is required.
- No background growth was included in the analysis. Given the projected annual growth rate of 4 percent per year along Highway 99E, the analysis should account for this growth.

If you have any questions regarding this detailed review of the Group Mackenzie Transportation Impact Analysis, please feel free to call me at any time.

Sincerely,



Michael Ard, PE  
Senior Transportation Engineer





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September 4, 2012

STEVEN W. ABEL  
Direct (503) 294-9599  
swabel@stoel.com

**VIA HAND DELIVERY**

Brian Brown  
Angie Lehnert  
City of Canby  
111 NW Second Avenue  
Canby, OR 97013

**Re: Fred Meyer, File #ZC 12-01, #DR 12-03 and #TA 12-01**

Dear Brian and Angie:

Fred Meyer, Inc. ("Applicant") has three consolidated, pending land use applications before the City: (1) Text Amendment # TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone ("DCO") from Core Commercial ("CC") to Outer Highway Commercial ("OHC") ("Text Amendment"); (2) Zoning Map Amendment # ZC 12-01 corresponding to the requested Text Amendment ("Map Amendment"); and (3) Site Design Review # DR 12-03 for construction of the six unit fuel-dispensing station ("SDR"). This letter explains why the proposed Map Amendment satisfies the applicable criteria from the City Municipal Code ("CMC"). Further, it provides additional information to support findings that the Text Amendment and SDR also meet the applicable CMC requirements.

**I. Map Amendment (supplemental to Text Amendment application)**

Applicant maintains that the Map Amendment is not necessary since an amendment to the City's text alone facilitates the development of the six unit fuel-dispensing station ("Project") and the fact that the CDO subareas are not mapped on the City's zoning maps. Nonetheless, Applicant provides the following to support the requested Map Amendment. See also II.C. below.

The review requirements for a zone map amendment are contained in CMC 16.54. Applicant is authorized to initiate a zone map amendment under CMC 16.54.010 and provides the following information to support findings of compliance with the applicable requirements of CMC 16.54.



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A. Map Amendment Standard CMC 16.54.040(A)

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

The goal of the City's Land Use Element is "to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another." Policy 6 of the Land Use Element requires that the City "recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas." The City identified "Areas of Special Concern" to implement Policy 6. Development proposals, even those that appear to conform with the existing zoning, will be considered to conform with the City Comprehensive Plan only if the proposal also meets the applicable Area of Special Concern requirements. The Property is not located in an Area of Special Concern, therefore only the requirements of the underlying zone control. See Attachment 1 containing the Areas of Special Concern Map from the Comprehensive Plan.

The proposed Map Amendment is also consistent with other goals and policies of the City's Comprehensive Plan. Like the Text Amendment, the Map Amendment only involves changing the boundary between two of the subareas within the DCO. Neither amendment will affect the underlying C-2 base zone designation. City planning staff found that the Text Amendment was consistent with the City's Comprehensive Plan under CMC 16.88.160(D)(1). See page 7 of the Text Amendment Staff Report included in the consolidated record. Thus, for the reasons set forth in the Text Amendment Staff Report and below, staff can also find that the Map Amendment also complies with the applicable goals and policies of the City's Comprehensive Plan.

Given that the Map Amendment does not change the base (C-2) or overlay (DCO) zoning, and the fact that the amendment only involves land within the city limits, the plans and policies of the county, state and local districts are generally not applicable to the proposed action.



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B. Map Amendment Standard CMC 16.54.040(B)

*Whether all required public facilities and services exist or will be provided concurrent with development to adequate meet all the needs of any use or development which would be permitted by the new zoning.*

The Map Amendment works in tandem with the Text Amendment, to the extent necessary, to adjust boundaries between subareas within the DCO. As described above, it does not change the C-2 or DCO zone boundaries. It also does not result in unanticipated demand for new public facilities or services for this area. The site is served by municipal sewer and water. As already described in the record, and further discussed in Section II.D below, the proposed boundary adjustment of the OHC subarea will not change potential transportation system impacts. The proposal does not change the allowed use, only the design standards that apply to the site. Therefore, there is adequate evidence to support findings that the Map Amendment will not result in adverse impacts to the transportation system. Accordingly, the Map Amendment satisfies CMC 16.54.040(B).

C. General Provisions Traffic Impact Study CMC 16.08.150

*CMC 16.08.150(A)*

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

The proposed Map Amendment, like the Text Amendment discussed under Section II.E below, does not trigger further analysis under the Transportation Planning Rule ("TPR"). The TPR (OAR 660-012-0060) requires analysis and mitigation "[i]f an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility." Here, the proposed Map Amendment does not change the underlying base zone or the overlay zone, but rather simply adjusts the boundaries between two subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change



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the standards implementing the City's functional classification system for roadways. It also would not change the trip generation potential in the C-2 zone, so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs or any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the site from CC to OHC. Thus, the proposed change from CC to OHC (both of which are subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation corridors. No further analysis or mitigation is needed to address the TPR. See also the discussion under Section II.E below.

Applicant provided a Transportation Impact Analysis ("TIA") along with the Text Amendment and SDR. This TIA also supports the Map Amendment. As discussed below in Section II.E, the requirements of CMC 16.08.150 have been adequately addressed and are satisfied based on evidence already in the consolidated records.

## **II. Additional Information to Support Approvals**

At the City Planning Commission hearing on July 23, 2012, Save Downtown Canby, a group of local business owners ("SDC Business Owners") alleged that the proposed applications failed to meet the applicable City requirements for a variety of reasons. On July 12, 2012, Applicant provided supplemental findings for both the Text Amendment ("Supplemental Text Support") and the SDR ("Supplemental SDR Support"). See Attachment 2. The following supplements and reiterates information provided in the supplements. Overall, there is adequate evidence that demonstrates that the SDC Business Owner allegations raise no basis upon which to deny or condition the Text Amendment, the Map Amendment, or the SDR.

### **A. City Policy is not Undermined**

The proposed applications do not propose to change boundaries of the base zone or of the DCO zone. SDC Business Owners appear to take the position that the City is unable to modify its zoning text and map simply because a text or map amendment is near in time to a previous text or map amendment. There is simply no support in the law for that position and, in fact, it runs contrary to the basic powers of City governance allowing for establishing zones which provide for a healthy and vibrant economy and provide for the best interests of the City's citizens. Further, the policies of the two subareas and the DCO are supported by the proposed



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applications. The Supplemental Text Support explains in detail why the objectives of the two subareas are met with the proposed applications. Instead of summarizing what is already in the record, please see page 2-3 of the Supplemental Text Support included as Attachment 2. The record demonstrates that the proposed amendments are not inconsistent with City policy but in fact, further the planning of the DCO.

B. The Text Amendment Satisfies CMC 16.88.160

SDC Business Owners state that Applicant failed to adequately address the Comprehensive Plan amendment approval standards. The applicable approval standards are set forth in CMC 16.88.160 governing amendments to the text of the CMC, not the City's Comprehensive Plan. Applicant already addressed these approval criteria in the Supplemental Text Support. Nonetheless, Applicant provides the following to support findings under CMC 16.88.160(D).

