



**PLANNING COMMISSION
Meeting Agenda
Monday – July 23, 2012
7:00 PM**

City Council Chambers – 155 NW 2nd Avenue

**Chair Dan Ewert – Vice-Chair Randy Tessman
Commissioners Sean Joyce, Charles Kocher, John Proctor, Misty Slagle and Tyler Smith**

- 1. CALL TO ORDER**
- 2. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 3. PUBLIC HEARINGS**
 - a. Site and Design Review for a Fred Meyer fuel station and a Text Amendment to change a subarea boundary of Downtown Canby Overlay located at 351 SE 1st Avenue, 369 SE 1st Avenue, 391 SE 1st Avenue, 354 SE 2nd Avenue and 392 SE 2nd Avenue (DR 12-03, TA 12-01 FRED MEYER FUEL STATION)**
- 4. NEW BUSINESS - None**
- 5. FINAL DECISIONS - None**
- 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

City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5.

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

PUBLIC HEARING FORMAT

The public hearing will be conducted as follows:

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

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

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

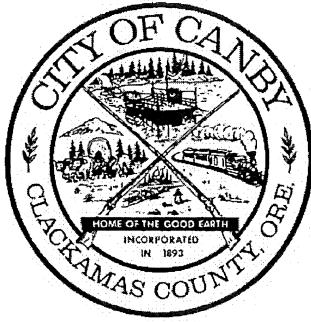
Testimony and evidence must be directed toward the applicable criteria listed on the wall.

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

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

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

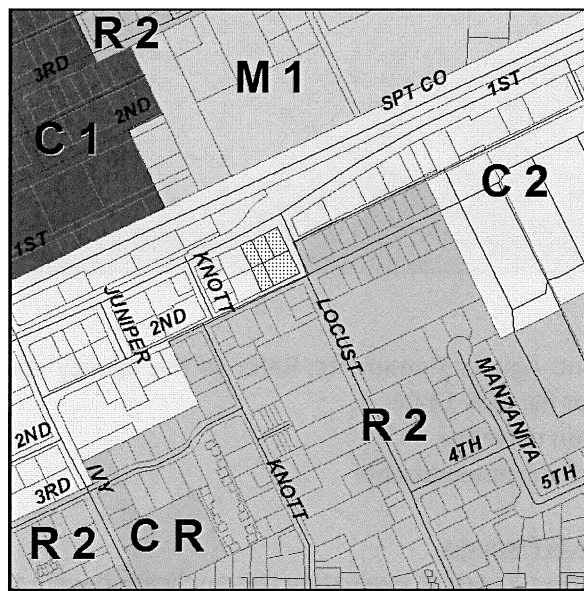
If additional documents or evidence are provided by any party, the Planning Commission may, if requested, allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any such continuance or extension of the record requested by an applicant shall result in a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



City of Canby

TEXT AMENDMENT STAFF REPORT FILE #: TA 12-01

LOCATION: 351, 369 & 391 SE 1st Ave. & 354 & 392 SE 2nd Ave (Shaded area in map below)
ZONING: C-2 Highway Commercial (Below). The site is also in the Core Commercial subarea of the Downtown Overlay Zone (the applicant is proposing this text amendment 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

