



**PLANNING COMMISSION
Meeting Agenda
Monday – September 24, 2012**

7:00 PM

City Council Chambers – 155 NW 2nd Avenue

**Commissioners Dan Ewert (Chair), Randy Tessman (Vice-Chair),
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. 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 (**DR 12-03, 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, TA 12-01, ZC 12-01 FRED MEYER FUEL STATION**)
4. **NEW BUSINESS**
 - a. Consider a request from immediate neighboring residents living near Canby Utilities concrete water reservoir site at 440 SW 13th Ave to amend the previously required refurbished tank color from a dark Cobalt-Blue to a lighter pastel color (**Request for a Minor Modification (MOD 12-03) of Condition #6 of the Final Order for (DR 08-02/CUP 08-01)**)
5. **FINAL DECISIONS - None**
6. **MINUTES**
 - a. July 23, 2012 Planning Commission Meeting 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.

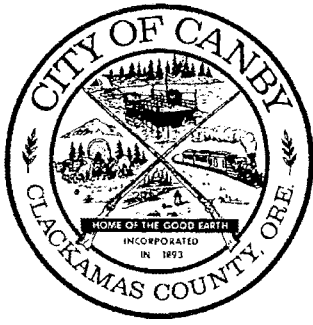
Testimony and evidence must be directed toward the applicable criteria listed on the wall.

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

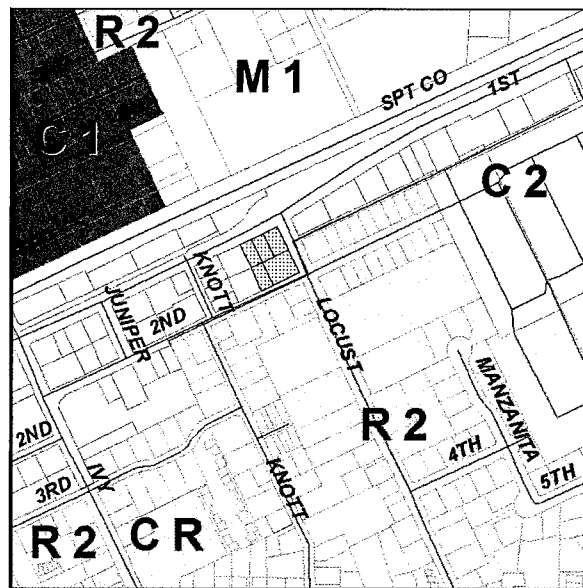
TEXT AMENDMENT/ZONE CHANGE STAFF REPORT

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 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/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.

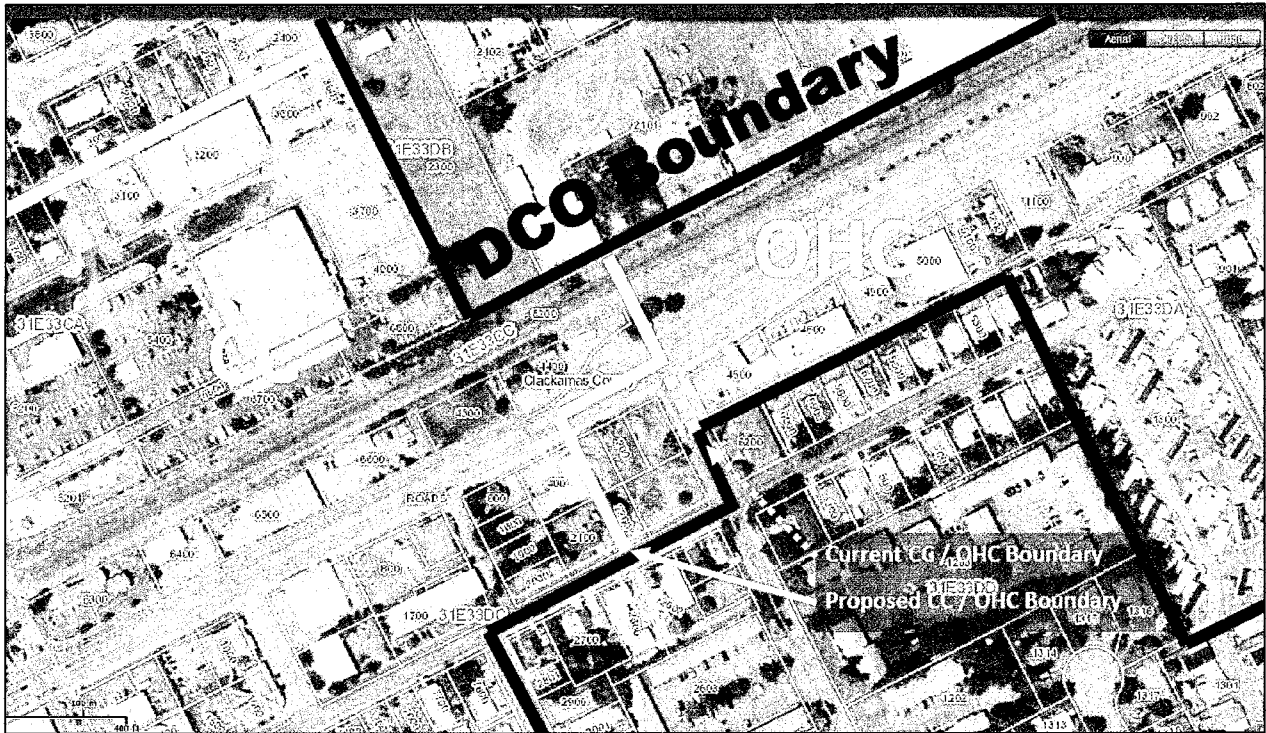
APPLICATION TYPE: Text Amendment/Zone Change (Type IV)

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 (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:

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

- 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

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

16.41.010 Purpose.

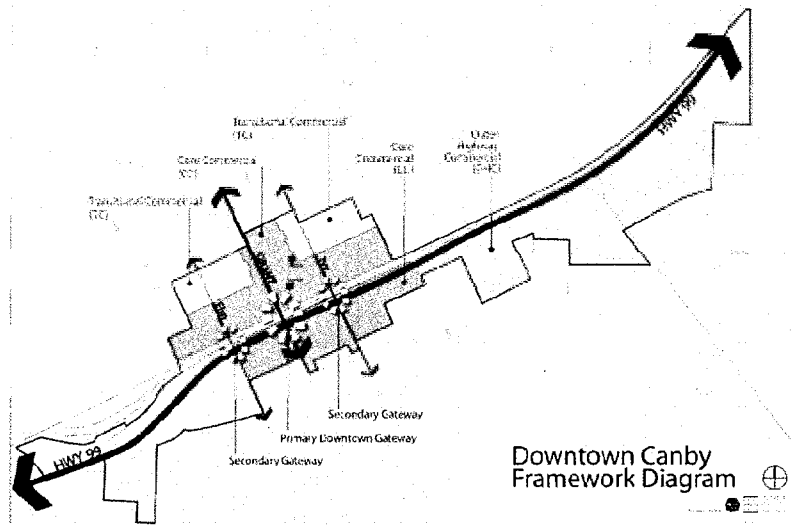
The purpose of the Downtown Canby Overlay (DCO) zone is to:

- 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.



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

Per your request, we have reviewed the transportation impact analysis submitted for the proposed Fred Meyer Fuel Facility¹, including the supplemental on-site queuing analysis², to determine if the study provided adequate information to comply with the required transportation impact study scope³. 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

¹ Fred Meyer Canby Fuel Facility Transportation Impact Analysis, Group Mackenzie, May 17, 2012

² Fred Meyer Canby Fuel Facility On-Site Queuing Review, Group Mackenzie, July 6, 2012

³ Canby Fred Meyer Fuel Station Transportation Impact Study Scope, DKS Associates, March 29, 2012.

RECEIVED

JUL 17 2012

CITY OF CANBY



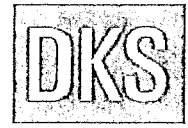
provided to S Locust Street). Therefore, access to OR 99E appears to be a reasonable alternative if adequate safety can be provided and if ODOT will permit the access.

- 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 queuing 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 queuing 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 queuing 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 Plan⁴, 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.

⁴ Canby OR 99E Corridor and Gateway Design Plan, June 2012.