*CMC 16.88.160(D)*

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

1. *The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;*

The proposed amendment is very limited in scope. The proposal would make the transition from the CC subarea of DCO to the OHC subarea of the DCO approximately 950 feet east of the Ivy Street intersection with Highway 99 rather than 1,100 feet (a difference of approximately 150 feet). See page 4 of the Supplemental Text Support included in Attachment 2. The proposed change does not undermine the City's Comprehensive Plan goal and policy findings adopted as a part of the 2008 re-zoning of this area, which was provided into the record by SDC Business Owners. The elements of CMC 16.88.160(D)(1) have been appropriately considered.

2. *A public need for the change;*

The question of public need focuses on the need for the text amendment (*i.e.*, adjustment of the overlay zone subarea boundaries), not the underlying question of whether additional fuel facilities are needed. While it is easy to make a finding that additional fuel facilities meet the public need because they foster competition, it is also easy to draw the conclusion that the public



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need is met through adjustment of the DCO to provide for the development of property located in City. The public need is satisfied by the adjustment of the DCO which would facilitate development that has not occurred under the existing designation.

Additionally, the Applicant presented testimony before the Planning Commission, and evidence including an ODOT publication that has been widely used since its publication in November 1999 ("Main Street... when a highway runs through it: A Handbook for Oregon Communities"), demonstrating that concentrating pedestrian-oriented business activity within a focused and limited area is essential for success in the effort to form a vibrant downtown commercial core. Applicant showed that the site is located so far from the Primary Gateway and the Secondary Gateways identified by the City in the plan for Downtown Canby that encouraging "Core Commercial" development could allow businesses to sprawl out to the far edges of the CC subarea, thereby diluting the concentration of activity in the core, to the detriment of achieving the objectives of the DCO zone. For these reasons, the Text Amendment meets the objective of CMC 16.88.160(D)(2).

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

The proposed change will serve the public need better than any other change that might be expected to be made. In fact, the only practical approach to creating the ability to develop the parcel is through this amendment. See the discussion under CMC 16.88.160(D)(2) above. Applicant has adequately addressed CMC 16.88.160(D)(3).

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

See page 5 of the Supplemental Text Support. It is evident from the evidence already in the record that the proposed amendments will not negatively impact health, safety and the general welfare of the City's citizens.

*5. Statewide planning goals.*

See Page 5-8 of the Supplemental Text Support. Again, it is evidence from the evidence already in the record that the proposed amendments are consistent with the applicable statewide planning goals.





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C. Applicant Filed a Corresponding Map Amendment Application

Although Applicant does not believe a map amendment is necessary to effectuate the development (as described above), Applicant filed the Map Amendment and provides the analysis in Section I above to demonstrate that the request meets the applicable CMC approval requirements. To the extent that a Map Amendment is required, Applicant has demonstrated that approval of such amendment is warranted.

D. Transportation Impacts were Properly Considered and Evaluated

SDC Business Owners raised four general points concerning potential transportation-related impacts.

*Application of the TPR*

First, they argued Applicant's TIA was flawed because it failed to address the TPR. In Section I.G above, Applicant outlines why the TPR does not require further analysis for the Map Amendment. The same analysis applies here for the Text Amendment. SDC Business Owners simply say that the TRP analysis is triggered because there is an amendment. However, this is not the proper analysis.

OAR 660-012-0060(1) requires that

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) *would significantly affect an existing or planned transportation facility*, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

The Text Amendment does not propose any functional classifications changes to any transportation facilities. The underlying zone (C-2) is not changing and the types of land use activities allowed at the site are determined by the C-2 base zone designation. Consequently,



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there is no change in potential traffic impact with the Text Amendment. With no change in traffic impact, there is no need to change any transportation facility functional classification. The proposed change in the boundary between two subareas of the DCO (CC to OHC) only affects the design and development standards that apply to the site.

(b) Change standards implementing a functional classification system; or

The Text Amendment does not propose changing the standards implementing the City's functional classifications system for roadways. The functional classifications of roadways in the TSP are designed to meet needs arising from the base zoning of land areas within the City, which, as stated above, zoning will not be changed by the proposed amendment.

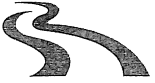
(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

The proposed uses contemplated by the Text Amendment are already allowed in the zone, so types and levels of travel and access would remain consistent with the functional classification.

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

The Text Amendment would not change trip generation potential in the zone (because it remains the same) so it would not cause any change to the performance of existing or proposed facilities.



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(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The Text Amendment would not change the trip generation potential for the zone (because it remains the same) so it would not result in any change in the performance of existing or proposed facilities. Also, as discussed above in Section I.G, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impacts at the time the DCO was adopted and consequently, there will be no impact in changing from CC to OHC, which are subareas of the DCO rather than different overlays or new zones. Accordingly, for these reasons and those outlined in Section I, the City should determine that the Text Amendment (like the Map Amendment) does not "significantly affect an existing or planned transportation facility" and that therefore no further action is required.

#### *Compliance with Transportation Standards*

The Oregon Department of Transportation ("ODOT") approved a full movement driveway and the City's traffic engineer has provided comments on the application. See Attachment 3. As a result, no deferred conditions are required and no further analysis is required.

#### *No Neighborhood Through-Trip Study is Required*

The CMC requires a Neighborhood Through-Trip Study ("NTTS") when development is adding 30 peak hour trips or 300 daily trips to an adjacent residential local street. CMC 16.08.150(H). As presented in Figure 8 of the TIA, and with the Highway 99E access configuration allowing all movements now approved by ODOT, the proposed development would not trigger the mentioned thresholds.

- On SE 2nd Avenue, west of the fuel facility, the development will generate 10 AM peak hour trips and 16 PM peak hour trips, both below the threshold of 30 trips.
- On S Locust Street, south of the fuel facility, the development will generate 2 AM peak hour trips and 4 PM peak hour trips, both below the threshold of 30 trips.



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- Daily trips were not estimated in the TIA. They may be estimated between 194 and 204 on SE 2nd Avenue and between 41 and 49 on S Locust Street, all below the threshold of 300 trips.

Therefore, based on these values, the thresholds for the NTTS are not met and no NTTS is required.

#### *Access Spacing is Approved*

Access along Highway 99E is under ODOT jurisdiction. CMC 16.46.070 applies to City facilities only. CMC 46.080 refers to Appendix G of the TSP for state highway standards. While ODOT spacing standards cannot be met along the site frontage, ODOT may approve driveways through the approach application process, which it has done. Approval Application No. 17612 was approved by ODOT on August 15, 2012. See Attachment 3.