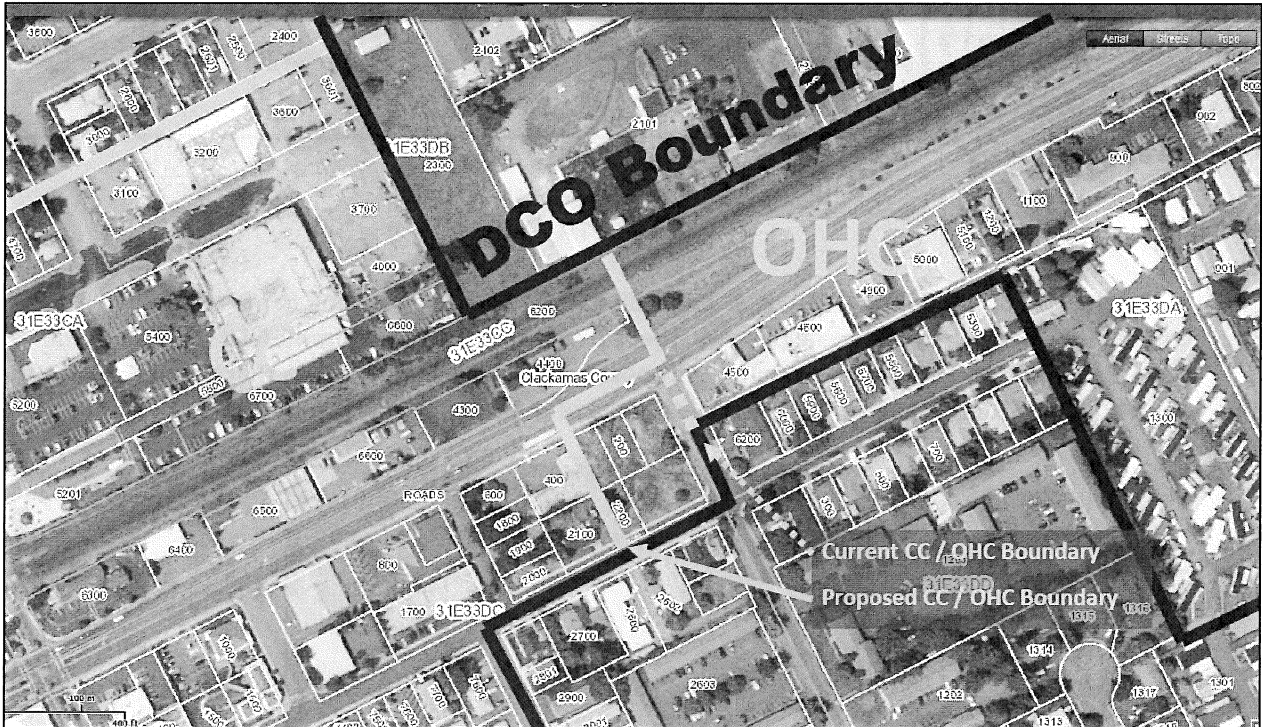
APPLICANT: Fred Meyers Stores, Inc.

APPLICATION TYPE: Text Amendment (Type IV)

CITY FILE NUMBER: TA 12-01

I. PROJECT OVERVIEW & EXISTING CONDITIONS

The applicant is also requesting a Text Amendment of the Zoning Code 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 Design Review application/staff report for file #DR 12-03 for more information. (See below for an illustration of the revised boundary).



II. ATTACHMENTS

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

III. APPLICABLE CRITERIA & FINDINGS

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

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

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

Chapter 16.08 General Provisions

16.08.150 Traffic Impact Study (TIS)

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

1. Changes in land use designation, zoning designation, or development standard.

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

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

16.08.150 Traffic Impact Study (TIS), continued

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

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

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

The following measures may be used to meet mitigation requirements:

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

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

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

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

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

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.

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 in regards to the applicant's Design Review application #DR 12-03.

Chapter 16.28 C-2 Highway Commercial Zone

16.28.010 Uses permitted outright.

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

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

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

16.41 Downtown Overlay Zone

16.41.010 Purpose.

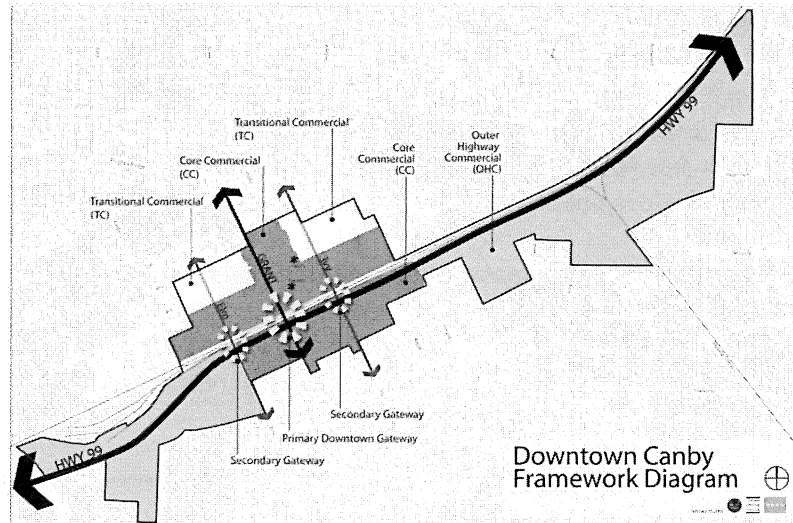
The purpose of the Downtown Canby Overlay (DCO) zone is to:

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

16.41.020 Applicability.

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

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



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

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

1. Permits land uses which are permitted by the underlying zone districts
2. Replaces selected development standards in the underlying zone districts, as set forth in Section 16.41.050.