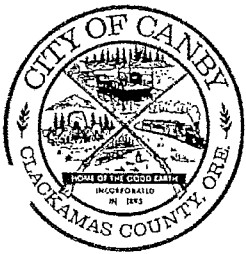


- The proposed site plan includes an access to OR 99E that is shared with the property to the west. Our understanding is that ODOT has reviewed and will support this configuration, as it reduces the number of direct access points onto OR 99E. This finding should be confirmed in writing with ODOT.

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.

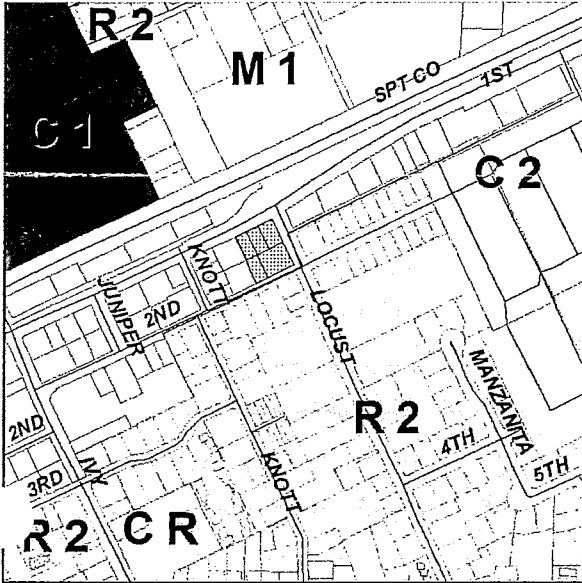


City of Canby

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.)

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:

Bas
Please allow the station
It's about time in your riding 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: 283 NE 10th Ave Canby

PHONE # (optional): _____

DATE: 7/11/12

Thank you!

TEXT AMENDMENT APPLICATION

FEE \$2,880
PROCESS TYPE IV

OWNERS

APPLICANT**

Name Oliver & Lang, L.L.C. 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

Phone 801-521-8529 Fax 801-521-9551

E-mail ryan@oliverinsurance.net

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

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

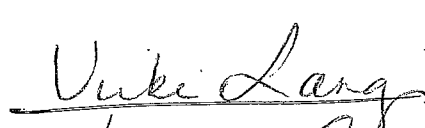
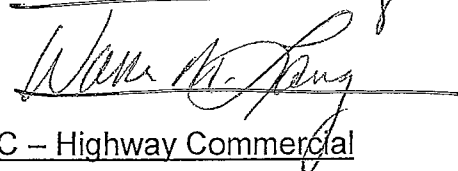
Proposed Use: Gasoline Distribution Facility

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

Phone 801-521-8529 Fax 801-521-9551

E-mail ryan@oliverinsurance.net

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

- | | | | |
|---|---|------------------------------------|------------------------------|
| <input checked="" type="checkbox"/> Owner | <input checked="" type="checkbox"/> Email | <input type="checkbox"/> US Postal | <input type="checkbox"/> Fax |
| <input checked="" type="checkbox"/> Applicant | <input checked="" type="checkbox"/> Email | <input type="checkbox"/> US Postal | <input type="checkbox"/> 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 1st Avenue and 354 & 392 SE 2nd Avenue

ax Map 3S1E33DC Tax Lot(s) 00100, 00200, 00300, 02200 & 02300 Lot Size 32,466 Sq Ft (0.75 acre)

Existing Use Vacant Land

X

Vicki Lang

Proposed Use Gasoline Distribution Facility

X

Walter Mc Lang

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

E. Wayne Oliver

Its:

President

E. Wayne Oliver

E. Wayne Oliver

X

Debbie Lang

X

Warren M. Lang



City of Canby
 Planning Department
 170 N. 2nd 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 22nd Avenue Fax Number: 503-797-3539
 City/State: Portland, Oregon ; 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 Lane LLC Daytime Phone: 503-266-2715
 Signature: E Wayne Oliver
 Mailing Address: 101 N. Toy St. Fax Number: 503-266-2715
 City/State: Canby Or. ; _____ Email: wayne@oliverinsurance.net

Property Owner Name: E Wayne Oliver Daytime Phone: 503-266-2715
 Signature: E Wayne Oliver
 Mailing Address: 101 N. Toy St. Fax Number: 503-266-2715
 City/State: Canby Or. 97002 ; _____ Email: wayne@oliverinsurance.net

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

- Ⓢ 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.
- Ⓢ 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.
- Ⓢ 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:

<u>351, 369 & 391 SE 1st Ave.; 354 & 392 SE 2nd Ave.</u>	<u>32,466 s.f.</u>	<u>3S1E33DC00100, 00200, 00300, 02200 and 02300</u>
(Street Address or Location of Subject Property)	(Total Size of Property)	(Assessor Tax Lot Numbers)
<u>Vacant Land</u>	<u>C2</u>	<u>HC - Highway Commercial</u>
(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 Debbie Lang
 X Walter M. Lang



900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
main 503.224.3380
fax 503.220.2480
www.stoel.com

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 adequately 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 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 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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Page 6

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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- o 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 2nd 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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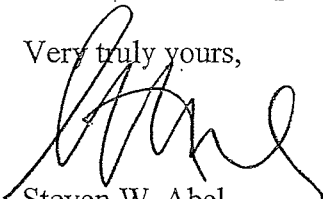
American Disability Act ("ADA") requirements stipulate that if the site has between one and 25 parking stalls, one ADA parking space is required. The site plan properly shows two stalls provided (one being ADA). See Attachment 4, Sheet C1.1 Preliminary Site Plan. The parking requirements in CMC 16.10 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

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 ~~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

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.

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.



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.

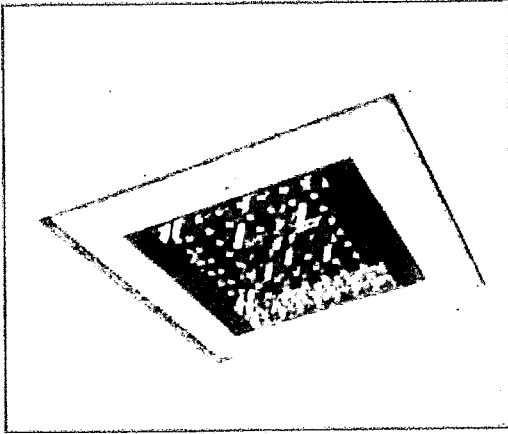
Sincerely,

Loretta Kieffer, District Access Management Coordinator
ODOT District 2B, Maintenance Office

CANDOPY - 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

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



IP67

RoHS



Project Name _____ Fixture Type _____

Catalog # _____

CANOPY - A



LED AMBIENT CANOPY LIGHT (CRS)

LUMINAIRE ORDERING INFORMATION

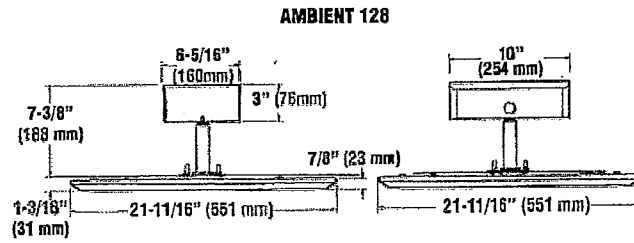
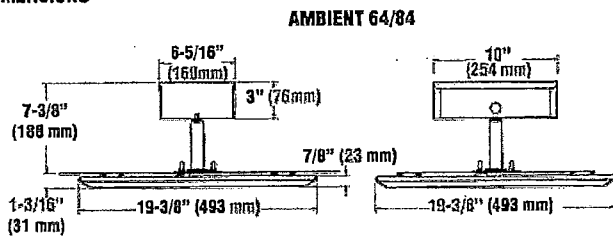
TYPICAL ORDER EXAMPLE: **CRS SC LED 64 SS CW UE WHT**

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 ¹ IPC - Integral Photocell ¹