The proposed driveway is within the Special Transportation Area (“STA”) of Highway 99E. The City’s letter of June 2, 2010 requesting the STA notes that “STA designation would acknowledge the need to balance local access with through travel needs, and allow acceptance of a more relaxed mobility standard.” The shared access proposed with the Project would meet this balance of access and mobility. Moreover, the number of driveways is actually decreasing with the Project. The driveway serving the adjacent retail building will be relocated to improve circulation and will be shared by the two sites, resulting in no increase in the number of driveways on the block. The consolidation of lots as a part of the Project also eliminates the potential need for additional driveways on Highway 99. In these ways, the proposed driveways meet the intent of access management. For these reasons, the SDC Business Owners’ arguments on this issue fail.

#### E. The Proposal Properly Addresses the SDR Approval and Design Standards

SDC Business Owners have suggested that inadequate information has been provided to demonstrate compliance with CMC 16.49.040. SDC Business Owners also make numerous claims that specific design standards have not been met as specified in the CMC. Applicant has demonstrate compliance with the City’s site and design review standards to the extent possible; however, some standards are either not applicable to the proposed use of the property or not attainable due to Applicant’s stringent design standards, which are among some of the most safe and detailed in the industry. For these reasons, Applicant chose to submit a Type III SDR application. A Type III SDR allows the Planning Commission to approve an application at its own discretion and rather than making direct findings of compliance with the standards, the



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Planning Commission may approve the application upon a finding that it is in compliance with the “intent of the DCO site and design review standards.” CMC 16.89.020(C), 16.49.040(3).

By adopting this language, the City understood that the DCO site and design review standards may not be universally applicable or relevant to every use that is allowed by the underlying zones. Thus, the language allows the City some flexibility without having to grant a variance. In order to assist the Planning Commission in exercising its discretion and concluding that the proposal meets the intent of the standards, Applicant provides the following information to address the specific items SDC Business Owners claim as inadequate.

*CMC 16.49.040(A)*

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

This requirement deals with the development following the standards set forth by the CMC for location, height and appearance. The Project is an automobile fueling station that is a permitted use in the underlying C-2 zone and by extension of the DCO zone per CMC 16.41.030(A). According, the Project meets the location requirement with relation to its proposed use and the zoning map. With respect to height, maximum allowable height of a building in the OHC subarea is 45 feet. See CMC 16.41.050 Table 3. The proposed canopy structure is under 20 feet. Thus, the height requirement is met.

For appearance, the objectives for the development are identified in CMC 16.41.060(A)(3)(a)-(e). To create a pedestrian-oriented ground floor integrated with exterior components, Applicant has designed the Project with a pedestrian pathway from the street to the under-canopy kiosk, allowing pedestrians to have full access to the site from the street. Also included in the design will be a small open space area with bench that is accessible and usable by the public. The architectural features of the Project sign include columns of the canopy, which create a definite, repetitive element along the street facing side of the structure thus establishing a cohesive architectural element. In addition, distinct portions of the onsite canopy and kiosk are identified by changes in materials helping to create a clear base, middle and top element across the site. These materials are consistent throughout the site creating a uniform appearance and design. A cornice has also been added to the canopy to create a “capping” element for the structure. All materials proposed for the Project are found on the Material Standards for the OHC found in the code (CMC 16.41.070 (E)(2)) and comply with the color palette specified in CMC 16.41.070



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(F)(2)). CMC 16.41.060(A)(3)(d) does not apply to the Project because it is specific to the CC, not the OHC. For these reasons, the appearance requirements have been met.

*CMC 16.49.040(B)*

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

This requirement relates to the compatibility of the Project design with the other developments in the same general vicinity. Other developments in the same general vicinity include other fueling stations (one located directly across Locust Street and one located across Highway 99 approximately 500 feet west of the site) and other commercial developments including a commercial strip mall and its vehicle parking area on the adjacent property to the west, and a florist's shop and its vehicle parking area on the north side of Highway 99. The presence of other fueling stations on either side of the proposed property indicates that the project is not out of character with its surroundings. However, the existing development in the general vicinity was constructed prior to the adoption of the DCO design standards. As a result, the color palette and materials used in the proposed development will exceed the design of other existing developments and meet the current CMC requirements. Presumably, as the surrounding properties are redeveloped over time, they too will be required to meet the City's DCO requirements and thus come to be in harmony with the City's DCO design objectives and this proposed development.

*CMC 16.49.040(C)*

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

This criterion relates to the location, design, size, color and materials of all structures and signs and requires that such structures be appropriate to the design character of other structures in the vicinity. The location, design, size, color and material of the proposed Project and the Project's compatibility to other developments in the vicinity are discussed under CMC 16.49.040(A) and (B) above. In reviewing the location, design, color and materials of the signage, City staff determined them to be acceptable to the City; however, one comment in the City's initial staff report indicated that the monument sign needed to be moved back to 10 feet behind the curb





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along Highway 99E. In response, Applicant has amended the Preliminary Site Plan to respond to staff's input. See Attachment 4, Sheet 1.1.

The proposed fuel pricing signs on the north and east canopy faces currently exceed the allowable size requirements, as described in CMC 16.42.050 Table 3. This standard limits the size of a wall sign to eight percent of the primary building elevation area but not to exceed 120 square feet total for the primary building frontage and six percent of secondary building elevation but not to exceed 60 square feet total for the secondary building frontage. The City has interpreted the Project's building elevation area to be just the canopy face (92 feet by 3 feet 6 inches) totally 322 square feet of primary frontage the secondary frontage at 206.5 square feet (59 feet by 3 feet 6 inches). Applying the eight percent and six percent requirement results in only 25.76 square feet for signage on the primary frontage and 12.39 square feet for signage on the secondary frontage. This equates to an available signage area that is only 21.5 percent and 20.6 percent of the maximum allowable signage area for the primary and secondary frontages, respectively.

Each face of the canopy will have the Kroger National Logo (6.77 square feet each), and the canopy faces along Highway 99E and SE 2<sup>nd</sup> Avenue will also have Fred Meyer text (6.14 square feet each) next to the Kroger Logo. Fuel pricing signs are to be located on the canopy facing Highway 99E and Locust Street. The fuel pricing signs are 17 feet 4 inches by 3 feet 6 inches for a total of 60.66 square feet each. The intent of these signs is to provide motorists with accurate information regarding the fuel types being offered at the proposed fuel station in an efficient, easy to locate and safe manner. This will help drivers make traffic related decisions sooner, resulting in safer driving conditions around the fuel station. Another factor dictating the size of the fuel pricing signs are the additional requirements placed on these signs under Oregon law.