Findings: The above standards state that any use that is permitted in the base zone (in this case the C-2 Zone) is permitted in the Canby Downtown Overlay Zone. The C-2 Zone allows fuel stations. A fuel station could be designed in a pedestrian-friendly manner that would conform to the standards of the CC subarea, therefore not conflicting with the base C-2 Zone's permitted fuel station use. However, because the proposed auto-oriented fuel station does not meet the intent of the CC subarea, a text amendment 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 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 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. Traffic issues are being reviewed in conjunction with the Design Review portion of this project (file #DR 12-03). Therefore, the proposal is consistent with the policies of the Comprehensive Plan, including the elements and goals listed above.

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, 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 the Text Amendment 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. The arguments for and against a text amendment/Core Commercial/Outer Highway Commercial subarea boundary change of Canby's Downtown Overlay Zone are as follows:

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

- The base C-2 Zone allows fuel stations.
- Canby's *OR 99E Corridor and Gateway Plan Conceptual Designs* proposes 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 (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 map 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 has not commented.

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 in regards to the applicant's Design Review application #DR 12-03.

16.89 Application and Review Procedures

Findings: This Text Amendment 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 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.

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-applicant says stormwater will be collected, treated, and infiltrated onsite and will not require a connection to the city storm drainage facility (issues that are being addressed with the Design Review portion of this proposal).
- Jennifer Wood, NW Natural, stating no issue

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, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. Staff has no recommended conditions of approval for this 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 File# TA 12-01.

GREAT BASIN ENGINEERING - South

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



CONSULTING ENGINEERS
AND LAND SURVEYORS

May 7, 2012

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

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

Bryan,

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

Project Background

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

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

Proposed Text Amendment

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

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

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

Justification for Text Amendment

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

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

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

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

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

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

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

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

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

Sincerely,
GREAT BASIN ENGINEERING – SOUTH

A handwritten signature in black ink, appearing to read 'Jake Tate', written over the company name.

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

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:

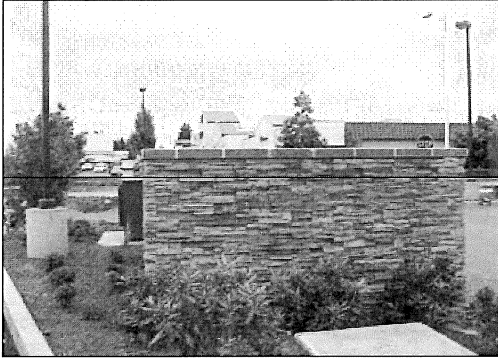


Figure 6
Example of high-quality screening design

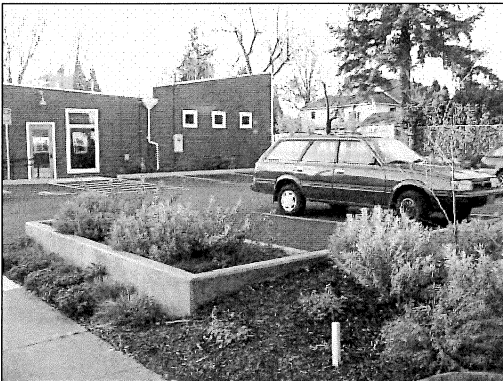


Figure 7
Example of well-planned landscaping



Figure 8
These buildings in the commercial core illustrate desired design features in that area

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

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

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

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

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

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



Figure 24

The Canby Herald Building in the commercial core incorporates many good design elements including a recessed entry, sign frieze, engaged columns and decorative lighting