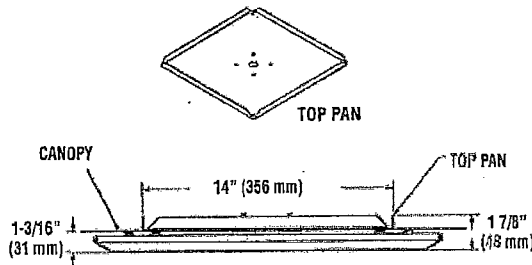
Note:
1- Consult Factory

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) ¹	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	¹ Consists of (25) 7/8" hole plugs and (1) 10.3 oz tube of RTV	

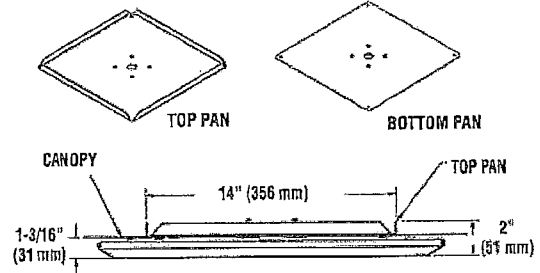
DIMENSIONS



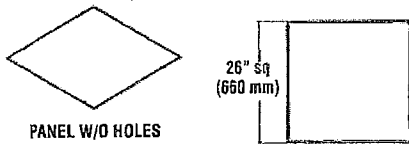
16" DECK RETROFIT PANEL - SC (#430951)



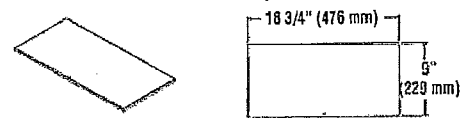
16" DECK RETROFIT PANELS - EC/ECTA/SCF (#430765)



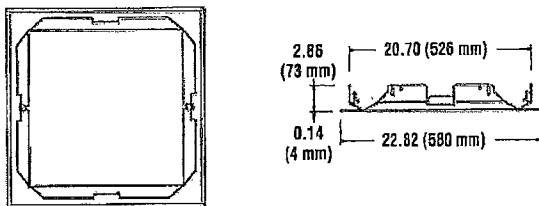
2X2 COVER PANEL BLANK (357282)



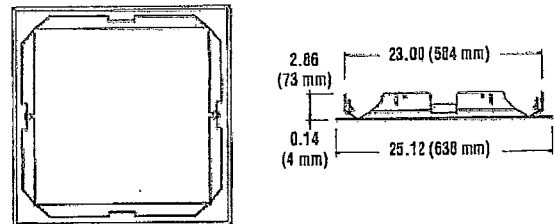
RIC COVER PANEL (354702)



CFKS 64/84 FLANGE KIT (501533)



CFKL 128 FLANGE KIT (501647)



Project Name _____ Fixture Type _____

Catalog # _____

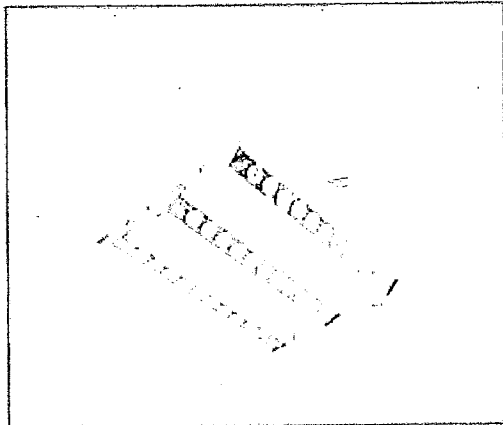
07/26/12

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LSI INDUSTRIES INC

CANOPY-B

Crossover

GENERATION 3 LED FOCUS CANOPY LIGHT (CR03)



US patents D590100 & D574995 & 7820456 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

LIGHT OUTPUT - CR03	
Distribution	Lumens (Nominal)
Type FO	1000 (for each of 3 banks - total 3000)
Input Power of 40 watts	



Suitable for wet locations

IP67

RoHS



07/28/11

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LSI INDUSTRIES INC.

Project Name _____ Fixture Type _____

Catalog # _____



CANOPY - B



GENERATION 3 LED FOCUS CANOPY LIGHT (CRO3)

LUMINAIRE ORDERING INFORMATION

TYPICAL ORDER EXAMPLE: **CRO3 FO LED 30 350 CW UE WHT**

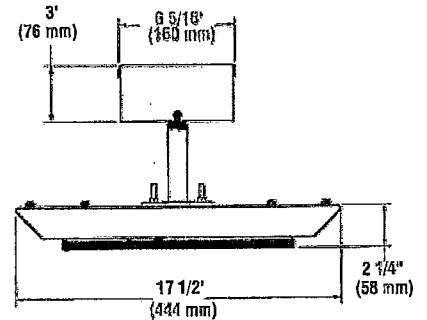
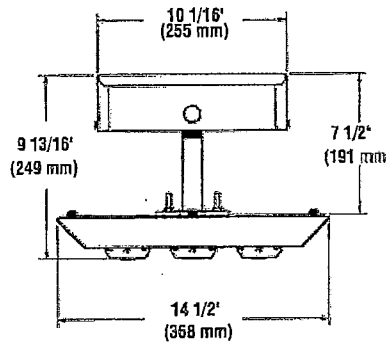
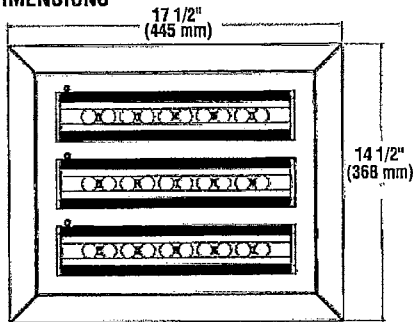
Prefix	Distribution	Light Source	# of LEDs	Drive Current	Color Temperature	Input Voltage	Finish
CRO3	FO - Focus	LED	30	350 - 350 mA	CW - Cool White (5000° K nom)	UE - Universal Voltage (120-277V AC)	WHT - White

ACCESSORY ORDERING INFORMATION (Accessories are field installed)

Description	Order Number	Description	Order Number
Retrofit Panel - SC to CRO3, for 16" Deck Panel	430951	Retrofit 2x2 Cover Panel Blank (no holes)	357282
Retrofit Panel - EC / ECTA / SCF to CRO3, for 16" Deck Panel	430765	Retrofit RIC Cover Panel Blank (no holes)	354702
Retrofit Panel - SC to CRO3, for 12" Deck Panel	430797	Kit - Hole Plugs and Silicone (enough for 25 retrofits) ¹	1320540
Retrofit Panel - ECTA / SCF to CRO3, for 12" Deck Panel	430759	¹ Consists of (25) 7/8" hole plugs and (1) 10.3 oz tube of RTV	
Retrofit 2x2 Cover Panel (w/ centered hole pattern for CRO3)	430966		

Superkits® are available to retrofit CRO3 Ambient and Focus fixtures into a wide variety of existing 2x2 and recessed housings. See separate spec sheets.

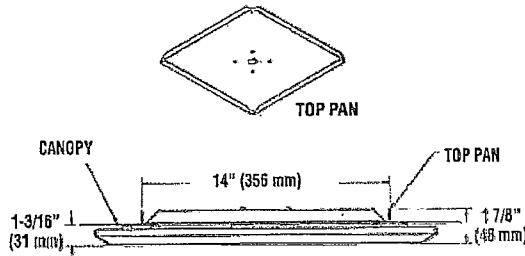
DIMENSIONS



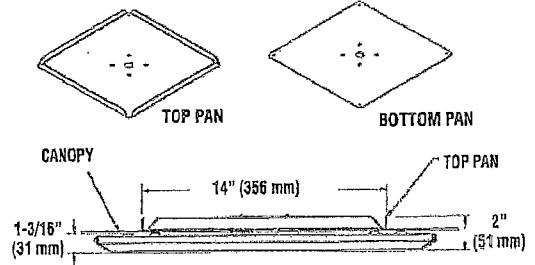
SHIPPING WEIGHTS

12.2 lbs.	1 fixture
53.3 lbs.	4 fixtures

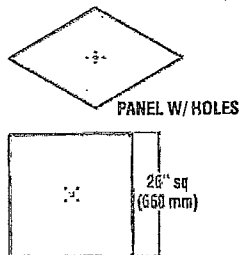
16" DECK RETROFIT PANEL - SC (#430951)



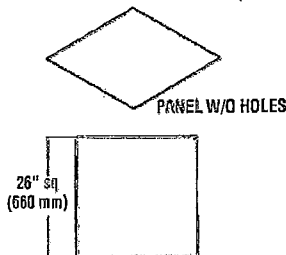
16" DECK RETROFIT PANELS - EC/ECTA/SCF (#430765)



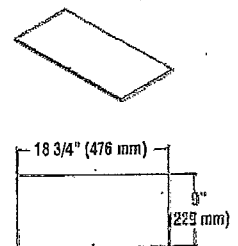
2X2 COVER PANEL W/ HOLES (430966)



2X2 COVER PANEL BLANK (357282)



RIC COVER PANEL (354702)



07/28/11

Project Name _____

Fixture Type _____

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Catalog # _____



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 1st 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 24th 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

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 1st Avenue (Highway 99) and SE 2nd 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

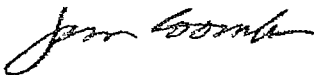
Location: Hope Village Community Center
Address: 1535 S. Ivy St. Canby, OR 97013

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.