Oregon Administrative Rule ("OAR") 137-020-0150 regulates gasoline advertising to prevent misleading price representations. OAR 137-020-0150(3)(a) states: "[t]he retailer must clearly and conspicuously *display on each street sign* the lowest cash prices charged for the sale of the lowest grade of *each type of motor vehicle fuel sold* or offered for sale to all customers or potential customers." (Emphasis added). This rule requires that if any type fuel is listed on a price sign, all types of fuel offered must be listed. Shortening the sign by removing midgrade or premium unleaded, consequently, is not an option and would violate OAR 137-020-0150. Since the only option is to exceed allowable signage area under the CMC or remove the signs, Applicant requests that the Planning Commission use its discretion and approve the canopy price signs if the Planning Commission deems the signage meets the intent of the sign code as



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identified in CMC 16.42.010(A)(1)-(8). Applicant maintains that the proposed signage does indeed meet the intent of the code. The intent is to make sure that signage is appropriate in relation to the size of a specific development. Here, Applicant has minimized the signage to the extent possible to comply with applicable law, and in doing so has created an appropriate relationship between the signage and the size and type of development.

*CMC 16.49.040(D) and (E)*

*The proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.*

*The Board shall, in making its determination of compliance with subsections B through D above, use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible, in regards to subsections B, C, and D above, if the following conditions are met:*

- a. The development accumulates a minimum of 70 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and*
- b. At least 15 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).*

This requirement addresses the use of Low Impact Development (“LID”) best management practices whenever feasible based on site and soil conditions. The City has set forth a site design review menu in Table 16.49.060 of the CMC. This table lists a number of LID design options for projects going through a Type III review process and requires that 15 percent of the required menu items must address the LID design options. Applicant discussed in the SDR application how the Project would implement certain LID best management practices. The City’s SDR staff report also addresses this requirement. The result of which culminated in City staff acknowledging that the requirements have been met with the proposed condition of approval that the location of the open space onsite be provided. This area has been identified on revised Preliminary Site Plan and Landscape Plan included in Attachment 4.



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*CMC 16.49.040(3)*

*In review of a Type III Site and Design Review Application described in Section 16.49.035.A.2, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the DCO site and design review standards set forth in 16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1, and with Criteria 4, 5, and 6 below. This requirement identifies that the Board shall determine if there is compliance with the intent of the DCO site and design review standards set forth in 16.41.070.A.1, 16.41.070.B.1, 16.41.070.C.1, 16.41.070.D.1, 16.41.070.E.1, and 16.41.070.F.1 and with 16.49.040 (4), (5), & (6).*

In responding to SDC Business Owners, Applicant makes the following points to demonstrate that the Project does meet the intent of the DCO site and design review standards.

Section 16.41.070(A)(1) addresses pedestrian oriented ground floor design standards for ground floor windows, building entries and doors, transition areas and residential buildings. None of these requirements apply to the proposed Project since the only ground floor windows on the site would be the 4-foot wide window of the attendant kiosk. No building entries or doors are provided for public use on the fuel center. None of the transition requirements are required in the OHC zone and the residential requirements do not apply to a commercial project.

Section 16.41.070(B)(1) addresses design standards for cohesive architectural elements, specifically architectural bays and incorporating design elements within each bay. The columns of the fuel canopy create appropriately sized bays for the ODC zone. The columns have been engaged by adding a stone base and stucco texture to the upper portion. A cornice is provided around the entire canopy. Each bay has a minimum of two projecting fueling position signs and lighting is recessed into the underside of the canopy.

Section 16.41.070(C)(1) addresses design standards for integrated building façade standards, specifically, (1) distinct base, middle and top of building design; (2) ground floor design elements; (3) middle of building design elements; and (4) top of building design elements. The proposed structure does have a distinct base, middle and top design. This was achieved by changing the material, color and texture of materials along the columns of the structure. The canopy creates a distinct “top” to the structure as well. Standards (2) ground floor design elements and (3) middle of building design elements do not apply in the OHC subarea of the DCO Zone. Design elements complying with standard (4) top of building design have been incorporated into the design for a flat roof. The addition of a cornice under 3 feet in height



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around the entire structure meets this requirement. The use of a roof garden is encouraged but not required. As the roof will be inaccessible and the roof drains could become clogged by garden refuse it was determined not to add a rooftop garden.

Section 16.41.070(D)(1) addresses corner intersection standards but is only applicable in the CC zone and is therefore not applicable to this Project following approval of the Text and Map Amendments.

Section 16.41.070(E)(1) addresses material standards for projects in the DCO. All material proposed for the site (stone, stucco, concrete and CMU) can be found in the standards table for the OHC zone.

Section 16.41.070(F)(1) addresses the color palette to be used onsite as being the Sherwin Williams Arts and Crafts color palette. The colors proposed for the fuel station are in harmony with the required palette.

*CMC 16.49.040(4)*

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

This requirement identifies the need for the proposed development to demonstrate that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. As discussed in the SDR application, all public facilities are existing and available to the proposed site. These facilities will be utilized by the development. ADA facilities will be provided onsite from the right-of-way to the kiosk under the fuel canopy. As all facilities are available or provided, this requirement has been met.

*CMC 16.49.040(5)*

*The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall*



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*not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.*

This requirement does not apply to the Project as it addresses housing types and their compliance with CMC.

CMC 16.49.040(6)

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

This requirement addresses the compliance of the development with the City's Tree Ordinance (CMC 12.32). The proposed Project requires the removal of three (3) trees. All of these trees are on private property and therefore do not require permission to be removed (CMC12.32.040). The proposed development will add 19 new trees as part of its landscaping activities. All requirements in the City's Tree Ordinance will be complied with and as such this requirement will be met.

#### F. DCO Overlay Design Standards are Addressed in Detail

SDC Business Owners claim that Applicant failed to address DCO design standards. Specifically, SDC Business Owners allege that Applicant must demonstrate compliance with *all* OHC approval standards. This statement would be correct if Applicant had opted to follow a ministerial or administrative SDR approval process (Type I or II) but Applicant filed a Type III SDR application. The Type III application allows deviation from the standards of the CMC. As mentioned above and explained in the Supplemental SDR Support included in Attachment 2, a Type III SDR application allows the Planning Commission to approve the application at its own discretion and to determine if the application is in compliance with the "*intent of the DCO site and design review standards.*" CMC 16.89.020(C), 16.49.040(3) (emphasis added). Consequently, satisfying each of the SDR standards is not necessary for the Planning Commission to approve the SDR application as long as the Planning Commission determines that the application meets the intent of the DCO. Detailed information was provided in the SDR application on the applicability and implementation of the requirements for CMC 16.41.060 and



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16.41.070(A)-(F) and substantial information has been presented above regarding the Project's compatibility with the intent of the DCO standards. See also Supplemental SDR Support included in Attachment 2.

G. Sign, Lighting, Parking Landscaping and Parking Standards are Adequately Addressed

*Sign Standards*

Detailed discussion on the sign standards is provided in the DCO design standards discussion above. Due to the additional requirements placed on fuel pricing signage by the State of Oregon in OAR 137-020-0150, Applicant requests the Planning Commission's interpretation of whether the proposed signage meets the requirements of the zone.