Figure 25

Example of "cottage commercial" design in the Transitional Commercial sub-area

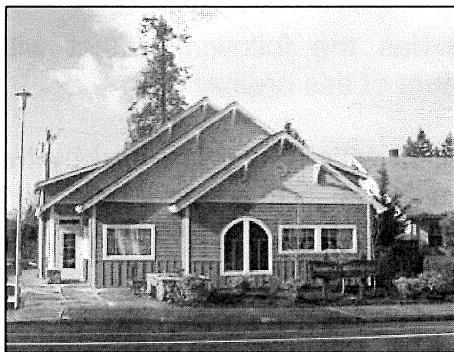


Figure 26

Example of commercial development in the Transitional Commercial sub-area

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 *Knott* 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.

b. Transitional Commercial Sub-Area (TC). This area is characterized by a mix of single-family homes and smaller-scaled commercial developments, which often take the form of conversions of existing single-family homes. Larger front setbacks and landscaping (including front yards) characterize the area. The future of this area will likely include commercial storefronts that address the sidewalk, albeit less intense than those in the Core, and residential developments. The overall result will be a truly mixed-use neighborhood, less intense than the Commercial Core, and with more greenscape and residential uses. Over time, commercial uses in portions of the Transitional Commercial district may transition to more intensive uses similar to the core downtown area and over time the relative boundaries between the two zones may shift somewhat. Requirements within the

SUPPLEMENTAL INFORMATION SUBMITTED BY APPLICANT

JULY 12, 2012

Fred Meyer – Canby Text Amendment Application

Supplemental Recommended Findings

July 12, 2012

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

Proposed Text Amendment

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

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

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

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

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

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

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

Justification for Text Amendment

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

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

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

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

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

Compliance with Approval Criteria

16.88.160 Amendments to text of title.

...