MEMORANDUM



TO: *Planning Commission*

RE: *Request for a Minor Modification (MOD 12-03) of Condition #6 of the Final Order for (DR 08-02/CUP 08-01)*

FROM: *Bryan Brown, Planning Director*

DATE: *September 14, 2012 (For the 9.24.12 Planning Commission Mtg.)*

City of Canby planning staff received a request from the immediate neighbors surrounding Canby Utility's water reservoir undergoing refurbishment at 440 SW 13th Avenue to amend or modify Condition #6 of the previously approved Site and Design Review and Conditional Use Permit (DR 08/CUP 08-01). They are requesting through our contact with Mrs. Holt, that the color of the water tank that was to match that used on the adjacent completed new reservoir be altered to a lighter pastel type color.

Since the original color provision was decided upon by the Planning Commission at a public hearing with findings noted in the Final Order, this request has been placed upon the September 24, 2012 Planning Commission agenda as a new business item to receive direction from the Planning Commission on this matter. Staff determined that this request meets the "minor modification" criteria set forth in Section 16.89.090 of Canby's Municipal Code. During the processing of this request, the requestor(s) indicated, and it was obvious, that they had been in contact with Canby Utility about this request and were instructed by them to seek out any possible color change through the Planning Commission. They indicated that any decision to change from the planned color, which was to match that of the newly constructed reservoir, was needed quickly to allow ordering of the paint so the project could remain on schedule.

Staff agreed to process this request in an informal manner, similar to other Type I minor modification applications which do not usually require any notification. However, we discussed with the immediate neighborhood resident representative that we felt it was important that they reach out to let others that may be directly impacted by a color change know that this request would be discussed for possible modification at this Planning Commission meeting. You may wish to ask the "requestors" about their efforts to meet with and gain consensus on a suggested new color. We also asked that the immediate neighbors arrive at a "suggested" new color prior to share with the Planning Commission that you could respond to and that they provide a narrative that we could send to you prior to the meeting explaining the primary reason for their request for a different color than that utilized on the adjacent new reservoir.

New exterior paint was a planned part of completing the seismic and operational

upgrades to the Utilities older existing 2.0 million gallon concrete reservoir. The work also included installation of a 3 sided concrete masonry unit wall enclosure around a new 300kW emergency generator, relocated trees and shrubs, and 10'wide gravel drive extension to access the emergency generator. Staff approved these modifications administratively early this year. Design Review DR 08-02/CUP 08-01 approved the plans for construction of the brand new water reservoir.

The Planning Commission should consider the merits of this request and weigh if there is sufficient reason to modify the planned exterior paint color to provide a more pleasing and compatible appearance to those home owners most directly impacted. A possible lighter blue color was suggested by phone as providing some continuity with the adjacent darker Cobalt – Blue on the new tank, while satisfying concern over an overly dark and dreary appearance this color presents to some.

Attachments to this memorandum include: the DR 08-02/CUP 08-01 Final Order containing Condition #6 about the originally required color for the water reservoirs and the staff report which contains several statements which have been highlighted about the original color determination.



STAFF REPORT

APPLICANT:

Gary Spanovich, AICP
P.O. Box 1067
Canby, OR 97013

FILE NO.:

CUP 08-01 / DR 08-02

OWNER:

City of Canby
P.O. Box 930
Canby, OR 97013

STAFF:

Melissa Hardy
Associate Planner

LEGAL DESCRIPTION:

Clackamas County Assessor Map
and Tax Lot Number 41E04BD-07800

DATE OF REPORT:

July 21, 2008

LOCATION:

440 S.W. 13th Avenue, west of S. Fir Street

DATE OF HEARING:

July 28, 2008

COMP. PLAN DESIGNATION:

Public (P)

ZONING DESIGNATION:

Low Density Residential (R-1)

I. APPLICANT'S REQUEST:

The applicant is proposing to construct a 2 million gallon above-ground water storage tank on a 1.9 acre property.

II. APPLICABLE REGULATIONS:

Canby Municipal Code (CMC) Title 16:

- 16.08 General Provisions
- 16.10 Off-Street Parking and Loading
- 16.16 R-1 Low Density Residential Zone
- 16.42 Signs
- 16.46 Access Limitations on Project Density
- 16.49 Site and Design Review
- 16.50 Conditional Uses
- 16.88 General Standards and Procedures
- 16.89 Application and Review Procedures
- 16.120 General Provision

III. SUMMARY OF PROPOSAL:

Development – The Canby Utility Board wishes to add a second 2 million gallon above-ground water storage tank to a 1.9 acre site where an existing 2 million gallon above-ground water storage tank and a pump house are already located.

Location and Existing Conditions – The project site is located at 440 S.W. 13th Avenue, west of S. Fir Street on the north side of S.W. 13th Avenue (*see Exhibit A – Vicinity Map*). The property is zoned Low Density Residential (R-1), and is surrounded on the north, west, and east by properties that are also zoned R-1 and developed with single-family dwellings. Properties to the south of the subject property, on the other side of S.W. 13th Avenue, are zoned Low Density Residential (R-1) and Medium Density Residential (R-1.5) and are developed with single-family dwellings, duplexes, and manufactured dwellings. (*see Exhibit B – Zoning*)

There do not appear to be any mapped flood hazard areas on the subject property according to Federal Emergency Management Agency (FEMA) flood insurance rate maps. Vegetation on site consists of a variety of ornamental landscape plants and deciduous and evergreen trees (*see Exhibit C – Site Photos*). The Existing Conditions Tree and Shrub Removal Plan provided by the applicant indicates that there are 28 existing trees on the site, and that the applicant is planning to remove 17 of those trees to make room for the new construction and new landscaping (*see Exhibit D – Applicant's Site Plans*).

Land Use Permit Requirement – Conditional Use Permit approval is required prior to construction per CMC 16.16.020.G. Site and Design Review approval is also required prior to construction per CMC 16.49.030. The existing structures were constructed in 1982. A conditional use permit was issued by the City for the existing development on the site (*see Exhibit G - CUP 81-0.05*). However, no design review approval was issued by the City for the existing development because the construction occurred prior to the adoption of the site and design review ordinance.

IV. CONDITIONAL USE PERMIT ANALYSIS:

CMC Section 16.50.010 sets forth the approval criteria which the Planning Commission must use to judge whether or not a Conditional Use Permit application shall be approved or denied. The Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria A based on the following:*

Oregon Revised Statutes (ORS) Section 197.195(1) provides that consistency with the comprehensive plan shall be achieved by incorporating all plan standards into land use regulations. Therefore, the application is deemed consistent with the policies of the Comprehensive Plan because it meets all applicable requirements of Canby's land use regulations (Title 16) as follows:

General Provisions (CMC Chapter 16.08) – As proposed, the development meets CMC Chapter 16.08 standards as follows.

The development proposal involves property which is considered a lot of record for development purposes. The property is not considered substandard, as described in CMC 16.08.080.

Pursuant to CMC 16.08.090, the Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. 13th Avenue abutting the subject property is currently designated as an arterial street in the Canby Transportation System Plan (TSP). According to the City Engineer, the right-of-way abutting the property is of sufficient width to meet the TSP adequacy standard and the street improvements also meet the TSP adequacy standard. Therefore, no right-of-way dedication or street improvements are required at this time. The vehicular access to the property does need to be brought up to meet code standards, and that issue is addressed on page 4 of this staff report in the discussion on access.