*Lighting Standards*

The revised lighting plan (included in Attachment 4 as Sheet SE2.0) shows house side shields on all light poles to minimize light trespass and comply with the shielding standards in CMC 16.43.040. Additional details on the under canopy recessed lighting have been provided (as an addendum to Sheet SE2.0), which are updated to the new Kroger standard of using all LED fixtures for the under canopy recessed lighting. The under canopy lighting complies with CMC 16.43.070(D).

*Parking Landscaping Standards*

The landscape plan has been updated. See Attachment 4, Sheet L1.1. The revised landscape plan incorporates the additional information requested by the City and the additional number of trees required along the eastern property line. Thus the parking lot landscape standards have been met.

*Parking Standards*

The City's off-street parking requirements in CMC 16.10 set forth the amount of parking required based on the use of a property. CMC Table 16.10.050 does not list a specific parking requirement for a fuel station under the commercial use designation on the table. It does, however, list an "All others" designation for any use not specifically listed in the table. The parking requirement for the "All others" designation is 1.0 space per 550 square feet. The combined area of the attendant kiosk (32 square feet) and the mechanical/restroom kiosk (111 square feet) totals 143 square feet. This results in a required parking count of one stall.





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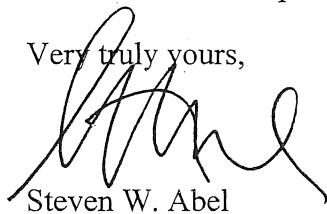
American Disability Act ("ADA") requirements stipulate that if the site has between one and 25 parking stalls, one ADA parking space is required. The site plan properly shows two stalls provided (one being ADA). See Attachment 4, Sheet C1.1 Preliminary Site Plan. The parking requirements in CMC 16.10 are met.

#### H. Procedural Issues

Applicant has filed the Map Amendment and hereby clarifies that the Text Amendment, Map Amendment, and SDR are related applications and therefore should undergo consolidated review. The records for these applications should also be consolidated. All applications were filed using City forms, were properly authorized by the underlying property owners, and meet the applicable filing requirements under CMC. In addition, Applicant held a public meeting on August 28, 2012 for neighbors. Notice was mailed on August 8, 2012 pursuant to CMC 16.89.070. The notice and meeting minutes from the meeting are included in Attachment 5. For these reasons, there are no procedural issues preventing the City from moving forward and hearing all three applications at the Planning Commission Hearing scheduled for September 24, 2012.

In sum, Applicant has provided adequate evidence to demonstrate that the three pending applications meet the applicable CMC standards and approval criteria and the City may approve each request. Prior to the hearing, we may submit additional evidence and argument to further support findings of approval for the three applications. Thank you for your consideration, and we look forward to presenting to the Planning Commission on September 24, 2012.

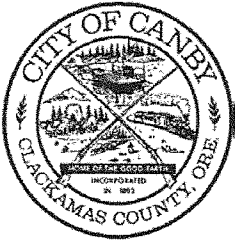
Very truly yours,



Steven W. Abel

Enclosures





# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The purpose of this notice is to invite you to comment on the Zone Change to alter the boundary of two subareas within the downtown overlay zone and amending its corresponding figure in the Code. This application is related to the previous notices for a Site and Design Review and a Text Amendment on these properties; deliberations of this file #ZC 12-01 will be heard in conjunction with discussions of files #DR 12-03 and TA 12-01.

**Comments due**—Any written comments desired to be distributed to the Planning Commission prior to the public hearing are due to staff by 3 PM on September 12, 2012, and prior to the City Council public hearing by 3 PM on October 8, 2012.

**Public Hearing Schedule:**

- Planning Commission, Monday, September 24, 2012, 7pm at 155 NW 2nd Avenue, Canby, OR
- City Council, Wednesday, October 17, 2012, 7:30 pm at 155 NW 2nd Avenue, Canby, OR

**Location:** 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2<sup>nd</sup> Ave.

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

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

**Owner:** Oliver Lang LLC

**Applicant:** Fred Meyers Stores, Inc.

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



Downtown Canby Overlay subarea boundary, Type IV, 3) Zone Change within Downtown Overlay Zone. **City File Number:** DR 12-03/TA 12-01/ZC 12-01 **Contact:** Angie Lehnert at 503-266-7001

**What is the Decision Process?** The Canby Planning Commission will hold a hearing to receive public testimony. Following the hearing, the Commission will forward a recommendation to the City Council for a decision. The City Council will hold a 2<sup>nd</sup> hearing to receive public testimony, and then will determine the appropriateness of the Text Amendment and Zone Change.

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

**How can I review the documents and staff report?** Documents and Staff Report can be reviewed weekdays from 8 AM to 5 PM (except holidays) at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, September 14, 2012 at the Canby Planning Department or on the City's website. Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Criteria:** Canby Municipal Code Chapters

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

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

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

## **CITY OF CANBY –COMMENT FORM**

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

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

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

### **COMMENTS:**

We have submitted our comments on June 18, 2012 on the above noted project and have no additional comments.

**YOUR NAME:** Hassan Ibrahim

**ORGANIZATION or BUSINESS (if any) :** Curran-McLeod, Inc.

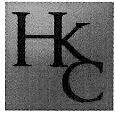
**ADDRESS:** 6655 SW Hampton Street, Suite 210 Portland, OR 97224

**PHONE # (optional):** 503- 684-3478

**DATE:** August 31, 2012

**Thank you!**

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



**Hathaway Koback  
Connors LLP**

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Suite 235  
Portland, OR 97204

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

[mikeconnors@hkcllp.com](mailto:mikeconnors@hkcllp.com)

## **HAND DELIVERY**

July 23, 2012

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

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

Dear Commissioners:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development;
2. A public need for the change;
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
5. Statewide planning goals."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.”

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

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

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

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

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

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



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

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

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

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

5. The City cannot defer compliance with transportation standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. The Applicant’s proposed parking is insufficient.

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

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

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

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

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

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

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

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

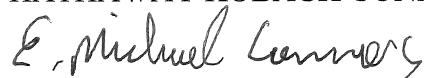
Conclusion

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

We appreciate your attention to this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



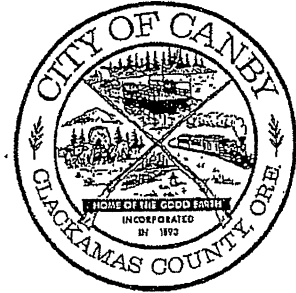
E. Michael Connors

EMC/df

cc: Save Downtown Canby



# MEMORANDUM



**TO:** Jake Tate, PE, Project Engineer

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

**FROM:** Bryan Brown, Planning Director

**DATE:** February 28, 2011

**APPLICANT:**

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

**PREVIOUS FILE NO.:**

N/A Vacant

**OWNER:**

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

**STAFF:**

Bryan Brown  
Planning Director

**LEGAL DESCRIPTION:**

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

**DATE OF REPORT:**

February 28, 2012

**LOCATION:**

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

**COMP. PLAN DESIGNATION:**

Highway Commercial – HC

**ZONING DESIGNATION:**

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

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

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

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

Site Development Comments and Issues to Address:

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

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

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

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

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

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

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

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

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

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

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

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

#### **Zoning Standards Applicable to this Application**

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

#### **Applicable Canby Municipal Code Chapters**

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

#### **16.10 Off Street Parking**

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

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

#### **16.28 C-2 Highway Commercial Zone**

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

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

All other development standards are contained in the DCO.