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

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

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

2. *A public need for the change;*

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

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

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

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

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

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

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

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

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

5. *Statewide planning goals.*

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

Goal 1 Citizen Involvement

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

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

Goal 2 Land Use Planning

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

Goal 3 Agricultural Lands

Goal 4 Forest Lands

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

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

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

Goal 6 Air, Water and Land Resources Quality

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

Goal 7 Areas Subject to Natural Hazards

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

Goal 8 Recreational Needs

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

Goal 9 Economic Development

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

Goal 10 Housing

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

Goal 11 Public Facilities and Services

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

Goal 12 Transportation

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

Goal 13 Energy Conservation

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

Goal 14 Urbanization

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

Goal 15 Willamette River Greenway

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

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

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

Summary and Conclusion

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

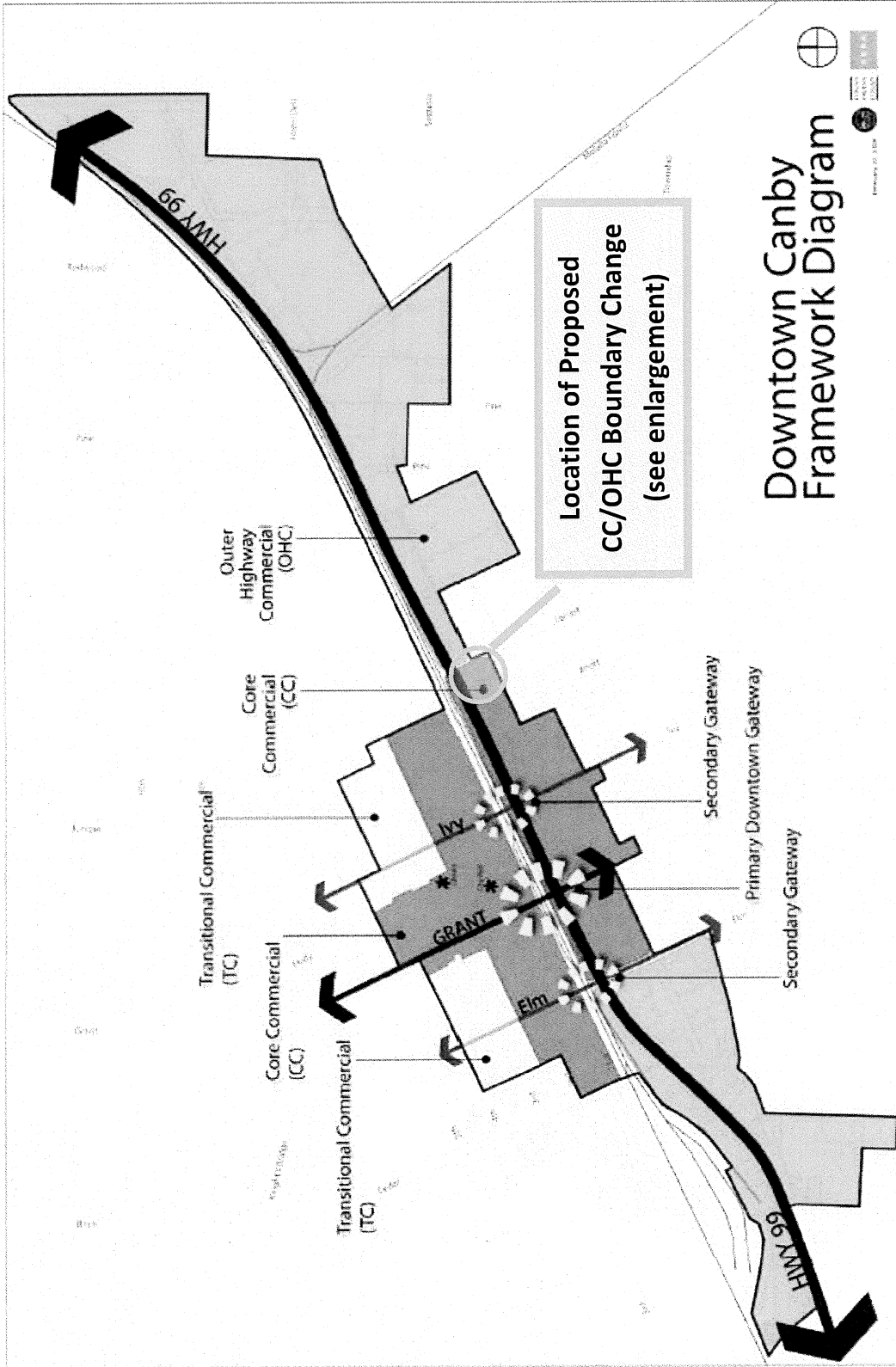
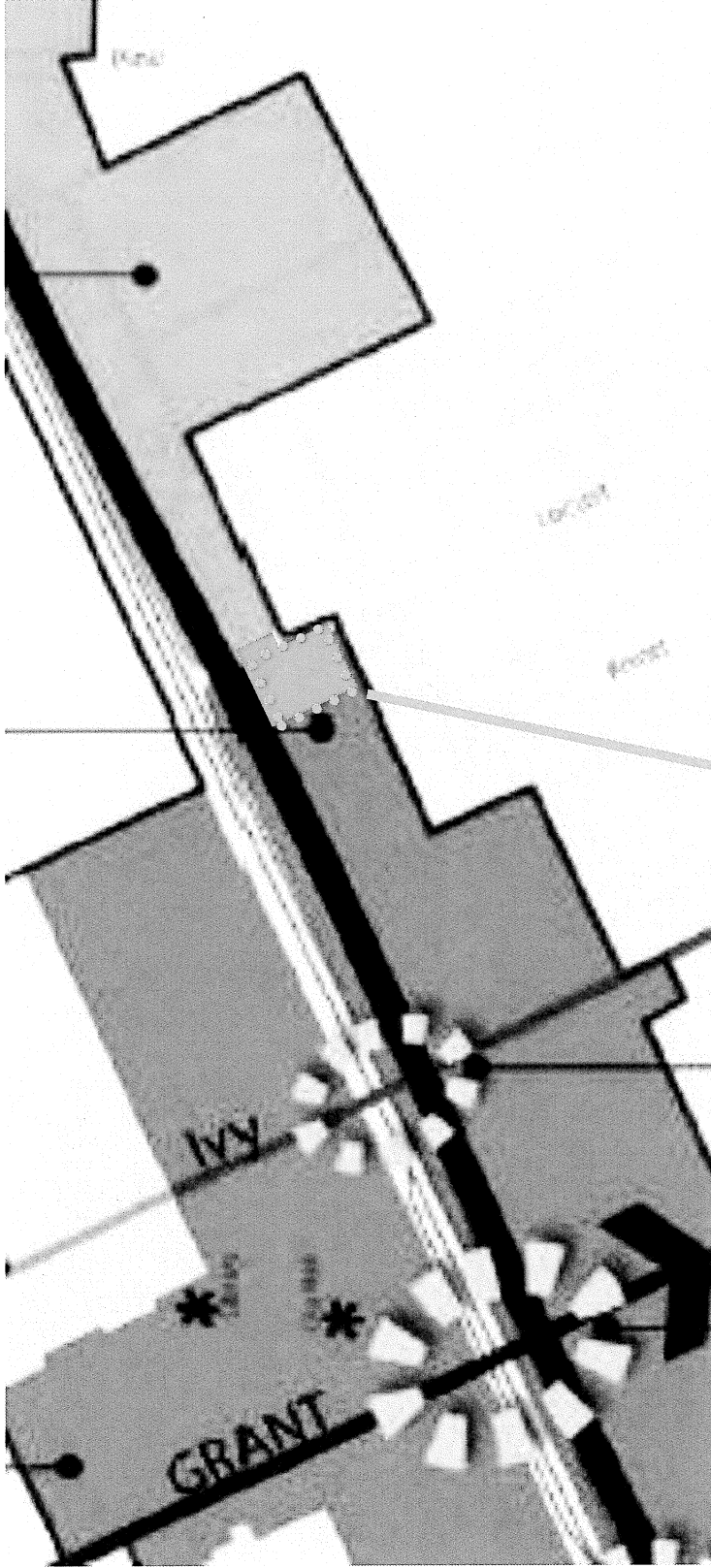