A water tank, as is proposed by the applicant, is exempt from building height limitations per CMC 16.08.100. Therefore, the building height limitation of 35 feet in the R-1 zoning district chapter does not apply to the proposed water tank. An appropriate maximum height allowance for the water tank is instead established by the Planning Commission through the conditional use permit review process, and is addressed under Criteria B of this section.

Pursuant to CMC 16.08.110, the Planning Commission may require site-blocking or noise-mitigating fencing up to eight feet in height for any development it reviews. There is an existing approximately six-foot-high chain link fence currently surrounding the property (*see Exhibit C for photo of existing fence*). The abutting properties surrounding the site are developed with dwellings, and are therefore considered to be occupied by a “noise sensitive land use” as defined by CMC Chapter 9.48. The applicant has not proposed to replace the existing fence with any type of site-blocking or noise-mitigating fencing, and the proposed development of a second above-ground water storage tank on the property is not anticipated to result in any increase in noise generated in the long term (exclusive of short-term construction related noise). Therefore, noise-mitigating fencing is not required. The applicant has not proposed any outdoor storage or other unenclosed area that would be considered unsightly. Therefore, site-blocking fencing is not required.

Analysis – MEETS all requirements of CMC Chapter 16.08.

Off-Street Parking and Loading (CMC Chapter 16.10) – There are no vehicular parking space, loading area, or bicycle parking space requirements listed in the CMC Chapter 16.10 parking and loading standards for a water tank. Parking and loading requirements for structures not specifically listed are determined by the City Planner per CMC 16.10.030.B. There are no permanent on-site employees associated with the proposed operation of a second water tank on the property. It is anticipated that the only visitors to the site will continue to be maintenance personnel who visit the site occasionally to perform repairs or maintenance. There is an existing gravel driveway on the site to accommodate the occasional maintenance truck traffic. Therefore, other than the existing gravel driveway, no vehicle parking spaces, commercial loading area, or bicycle parking spaces shall be required of the development.

Analysis – MEETS all requirements of CMC Chapter 16.10.

R-1 Low Density Residential Zone (CMC Chapter 16.16) – As proposed, the development meets CMC Chapter 16.16 standards as follows. The water tank is proposed to be located 30 feet from the property line abutting the street, 20 feet from the east property line, 42 feet from the west property line, and more than 140 feet from the rear property line (*see Exhibit D for Applicant's Site Plans*), all of which meet the minimum setback requirements. The 35-foot R-1 building height limitation does not apply to water tanks. There is no maximum lot coverage limitation. And the proposed tank is located well outside of the 10-foot vision clearance triangle required where the driveway meets the City street.

Analysis – MEETS all requirements of CMC Chapter 16.16.

Signs (CMC Chapter 16.42) – The development proposal does not include construction of any outdoor signage.

Analysis – MEETS all requirements of CMC Chapter 16.42.

Access Limitations (CMC Chapter 16.46) – The development proposal does not include construction of any new vehicular accesses. There are currently two vehicular accesses constructed along the 13th Avenue frontage, one near the west edge of the property and one near the east edge of the property, located within 200 feet of each other. Canby's access management guidelines require that vehicular accesses onto an arterial street be located no closer together than 300 feet. The westerly access is currently used by the property owner for access to the site, and it appears that the easterly access is not currently used by the property owner (*see Exhibit C for photos of both driveways*). The property must be brought up to current access code requirements at the time of the proposed development. Therefore, approval of the Conditional Use Permit shall be conditioned upon the property owner removing the easterly vehicular access and repairing the curb, gutter, and sidewalk in that location to the City's street construction standards. Approval of the Conditional Use Permit shall also be conditioned upon the property owner bringing the westerly vehicular access up to the City's ADA Approved Commercial Entrance standards.

Analysis – MEETS WITH CONDITIONS all requirements of CMC Chapter 16.46.

Conditions of Approval required to meet approval criteria:

- The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. (*condition #11*)
- The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. (*condition #12*)

Site and Design Review (CMC Chapter 16.49) – Conformance with Site and Design Review standards is addressed in this staff report under Heading V.

Analysis – See Heading V for analysis of conformance with CMC Chapter 16.49.

Conditional Uses (CMC Chapter 16.50) – The proposed development requires Conditional Use Permit approval prior to construction. The applicant has applied for Conditional Use Permit approval in conformance with CMC Chapter 16.50.

Analysis – MEETS all requirements of CMC Chapter 16.50.

Application and Review Procedures (CMC Chapter 16.89) – The proposed development requires Conditional Use Permit approval and Site and Design Review approval prior to construction. The Planning Commission reviews both of these applications as a Type III process, which requires that a public hearing be held before the Planning Commission makes its decision to approve, approve with conditions, or deny the applications. The public hearing for each of these applications may be held concurrently. The applicant held a pre-application meeting with city staff on January 15, 2008. The applicant held a neighborhood meeting concerning the application on May 01, 2008. Public notice in conformance with CMC 16.89.050 was provided for the public hearing.

Analysis – MEETS all requirements of CMC Chapter 16.89.

General Provision (CMC Chapter 16.120) – When residential, commercial, and industrial development occurs, the City requires land dedication or payment of a system development Charge (SDC) in lieu of land dedication in order to provide for park, open space and recreation sites to serve existing and future residents and employees. Canby Utility District's proposed construction of a water tank does not trigger any park system requirements.

Analysis – Requirements of CMC Chapter 16.120 are NOT APPLICABLE.

B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria B based on the following:*

The property on which the development is proposed is 1.9 acres in size (lot is approximately 214 feet wide by 386 feet deep), and is surrounded by residential development. The topography on-site is nearly level. Existing development on the property consists of a 2 million gallon above-ground storage tank, a pump house, and a 6-foot-high chain link fence. The applicant proposes to add a second 2 million gallon above-ground storage tank to the site, which will be located between the existing tank and the front property line, and which the applicant states will be of roughly the same dimensions as the existing tank (*see Exhibit E – Applicant's Written Statements*). The proposed tank is approximately 49 feet and two inches in height according to the applicant's elevation sheet (*see Exhibit D – Applicant's Site Plans*), and 120 feet in diameter (11,309.7 square feet in area). The applicant originally indicated an intent to replace the existing fence on-site, but then decided to retain the existing fence. The applicant is also proposing to remove a majority of the existing landscaping on the property and replace it with new landscaping as proposed in the submitted landscape sheets (*see Exhibit D – Applicant's Site Plans*). With the addition of the additional tank, the total built area on site will be approximately 38,500 square feet (just less than half of the area of the property). The remaining roughly half of the property area will be landscaping (40,200 square feet of landscaping is proposed) and a gravel driveway. At just over 49 feet in height, the proposed water tank exceeds the 35-foot maximum building height allowance for other structures in the zoning district by about 14 feet. There is no building height limitation on water tanks, except for discretionary limits placed on the development through the

discretionary conditional use review process. Because the applicant has submitted a variety of other possible tank options (*see Exhibit F – Applicant’s Proposed Tank Options*) that appear to be taller than that shown on the applicant’s elevation sheet (*see Exhibit D – Applicant’s Site Plans*), and because the property is completely surrounded by residential development, a condition of approval is recommended to limit the height of the tank to less than 50 feet. The applicant has also indicated in the submittals that there are a number of color choices available for the water tank, but has not stated which color they plan to choose. Therefore, a condition of approval is recommended to limit the color of the water tank to one of the darker more subdued colors in order that the tank fit in better with its surroundings. These limitations will provide the applicant with the ability to construct the required tank, but will also limit the applicant’s options of constructing a significantly taller version of the tank, and will limit the color choices, thereby minimizing the impact to the surrounding neighborhood as much as possible, and ensuring that the tank is suitable for the characteristics of the site.

The proposed addition of a second 2 million gallon above-ground tank to the property means that there will now be a potential for release of 4 million gallons of water in the unlikely event of a catastrophic failure of both tanks. Because the site is relatively small (214 feet by 386 feet), is relatively level, and is surrounded by residential neighbors, an emergency water containment system shall be put in place to handle a release of 4 million gallons and keep such waters from flooding neighboring properties. This will insure that the characteristics of the site are suitable for the proposed water tank.