#### **16.49.035 Application for Site and Design Review**

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

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



#### **16.41 Downtown Overlay Zone**

##### **16.41.050 Development standards (selection of primary; others apply)**

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

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

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

#### **16.41.070 DCO Site And Design Review Standards**

Refer to the Applicable Subarea design criteria dealing with:

Visible transmittance.

Building Entries and doors Orientation

Transparency

Additional architectural standards/elements Bays, awnings, etc.

Rooftop structures

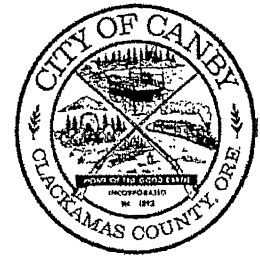
Parking

Parking and Maneuvering Landscaping

Overall Site Landscaping

**16.43 Outdoor Lighting Standards**

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



## **Pre-Application Meeting**

**Fred Meyer Gas Station**

**February 28, 2012**

**11:00 am**

### **Attended by:**

Mike Lang, Oliver/Lang LLC, 503-655-8999  
Adam Schatz, Fred Meyer, 503-797-3026  
Hassan Ibrahim, Curran-McLeod Engineering, 503-684-3478  
Jerry Nelzen, Public Works, 503-266-4021  
Jeff Randall, Great Basin Engineering, 801-521-8529  
Bryan Brown, Planning Dept, 503-266-7001  
Avi Tayar, ODOT, 503-731-8221

Jim Coombes, Fred Meyer, 503-797-5617  
Vickie Lang, Oliver/Lang LLC, 503-266-2545  
Dan Mickelsen, Public Works, 503-266-4021  
Doug Quan, CUB, Water Dept, 971-563-6314  
Jake Tate, Great Basin Engineering, 801-521-8529  
Seth Brumley, ODOT, 503-731-8534

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

### **GREAT BASIN ENGINEERING, Jake Tate**

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

### **CURRAN-MCLEOD ENGINEER, Hassan Ibrahim**

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

EXHIBIT A

PAGE 9 OF 12

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

**CITY OF CANBY, PUBLIC WORKS DEPARTMENT, Jerry Nelzen**

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

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

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

**CANBY UTILITY, WATER DISTRIBUTION DEPARTMENT, Doug Quan**

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

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

**OREGON DEPARTMENT OF TRANSPORTATION, Avi Tavar**

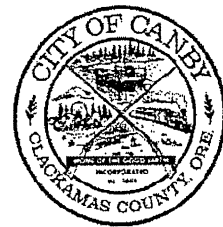
- We are looking at having your access off of 99E relocated to the property line and have a shared driveway with the adjacent site to the west. The driveway's maximum width is 40 feet, face to face. The representative said they will look into the option of a consolidated driveway with the property owners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

**CITY OF CANBY, PLANNING DEPARTMENT, Bryan Brown**

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

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





## MEMORANDUM

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

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

### **Synopsis:**

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

### **Recommendation:**

Staff recommends that the City Council adopt Ordinance 1296.

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

### **Background:**

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

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

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

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

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

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

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

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

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development; and
2. A public need for the change; and
3. Whether the proposed change will serve the public need better than any other change which might be expected to be made; and
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community; and
5. Statewide planning goals.

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

1. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and the plans and policies of the county,

- state, and local districts in order to preserve functions and local aspects of land conservation and development; and
2. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

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

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

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

**Attachments to Ordinance 1296:**

Exhibit A: Findings of Fact, Conclusions and Final Order

Exhibit B: Proposed Amendments

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

## ORDINANCE 1296

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

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

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

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

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

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

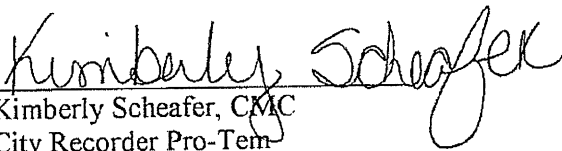
**WHEREAS**, the City Council at its meeting on October 1, 2008, has reviewed the proposed Findings, Conclusions and Final Order staff has prepared for Application No. TA 08-01, now therefore

### **THE CITY OF CANBY ORDAINS AS FOLLOWS:**

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

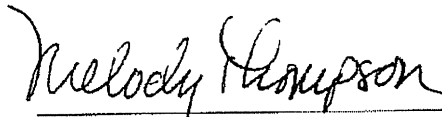
- 3) Amending the Zoning Map of the City of Canby to apply a new overlay Zone affecting certain properties in the Downtown Core Commercial (CC), Transitional Commercial (TC) and Outer Highway Commercial (OHC) and more specifically depicted in the *Downtown Canby Overlay Zone* as detailed in Exhibit "C".

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 1, 2008 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on Wednesday, October 15, 2008, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 NW 2<sup>nd</sup> Avenue in Canby, Oregon.

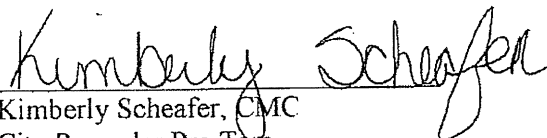
  
Kimberly Scheafer, CMC  
City Recorder Pro-Tem

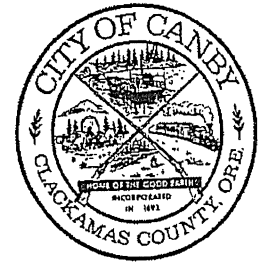
**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on October 15, 2008 by the following vote:

YEAS 6 NAYS 0

  
Melody Thompson, Mayor

ATTEST:

  
Kimberly Scheafer, CMC  
City Recorder Pro Tem



BEFORE THE CITY COUNCIL  
OF THE  
CITY OF CANBY

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

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

NATURE OF APPLICATION

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

HEARINGS

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

CRITERIA AND STANDARDS

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

Findings, Conclusions & Order  
TA 08-01  
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EXHIBIT B  
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2. A public need for the change;
  3. Whether the proposed change will serve the public need better than any other change which might be expected to be made;
  4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community;
  5. Statewide planning goals.
- An amendment to the Zoning Map of the City of Canby is a legislative land use amendment. In judging whether or not the Zoning Map should be amended, the Planning Commission and City Council shall consider:
    1. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and the plans and policies of the county, state and local districts in order to preserve functions and local aspects of land conservation and development;
    2. Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

## FINDINGS AND REASONS

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

### Findings in Support of Comprehensive Plan Text Amendment

1. *The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development; and*

#### **Comprehensive Plan policies**

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

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

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

Findings, Conclusions & Order

TA 08-01

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PAGE 7 OF 19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The proposed standards meet this objective in the following ways:

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

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

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

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

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

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

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

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

2. *A public need for the change.*

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

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

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

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

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

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

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

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

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

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

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

## **5. Statewide planning goals.**

### *Goal 1. Citizen Involvement*

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

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

### *Goal 2. Land Use*

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

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

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

*Goals 3 and 4. Farm and Forest Lands Not applicable*

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

*Goal 5. Natural Resource Protection*

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

*Goal 6. Air Land and Water*

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

*Goal 7. Natural Hazards*

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

*Goal 8. Parks and Recreation Opportunities*

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

*Goal 9. Economic development*

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

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

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

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

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

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

#### *Goal 10. Housing*

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

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

#### *Goal 11. Public facilities and Services*

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

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

#### *Goal 12. Transportation*

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

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

#### *Goal 13. Energy Conservation*

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

#### *Goal 14. Urbanization*

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

### **Findings in Support of Zoning Map Amendment**

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

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

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

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

2. *Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.*

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

## CONCLUSION

The City Council of the City of Canby concludes that:

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

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5. The proposed amendment complies with the Statewide Planning Goals.
6. The proposed amendment to the Zoning Map of the City of Canby complies with the Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, and complies with the plans and policies of the county, state, and local districts, and preserves functions and local aspects of land conservation and development.
7. All required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new Downtown Canby Overlay Zone.

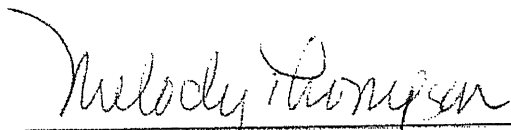
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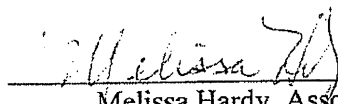
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**ORDER**