EXHIBIT A



Proposed Action

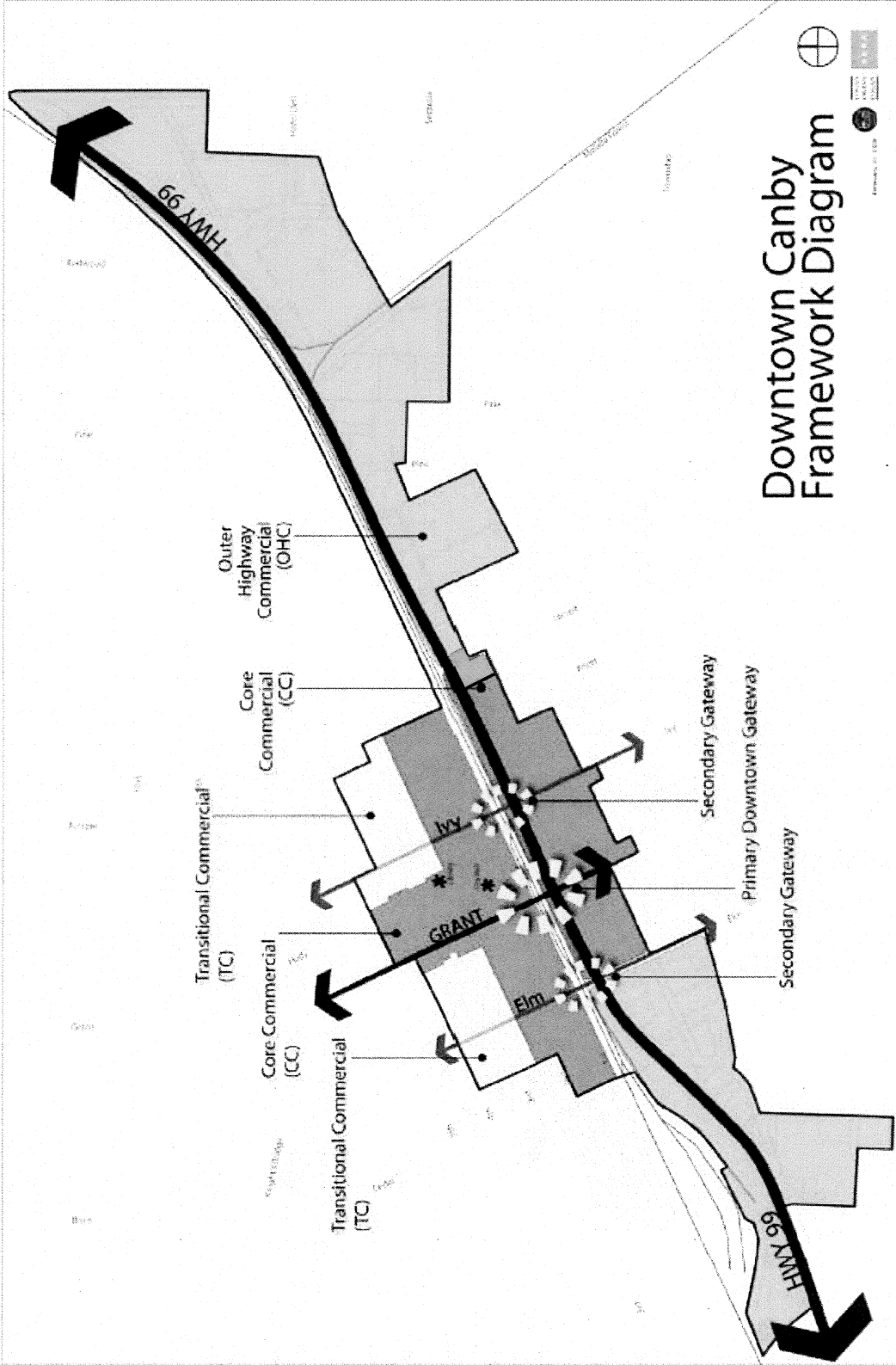
Change the Downtown Canby Overlay (DCO) designation of 0.75 acres, from Core Commercial (CC) to Outer Highway Commercial (OHC), consisting of the following five tax lots:

Tax Map 3S 1E 33DC

Tax Lots

00100, 00200, 00300, 02200 & 02300

EXHIBIT B



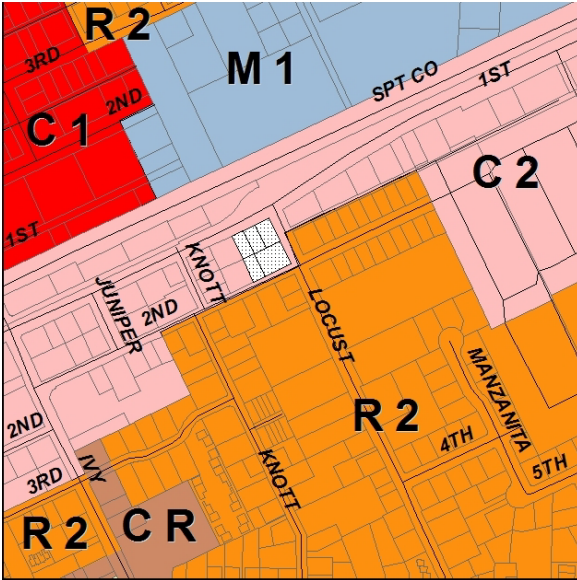


City of Canby

NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

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

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



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

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

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

Owner: Oliver Lang LLC

Applicant: Fred Meyers Stores, Inc.

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

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

Contact: Angie Lehnert at 503-266-7001

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

Where can I send my comments? Written comments can be submitted up to the time of the public hearings, and may also be delivered in person to the Planning Commission and/or City Council during the Public Hearing. (Please see *Comment Form*). Comments can be mailed to the Planning Department, P O Box 930, Canby, OR 97013; in person at 111 NW Second Avenue; or emailed to 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, July 13, 2012 at the Canby Planning Department or on the City's website. Copies are available at \$0.25 per page or can be emailed to you upon request.

Applicable Criteria: Canby Municipal Code Chapters:

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

(Note: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue.)

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

Angie,
I filed this electronically.
Laney

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

Hi Laney,

We have no conflicts with this proposal.

Thanks,

Jennifer Wood
NW Natural

PUBLIC RECORDS LAW DISCLOSURE

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

CITY OF CANBY –COMMENT FORM

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

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

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

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

COMMENTS:

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.

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DATE: June 18, 2012

Thank you!