The issues of limiting the height of the structure and having a system in place to contain and deal with 4 million gallons of water in case of a catastrophic failure of the tanks are both adequately addressed with conditions of approval, and the characteristics of the site are suitable for the proposed tank.

Conditions of Approval required to meet approval criteria:

- The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank. (*condition #5*)
- The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood. (*condition #6*)
- Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, to handle a release of 4 million gallons of water and keep such waters from flooding neighboring properties. The emergency water containment plan is subject to the approval of the Canby Public Works Director, and all appropriate permits related to the construction and operation of the emergency water containment plan shall be obtained by the applicant. After the plan is approved by the Public Works Director and all required permits are obtained, the emergency water containment system detailed in the plan shall be installed prior to issuance of any occupancy permit. (*condition #8*)

C. All required public facilities and services exist to adequately meet the needs of the proposed development. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria C based on the following:*

The proposed development has been reviewed by City of Canby Public Works, Canby City Engineer, Canby Utility, Canby Disposal, Canby Police Department, and Canby Telcom. Service provider comments are attached (*see Exhibit I*) which indicate that all required public facilities and services exist, or exist with conditions of approval, to adequately meet the needs of the proposed development. Comments are summarized as follows:

Canby Public Works:

- If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer.
- Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required.
- Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer.
- Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
- All City Erosion and Sediment Control permits must be obtained from Public Works prior to disturbing soil at the site.
- Minimize drainage to public right-of-way and street.
- Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure.
- Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant.
- Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities.
- Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase.
- Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval.
- If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City.
- Remove the driveway entrance on the east end of the sidewalk on 13th Avenue and replace with curb and sidewalk.
- Replace the existing non-handicapped approved entrance on west side of the property adjoining 13th Avenue with an ADA approved commercial entrance.

Canby City Engineer:

- Any impact on the existing curbs, sidewalks and driveways resulting from the construction of the new storage tank should be repaired to the existing condition or better, or to the satisfaction of the City.

City Utility:

- Adequate public services are available.

Canby Disposal:

- Adequate public services are available.

Canby Police:

- Adequate public services are available.

Canby Telcom:

- Adequate public services will become available through the development.

Conditions of Approval required to meet approval criteria:

- For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer. *(condition #9)*
- For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable. *(condition #10)*
- The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. *(condition #11)*
- The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. *(condition #12)*

D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria D based on the following:

Neighboring properties that abut the project site to the north, east, and west are zoned R-1 and are developed with residential dwellings. There is no evidence that the proposed construction of the additional water storage tank will alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the R-1 zone.

V. SITE AND DESIGN REVIEW ANALYSIS:

CMC Section 16.49.040 sets forth the approval criteria which the Planning Commission must use to determine whether or not a Site and Design Review application shall be approved or denied. The Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

- 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. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.A based on the following:**

The application, as proposed and with conditions of approval, is in compliance with Criteria 1A based on the Criteria A findings detailed on pages 2 through 5 of this staff report under Heading IV concerning Conditional Use Permit approval, and also based on the following additional findings concerning site and design review standards in CMC Chapter 16.49.

Site and Design Review (CMC Chapter 16.49) – Conformance with the applicable design review matrix (Table 16.49.040) is detailed below in the discussions involving Criteria 1B, Criteria 1C, and Criteria 1D.

CMC 16.49.065 bicycle and pedestrian facilities standards shall not apply to the proposed development because there is no public access to the facility, and maintenance crew personnel who visit the site periodically do not do so by bicycle or on foot. Therefore, there is no need for bicycle or pedestrian connectivity to or from the subject property.

CMC 16.49 standards for landscaping are met by the proposal (*see Exhibits D and E for Applicant's Site Plans and Statements*). A minimum of 30 percent of the site is required to be landscaped. The proposal includes provisions for 48.6 percent of the site to be landscaped, which exceeds the minimum requirement. There is no parking lot onsite. Therefore, the parking lot landscaping standards do not apply to this proposed development. To ensure conformance with all CMC 16.49 landscaping standards, approval shall include a condition that a landscape plan in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this application, and in conformance with all CMC 16.49 standards, be submitted at the time of building permit application.

Condition of Approval required to meet approval criteria:

- At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards. All approved landscaping shall be installed prior to issuance of a final occupancy permit. *(condition #3)*

B. The proposed design of the development is compatible with the design of other developments in the same general vicinity. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.B based on the following:*

The proposed design of the development is considered to be compatible with the design of other developments in the same general vicinity because the application, as detailed below under Criteria 1D, has achieved a minimum acceptable score on the applicable Site and Design Review matrix.

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. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.C based on the following:*

The location, design, size, color and materials of the exterior of all structures and signs are considered compatible with the proposed development and appropriate to the design character of other structures in the same vicinity because the application, as detailed below under Criteria 1D, has achieved a minimum acceptable score on the applicable Site and Design Review matrix.

D. The Board shall, in making its determination of compliance with subsections B and C above, use the following matrix to determine “compatibility”. An application is considered to be “compatible”, in regards to subsections B and C above, if a minimum of 65% of the total possible number of points (not including bonuses) are accumulated for the whole development. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.D based on the following design matrix analysis:*

TABLE 16.49.040

CRITERIA	SCORE ACHIEVED
Parking	
Screening of loading facilities from public ROW: not screened = 0; partially screened = 1; full screening = 2.	
Analysis: No new loading facilities are proposed; therefore this benchmark is not applicable.	NA
Landscaping (breaking up of expanse of asphalt).	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA

Parking lot lighting: No = 0; Yes = 1.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
Location (behind the building is best): front = 0; side = 1; behind = 2.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
Number of parking spaces (% of min) x=120%; x=100%-120%; x=100%.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
NA Points	

Traffic	
Distance of access to intersection: x<70'; x=70'-100'; x>100'.	
Analysis: No new accesses proposed; therefore this benchmark is not applicable.	NA
Access drive width (% of minimum): x<120% or x>150%; x=120%-150%.	
Analysis: No new accesses proposed; therefore this benchmark is not applicable.	NA
Pedestrian access from public sidewalk to building: 1 entrance connected = 0; all entrances connected = 2.	
Analysis: No public access to property; therefore this benchmark is not applicable.	NA
Pedestrian access from parking lot to building: No walkways = 0; Walkway next to building = 1; no more than one undesignated crossing of access drive and no need to traverse length of access drive = 2.	
Analysis: No parking lot; therefore this benchmark is not applicable.	NA
NA Points	

Tree Retention	
For trees outside of the building footprint and parking/access areas (3 or more trees): No arborist report = 0; follows <50% of arborist recommendation = 1; follows 50%-75% of arborist report = 3.	
Analysis: The trees that are removed appear to have been specifically in the project site area; no other trees proposed for removal; therefore this benchmark is not applicable.	NA
Replacement of trees removed that were recommended for retention: x<50% = 0; x>50% = 1.	
Analysis: No trees were recommended for retention, therefore this benchmark is not applicable.	NA
NA Points	

Signs	
Dimensional size of sign (% of maximum permitted): x>75% = 0; x=50%-75% = 1; x<50% = 2.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Similarity of sign color to building color: No=0; Some=1; Yes=2.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Pole sign: Yes=0; No=1.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Location of sign: x>25' from driveway entrance = 0; within 25' of entrance = 1.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
NA points	

Building Appearance	
Style (architecture): not similar = 0; similar to surrounding = 1 or 2.	
Analysis: The proposed water tank is similar to the existing tank onsite, and therefore a score of 2 is awarded.	2

Color (subdued and similar is better): Neither = 0; similar or subdued = 1; similar and subdued = 2.	
Analysis: Applicant has provided color options for the new tank, which are not similar to the existing tank, but some of which are subdued and dark (<i>see applicant's tank options in Exhibit F</i>). Approval shall be conditioned upon the color of the tank being one of the dark and subdued colors, such as cobalt blue or forest green, and therefore a score of 1 is awarded for subdued and similar colors.	1
Material: concrete or wood or brick is better.	
Analysis: No building is proposed; therefore this benchmark is not applicable.	NA
Size (smaller is better): over 20,000 sq ft = 0; under 20,000 sq ft = 1.	
Analysis: The footprint of the tank is less than 20,000 square feet, and therefore a score of 1 is awarded.	1