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

**DATED** this 15th day of October, 2008.

  
\_\_\_\_\_  
Melody Thompson, Mayor

  
\_\_\_\_\_  
Melissa Hardy, Associate Planner

**ATTEST:**

**ORAL DECISION – September 17, 2008**

**AYES:** Carson, Daniels, Helbling, Oliver

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Blackwell, Carlson

**WRITTEN DECISION – October 15, 2008**

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

**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

**Findings, Conclusions & Order**

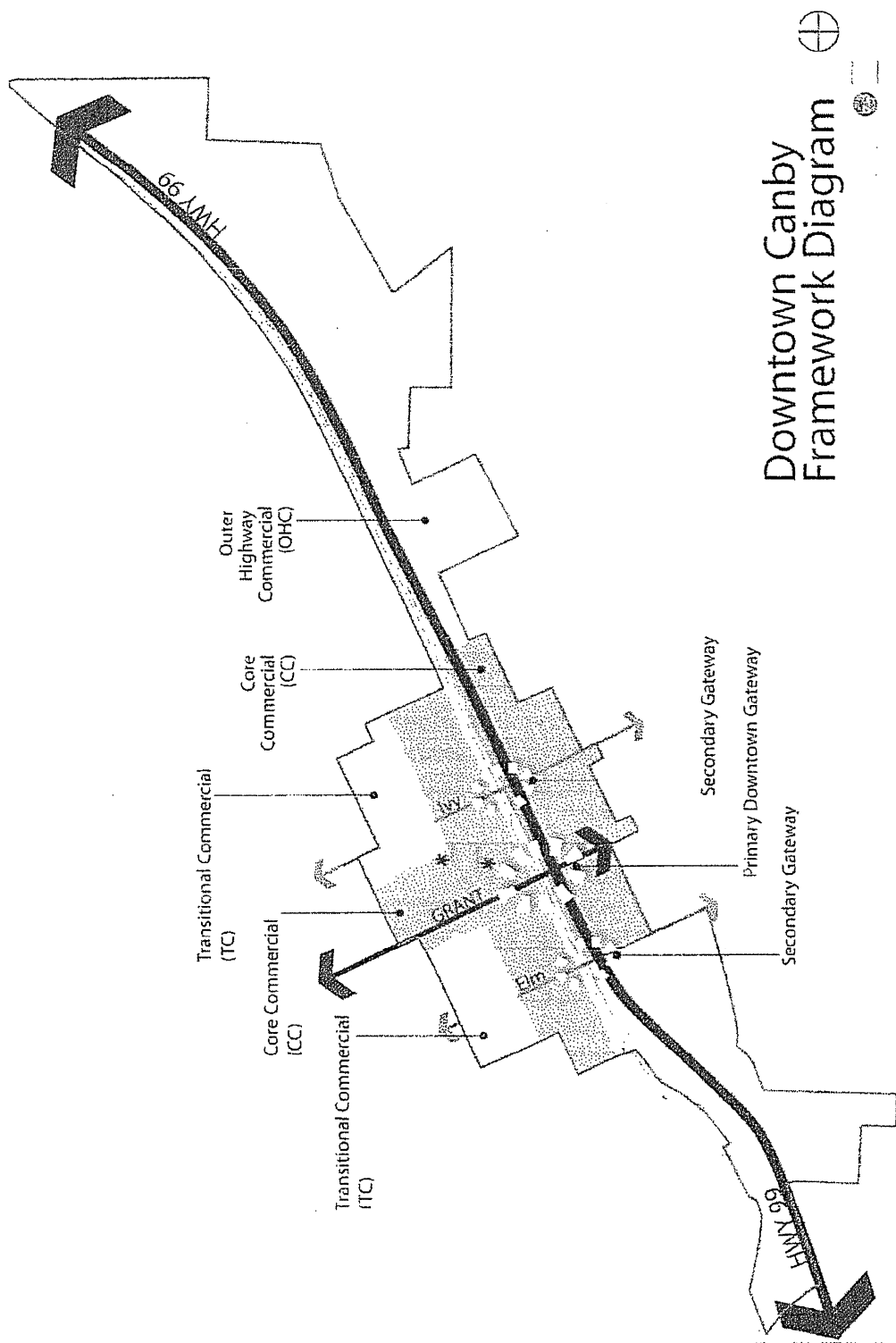
**TA 08-01**

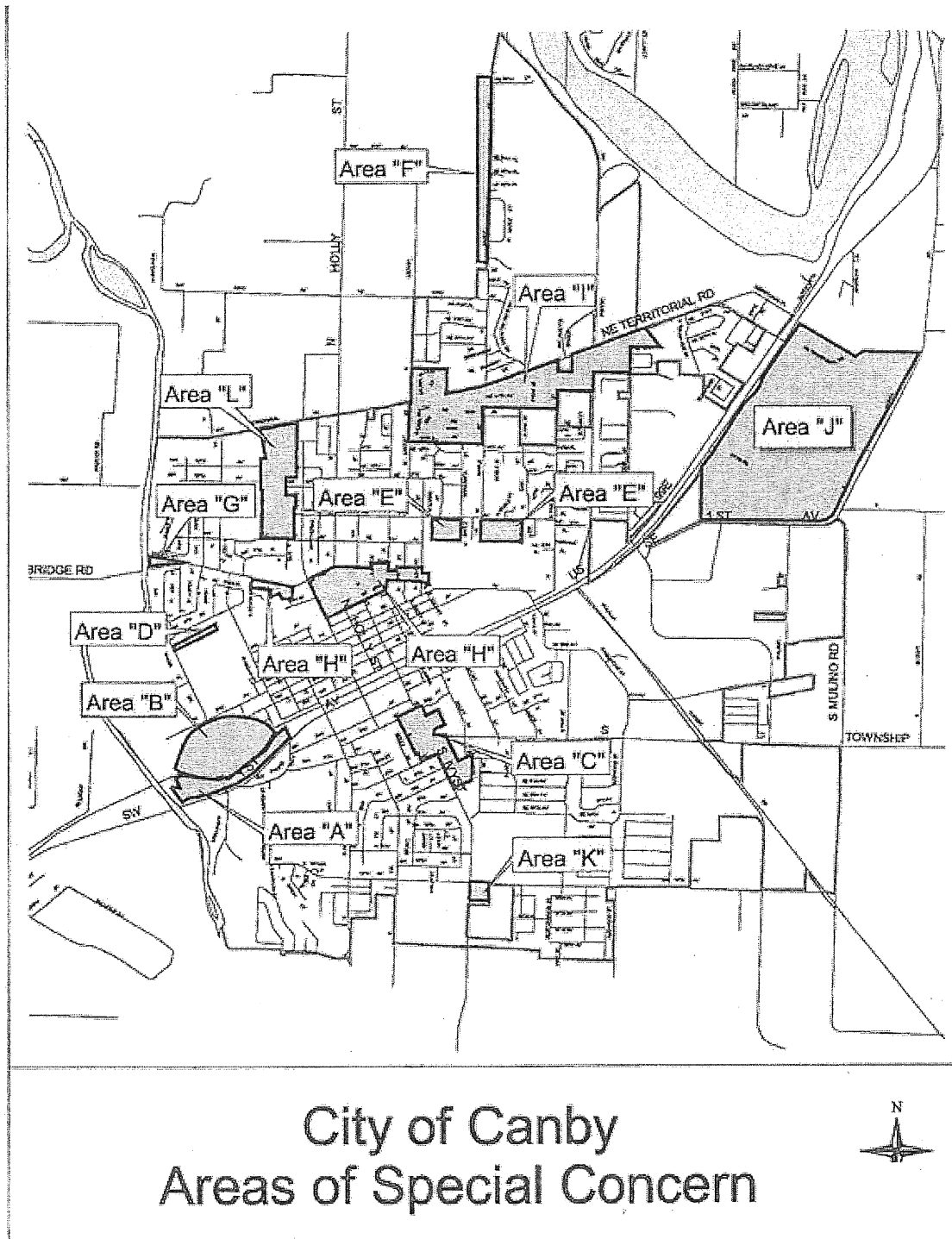
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EXHIBIT C  
TO ORDINANCE 1296







## MEMORANDUM

**DATE:** July 17, 2012

**TO:** Bryan Brown, City of Canby

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

**SUBJECT:** Canby Fredy Meyer Fuel Facility TIS Review and Recommendations

P#11010-016

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Per your request, we have reviewed the transportation impact analysis submitted for the proposed Fred Meyer Fuel Facility<sup>1</sup>, including the supplemental on-site queuing analysis<sup>2</sup>, to determine if the study provided adequate information to comply with the required transportation impact study scope<sup>3</sup>. Based upon our review, we find that between the two documents the study adequately addressed the required scope items to assess the impacts of the proposed development.

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

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

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<sup>1</sup> Fred Meyer Canby Fuel Facility Transportation Impact Analysis, Group Mackenzie, May 17, 2012

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

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



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

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

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

- Beyond the existing conditions of OR 99E related to site access, the City's Transportation System Plan includes an enhanced pedestrian crossing of OR 99E in the vicinity of the site. As part of the current efforts to clarify the highway design in the Canby OR 99E Corridor and Gateway Design Plan<sup>4</sup>, the location for the enhanced pedestrian crossing was determined to be at S Locust Street and would include a pedestrian refuge island on the west leg of the OR 99E/S Locust Street intersection. While this refined plan is not yet adopted, it is consistent with and clarifies the City's adopted Transportation System Plan. A pedestrian refuge island on OR 99E at S Locust Street would be located within the two-way-center-turn-lane and would likely be located less than 100 feet from the proposed Fred Meyer Fuel Facility access to OR 99E. The resulting spacing would limit the ability for westbound vehicles on OR 99E turning left into the site to maneuver from the through lane into the two-way-center-turn-lane (i.e., there would be inadequate deceleration space). Therefore, construction of the pedestrian refuge island may also trigger the need to convert the proposed site access to right-in/right-out.

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<sup>4</sup> Canby OR 99E Corridor and Gateway Design Plan, June 2012.



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

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

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

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

## CITY OF CANBY –COMMENT FORM

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

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

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

**COMMENTS:**

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

Thanks

**YOUR NAME:**

KAREN Ellis

**ORGANIZATION or BUSINESS (if any):**

**ADDRESS:**

282 NE 10<sup>th</sup> Ave CANBY

**PHONE # (optional):**

**DATE:**

7/11/12

Thank you!

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

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Angie,  
I filed this electronically.  
Laney

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

Hi Laney,

We have no conflicts with this proposal.

Thanks,

Jennifer Wood  
NW Natural

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PUBLIC RECORDS LAW DISCLOSURE

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

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## **CITY OF CANBY –COMMENT FORM**

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

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### **COMMENTS:**

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

**YOUR NAME:** Hassan Ibrahim

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

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

**PHONE # (optional):**504-684-3478

**DATE:** June 18, 2012

**Thank you!**



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## MEMORANDUM

**DATE:** June 14, 2012

**TO:** Bryan Brown, City of Canby

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

**SUBJECT:** Canby Fredy Meyer Fuel Facility TIS Review

P#11010-016-000

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Per your request, we have reviewed the transportation impact analysis submitted for the proposed Fred Meyer Fuel Facility<sup>1</sup> in Canby, Oregon to determine if the study provided adequate information to comply with the required transportation impact study scope<sup>2</sup>. Based upon our review, we found that the study has not adequately addressed the required scope items needed to assess the impacts of the proposed development. We have coordinated with ODOT and they agree with our findings<sup>3</sup>. We recommend that the following items be included as part of the study:

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

If you have any questions, please feel free to call me.

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<sup>1</sup> Fred Meyer Canby Fuel Facility Transportation Impact Analysis, Group Mackenzie, May 17, 2012

<sup>2</sup> Canby Fred Meyer Fuel Station Transportation Impact Study Scope, DKS Associates, March 29, 2012.

<sup>3</sup> Phone conversation with Douglas Baumgartner, ODOT Region 1, June 14, 2012.