4 points out of 5 possible

Types of Landscaping	
# of non-required trees: $x < 1$ per 500 sq ft of landscaping = 0; 10 or more per 500 sq ft of landscaping = 1.	
Analysis: 76 trees are proposed in an area of landscaping 40,200 square feet in size, all of which are non-required, which is 0.94 tree per 500 sq. ft of landscaping, and therefore a score of 0 is awarded.	0
Amount of grass: $< 25\% = 0$; $25\% - 50\% = 1$; $x > 50\% = 2$.	
Analysis: No grass is proposed in the landscaping, and therefore a score of 0 is awarded.	0
Location of shrubs: foreground = 0; background = 1.	
Analysis: Shrubs are located in the foreground (identified as zone B on the preliminary landscape plan), and therefore a score of 0 is awarded.	0
Automatic irrigation: No = 0; Yes = 4.	
Analysis: No automatic irrigation is proposed on the preliminary landscape plan, and therefore a score of 0 if awarded.	0

0 points out of 8 possible

Bonus Points	
2 or more trees at least 3" in caliper.	
Analysis: More than 2 trees are proposed at a size greater than 3" in caliper, therefore 1 bonus point is awarded.	1
Park/open space retention for public use.	
Analysis: No park/open space dedication is proposed.	0
Trash receptacle screening.	
Analysis: No outdoor trash receptacles are proposed; therefore this bonus is not applicable.	NA

TOTAL: 4 points out of 13 possible

As detailed in the above design matrix analysis, the "Parking", "Traffic", "Tree Retention", and "Signs" categories are not deemed applicable to the proposed development. The "Building Appearance" and "Types of Landscaping" categories are applicable to the proposed development. Out of 13 possible points in these two categories, the application as proposed only achieves a total of 4 points, which is less than the 65% required to meet the approval criteria. The application needs to achieve an additional 5 points to reach the minimum 65% score. Therefore, the following two conditions of approval are recommended in order that the application can achieve the additional required 5 points: (1) The existing water tank onsite shall be repainted to match the color of the new water tank, and (2) Automatic irrigation shall

be installed onsite. With these two conditions of approval, the application achieves the minimum 65% score and is in conformance with Criteria 1B, 1C, and 1D.

Condition of Approval required to meet Criteria 1B, 1C, and 1D:

- The existing water tank onsite shall be repainted to match the color of the new water tank within one year of the issuance of the building permit for the new tank. *(condition #7)*
- At the time of building permit application, the landscape plans shall include provisions for automatic irrigation. The automatic irrigation shall be installed prior to issuance of final occupancy permit. *(condition #4)*

E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.E based on the following:

The application, as proposed and with conditions of approval, is in compliance with Criteria 1E based on the Criteria C findings detailed on pages 6 through 8 of this staff report under Heading IV concerning Conditional Use Permit approval.

2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 2 based on the following:

The application, as proposed and with conditions of approval, is in compliance with Criteria 2 based on the Criteria C findings detailed on pages 6 through 8 of this staff report under Heading IV concerning Conditional Use Permit approval.

3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 3 based on the following:

The application does not involve development of any dwelling units, and there is no evidence that approval of the proposed development will affect availability or cost of any needed housing.

4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.32, 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. Staff recommends Planning Commission

find that the application, as proposed and with conditions of approval, is in compliance with Criteria 4 based on the following:

There are no existing street trees in the right-of-way abutting the subject property (*see Exhibit C – Site Photos*). Therefore this criteria concerning removal of street trees is not applicable to consideration of this application.

Additional Conditions to ensure that the public is protected from the potentially deleterious effects of the proposal, that the need for services created, increased or in part attributable to the proposal is fulfilled, and to further implementation of CMC requirements.

Staff recommends Planning Commission find that the following conditions protect the public from the potentially deleterious effects of the proposal, ensure that the need for services created, increased or in part attributable to the proposal is fulfilled, and further implementation of CMC requirements:

- Approval of this application is based on submitted application materials (a reduced copy of which are attached hereto as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR 08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. (*condition #1*)
- At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted. (*condition #2*)
- Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. The design, location, and planned installation of all roadway improvements and utilities including but not limited to water, electric, sanitary sewer, natural gas, telephone, storm water, cable television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed. (*condition #13*)
- Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire. (*condition #14*)

VI. PUBLIC INPUT RECEIVED:

Neighborhood Meeting – The applicant held a neighborhood meeting on May 01, 2008, and provided a copy of the notes from the meeting (*see Exhibit J – Applicant's Neighborhood Meeting Notes*).

Public Comments – Notice of the public hearing was mailed to all property owners and residents within 500 feet of the subject property, and three public comments were received as of the date this staff report was prepared (*see Exhibit K – Public Comments*).

- Commenter One: Inquired whether the water tank is earthquake proof.

- Commenter Two: Is supportive of additional water supply.
- Commenter Three: Is supportive of additional water supply.

VII. CONCLUSION:

Staff concludes that, with recommended conditions of approval, the application meets all criteria for Conditional Use Permit approval and for Site and Design Review approval. As detailed herein this staff report, including all attachments hereto, staff conclude the following:

- A. The proposal is consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.
 - 1A. The proposed development of the site is consistent with the applicable standards and requirements of the Canby Municipal Code and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - 1B. The proposed design of the development is compatible with the design of other development in the vicinity; and
 - 1C. The location, design, size, color, and materials of the exteriors of the structure is compatible with the proposed development and appropriate to the design character of other structures in the same vicinity; and
 - 1D. The proposal is deemed compatible given that the application achieves scores equal to or greater than the minimum acceptable points in the Design Review matrix; and
 - 1E. All required public facilities and services exist or can be made available to adequately meet the needs of the proposed development.
 2. Public utility and service providers have indicated that the existing proposal can be made to comply with applicable standards.
 3. The proposed development will have no impact on the availability or cost of housing.
 4. No street trees are being removed.

VIII. RECOMMENDATION:

Based upon the application materials received by the City, the facts, findings and conclusions of this report, and without the benefit of a public hearing, staff recommends that the Planning Commission APPROVE CUP 08-01 and DR 08-02 with the following conditions:

1. Approval of this application is based on submitted application materials (a reduced copy of which are attached hereto as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR 08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.

2. At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted.
3. At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards. All approved landscaping shall be installed prior to issuance of a final occupancy permit.
4. At the time of building permit application, the landscape plans shall include provisions for automatic irrigation. The automatic irrigation shall be installed prior to issuance of final occupancy permit.
5. The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank.
6. The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood.
7. The existing water tank onsite shall be repainted to match the color of the new water tank within one year of the issuance of the building permit for the new tank.
8. Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, to handle a release of 4 million gallons of water and keep such waters from flooding neighboring properties. The emergency water containment plan is subject to the approval of the Canby Public Works Director, and all appropriate permits related to the construction and operation of the emergency water containment plan shall be obtained by the applicant. After the plan is approved by the Public Works Director and all required permits are obtained, the emergency water containment system detailed in the plan shall be installed prior to issuance of any occupancy permit.
9. For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
10. For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a

direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable.

11. The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
12. The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
13. Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. The design, location, and planned installation of all roadway improvements and utilities including but not limited to water, electric, sanitary sewer, natural gas, telephone, storm water, cable television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed.
14. Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire.

Exhibits:

- A. Vicinity Map
- B. Zoning
- C. Site Photos
- D. Applicant's Site Plans
- E. Applicant's Written Statements
- F. Applicant's Proposed Tank Options
- G. Applicant's Geotechnical Report
- H. CUP 81-0.05
- I. Service Provider Comments
- J. Applicant's Neighborhood Meeting Notes
- K. Public Comments

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



**A REQUEST FOR A CONDITIONAL USE) FINDINGS, CONCLUSION & FINAL ORDER
PERMIT -AND- FOR SITE AND DESIGN) CUP 08-01
REVIEW APPROVAL TO CONSTRUCT) DR 08-02
A 2 MILLION GALLON ABOVE-GROUND
WATER STORAGE TANK**

NATURE OF APPLICATION

The City has received CUP 08-01, a Conditional Use Permit application, and DR 08-02, a Site and Design Review application, for construction of a second 2 million gallon above-ground water storage tank on a 1.9 acre property where an existing 2 million gallon above-ground water storage tank and a pump house are already located. The property is zoned R-1 (Low Density Residential).

CRITERIA AND STANDARDS

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

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

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

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:
 - 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 Board shall, in making its determination of compliance with subsections B and C above, use the following matrix to determine "compatibility." An application is considered to be "compatible," in regards to subsections B and C above, if a minimum of 65% of the total possible number of points (not including bonuses) are accumulated for the whole development. The Industrial Overlay design matrix relies on minimum acceptable points for each category rather than an overall percentage.
 - E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development.
2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.
3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.
4. As part of the Site and Design Review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.

FINDINGS AND REASONS

The Planning Commission, after holding a public hearing on July 28, 2008, and considering the July

21, 2008, staff report, deliberated and reached a decision approving with conditions the applicant's request for a Conditional Use Permit and for Site and Design Review approval. The Commission adopted the findings and conclusions contained in the July 21, 2008, staff report, with modifications as recorded in the record of the proceedings, as reflected in the written Order below.

CONCLUSION

The Planning Commission concludes that, with the application of certain conditions:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.
 - 1A. The proposed development of the site is consistent with the applicable standards and requirements of the Canby Municipal Code and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - 1B. The proposed design of the development is compatible with the design of other development in the vicinity; and
 - 1C. The location, design, size, and materials of the exteriors of structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity; and
 - 1D. The proposal is deemed compatible with the design review matrix because the development achieves 65 percent of the total possible number of points possible (9 out of 13) in all applicable categories in the matrix; and
 - 1E. All required public facilities and services exist or can be made available to adequately meet the needs of the proposed development.
2. Public utility and service providers have indicated that the existing proposal can be made to comply with applicable standards.
3. The proposed development will not increase the cost of housing in Canby.
4. The property owner is not removing any street trees.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that **CUP 08-01** and **DR 08-02** are approved, subject to the following conditions:

1. Approval of this application is based on submitted application materials (a reduced copy of which are attached to the staff report as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR

08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.

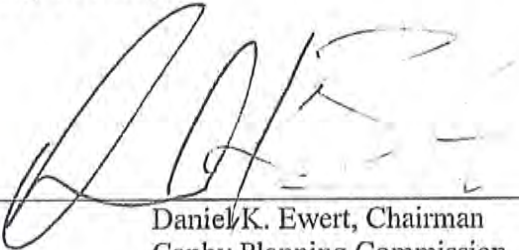
2. At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted.
3. At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards, and that includes vegetation on top of the perimeter berm. All approved landscaping shall be installed prior to issuance of a final occupancy permit.
4. At the time of building permit application, the landscape plans shall include provisions for an above-ground temporary automatic irrigation system. The automatic irrigation shall be installed prior to issuance of final occupancy permit, and shall be operated for a minimum of three years from the date of final occupancy permit.
5. The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank.
6. The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood.
7. The existing water tank onsite shall be repainted to match the color of the new water tank within two years of the issuance of the final occupancy permit for the new tank.
8. Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, that consists of a two to four foot high earthen berm along the north, east, and west perimeters of the property, and that is designed in the event of an emergency water release to keep such waters from flooding neighboring properties. All appropriate permits related to the construction of the berm shall be obtained by the applicant.
9. The berm shall be installed prior to issuance of any occupancy permit.
10. For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
11. For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer

requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable.

12. The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
13. The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
14. Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. The design, location, and planned installation of all roadway improvements and utilities including but not limited to water, electric, sanitary sewer, natural gas, telephone, storm water, cable television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed.
15. Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire.

I CERTIFY THAT THIS ORDER approving CUP 08-01 and DR 08-02 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 25th day of August 2008.



Daniel K. Ewert, Chairman
Canby Planning Commission



Melissa Hardy
Associate Planner

ATTEST:

ORAL DECISION – July 28, 2008

AYES: Ewert, Holte, Milne, Slagle, Taylor
NOES: None
ABSTAIN: None
ABSENT: None

WRITTEN DECISION – August 25, 2008

AYES: Ewert, Holte, Kocher, Milne
NOES: None
ABSTAIN: None
ABSENT: Slagle, Taylor

MINUTES
PLANNING COMMISSION

July 23, 2012

City Council Chambers – 155 NW 2nd Avenue

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

ABSENT: None

STAFF: Bryan Brown, Planning Director, Angie Lehnert, Associate Planner

OTHERS: Jake Tate, Lee Leighton, James S. Coombes, Brent Ahrend, Mike Connors, Dave Kimmel, and Ryan Oliver

1. CALL TO ORDER

Planning Commission Chair Dan Ewert called the meeting to order at 7:00 pm.

2. CITIZEN INPUT ON NON-AGENDA ITEMS: None

3. PUBLIC HEARING:

- a. Text Amendment to change a subarea boundary of Downtown Canby Overlay for a Fred Meyer fuel station 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**)
- b. Site and Design Review for a Fred Meyer fuel station 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**)

Associate Planner Angie Lehnert entered her staff report into the record regarding the request from the applicant to change a subarea boundary of the Downtown Canby Overlay from Core Commercial (CC) to Outer Highway Commercial (OHC) to accommodate a Fred Meyer Fuel Station at the southwest corner of Hwy 99E and South Locust Street.

Ms. Lehnert said staff recommended approval of the text amendment. She said the design issues can be addressed in the design review portion of the application.

There was discussion between the Commissioners and staff regarding a pedestrian crossing and pedestrian refuge island on 99E near South Locust Street.

APPLICANT:

Jim Coombes, Fred Meyers talked about the proposed Fred Meyer Fuel Station and how 70% of their stores now have fuel centers. He said they try to locate the fuel centers within about a half mile of the stores and this location seemed perfect. However, he said, during the pre-

application period, it was pointed out by staff that the location was just inside the Downtown Overlay Zone but the applicant could apply for a text amendment to bring the properties into the Outer Highway Commercial subarea of the Downtown Overlay Zone. Mr. Coombes introduced Lee Leighton, Westlake Consultant, Jake Tate, Great Basin engineer and Brent Ahrend, Group Mackenzie traffic consultant.

Mr. Leighton presented reasons for moving the overlay boundary about 300 feet to change the subarea boundary of the Downtown Canby Overlay Zone to accommodate the fuel station.

PROPOSERS:

Ryan Oliver said he was part of the group who put together the Downtown Overlay District design standards and the intent was not to exclude any type of businesses including service stations but to bring some uniformity to building designs. He also stated he is one of the property owners of the site proposed for the fuel station. Mr. Oliver explained the historical reasons why the Downtown boundary stretches to So. Locust St.

OPPOSERS:

Mike Connors, attorney for Hathaway, Koback and Connors and representative of a coalition of Canby businesses named "Save Downtown Canby" entered a letter into the record detailing the concerns of the group regarding the Fred Meyer's Text Amendment application.

Commissioner Smith asked if Mr. Connors was representing any gas stations in the Save Downtown Canby group and Mr. Connors responded yes.

NEUTRAL: None

REBUTTAL:

Mr. Leighton requested a recess to speak to his client regarding the information entered into the record by Mr. Connors.

Chair Ewert called for a five minute break to allow Mr. Leighton to speak with his client.

The meeting was reconvened

Mr. Leighton said all parties would need more time to respond to the material provided by Mr. Connors. Mr. Leighton requested a continuance to a date certain and agreed to waive the 120 day review rule.

The Planning Commission and Mr. Leighton agreed to continue the Public Hearing until a date certain of Monday, September 24, 2012.

4. NEW BUSINESS - None

5. FINAL DECISIONS – None

(Note: Final written version of previous oral decision).

6. MINUTES

- a. Approval of July 9, 2012 Regular Planning Commission Minutes

Commissioner Slagle moved to adopt the July 9, 2012 minutes with changes to who was in attendance. The motion was seconded by Commissioner Kocher. The motion passed 6/0 with one abstention.

7. ITEMS OF INTEREST/REPORT FROM STAFF -- None

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

9. ADJOURNMENT: 9:11 p.m.