

**PLANNING COMMISSION
Meeting Agenda
Monday – November 23, 2009
7:00 PM - Regular Meeting
City Council Chambers – 155 NW 2nd Avenue**

**Chair Dan Ewert – Vice Chair Janet Milne
Commissioners Sean Joyce, Charles Kocher, Jared Taylor and Misty Slagle**

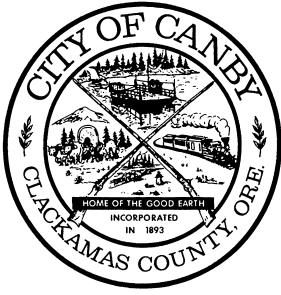
1. **CALL TO ORDER**
2. **CITIZEN INPUT ON NON-AGENDA ITEMS**
3. **PUBLIC HEARINGS**
 - a. **Annexation** – Norman and Jenny Beck - (1) Annex 4.77 acres of land; and (2) Change the zoning from Clackamas County RRFF-5 to City of Canby R-1 (Low Density Residential); and (3) Approve a development agreement for 4.62 acres.– 1732 N Pine Street – ANN 09-01 – Staff: Melissa Hardy; Associate Planner **Page 2**
4. **NEW BUSINESS**
5. **FINAL DECISIONS**

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

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7. **ITEMS OF INTEREST 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 to Jill Thorn 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.*



STAFF REPORT

APPLICANT:

Norman and Jenny Beck
P.O. Box 638
Wilsonville, OR 97070

FILE NO.:

ANN 09-01

OWNER:

Norman and Jenny Beck
P.O. Box 638
Wilsonville, OR 97070

STAFF:

Melissa Hardy
Associate Planner

Thomas Holmes

P.O. Box 111
Canby, OR 97013

LEGAL DESCRIPTION:

A portion of Lot 77, Canby Gardens Plat No. 230, consisting of approximately 4.47 acres; together with an approximately 0.3 acre portion of N. Pine Street

DATE OF REPORT:

November 16, 2009

LOCATION:

The land is located south of N.E. Territorial Road and north of N. Plum Court, and includes property addressed as 1732 N. Pine Street

DATE OF HEARING:

November 23, 2009

COMP. PLAN DESIGNATION:

Low Density Residential (LDR) and
Medium Density Residential (MDR)

ZONING DESIGNATION:

Clackamas County Rural Residential
Farm/Forest 5-Acre District (RRFF-5)

I. APPLICANT'S REQUEST:

The applicant is requesting: (1) Approval of a development agreement for 4.62 acres of land, (2) Annexation of 4.77 acres of land, and (3) If annexed, change the zoning from Clackamas County RRFF-5 to City of Canby R-1 (Low Density Residential) for 4.62 acres of the land and to City of Canby R-1.5 (Medium Density Residential) for the remaining 0.15 acres.

II. APPLICABLE REGULATIONS:

Canby Municipal Code (CMC) Title 16:

- 16.54 Amendments to Zoning Map
- 16.84 Annexations

III. DEVELOPMENT AGREEMENT ANALYSIS (FINDINGS):

CMC Section 16.84.040.A.1.a sets forth the approval criteria that the Planning Commission and City Council use to review an annexation development agreement, as follows:

16.84.040.A.1.a A Development Agreement (DA) binding for all properties located within the boundaries of a designated DA area as shown on the City of Canby Annexation Development Map. The terms of the Development Agreement may include, but are not limited to:

1. Timing of the submittal of an application for zoning
2. Dedication of land for future public facilities including park and open space land
3. Construction of public improvements
4. Waiver of compensation claims
5. Waiver of nexus or rough proportionality objections to future exactions
6. Other commitments deemed valuable to the City of Canby

Staff recommends Planning Commission find that the proposed Development Agreement (*see Exhibit B*) is in compliance with Criteria 16.84.040.A.1.a, and that Planning Commission recommend to City Council that they approve the Development Agreement, based on the following:

Recital 1.A states that the Council shall review the applicant's request for zoning designation at the same time the Council reviews the Development Agreement application and Annexation application.

Recital 1.D states that when the land is developed, Beck will satisfy the CMC requirement for parkland dedication by either paying the systems development charge or dedicating actual parkland, whichever the City decides is more appropriate at the time of development.

Recital 1.E states that when the land is developed, Beck will construct an extension of 17th Avenue, and will also provide a connection with N. Plum Court if the City determines appropriate.

Recital 1.G states that Beck waives compensation or waiver of land use regulations, resulting from annexation and the concurrent zone change approval.

Recital 1.H states that future exactions will be limited to an amount necessary to serve the development of the property.

The remaining recitals in the Development Agreement detail other commitments deemed valuable to the City.

IV. ANNEXATION ANALYSIS (FINDINGS):

CMC Section 16.84.040.A (1 through 10) sets forth the approval criteria that the Planning Commission and City Council must use to evaluate an annexation application. Staff recommends that Planning Commission find that the proposed annexation (*see Exhibit C*) is in compliance with all approval criteria, and that Planning Commission recommend to City Council that they approve the Annexation Application, based on the following:

Criteria 16.84.040.A.1 For newly annexed properties that are within the boundaries of a DA area as designated on the City of Canby Annexation Development Map: A Development Agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest prior to the City Council granting a change in zoning classification.

Staff comments: This annexation applicant has submitted a proposed development agreement for concurrent review and approval (*see Exhibit B*). In order to ensure that this annexation meets Criteria A.1, approval shall be conditioned upon the applicant having a Development Agreement, approved and fully executed with all signatures, recorded against the title of the land identified in Exhibit A of the Development Agreement, within seven (7) calendar days from the date the City Council approves the Development Agreement.

Criteria 16.84.040.A.2 *Analysis of the need for additional property within the city limits shall be provided. The analysis shall include the amount of developable land (within the same class of zoning – low density residential, light industrial, etc.) Currently within the city limits; the approximate rate of development of those lands; and how the proposed annexation will affect the supply of developable land within the city limits. A supply of developable residential land to provide for the anticipated population growth over the following three years is considered to be sufficient.*

The applicant's submittal includes an analysis of the need for additional property within the city limits (*see Exhibit D*). The applicant states that "need" was discussed with relation to the "Land Use Element" of the Comprehensive Plan. The annexation would add 4.47 (*correction 4.77*) acres to the City's supply of available, buildable land, approximately a two months' supply. The development process, from land acquisition to annexation to subdivision application to completion of public facilities improvements, can take well over a year. The estimated supply of land may vary, depending on rate of growth and difficulties involved in the development process, such as obtaining financing, designing and constructing public improvements, and so on. The proposed annexation would add approximately two months' supply of buildable land in the R-1 zone (based on projections of annual need for dwellings) that would become part of the available land supply within the City for use in 2010 through 2011, given the time involved in converting raw land to suitable lots ready for building permits.

Additional Staff Comments: The City of Canby Comprehensive Plan projection for number of dwelling units to be constructed on lands that are inside the city limits and that are designated Low Density Residential is 101 units during the planning period of 1984 to 2000. The Comprehensive Plan has not been updated to include any development projections for any subsequent period of time.

According to a Land Needs Study performed for the City of Canby in 1999, there was 193 acres of undeveloped land designated for Low Density Residential (LDR) development, and since then approximately 64 acres of LDR land has been annexed into the City, and approximately 68 acres of LDR land has been subdivided and subsequently built upon. That leaves approximately 189 acres of LDR land that is considered available for development, which if you estimate that the City issues on average about 80 building permits for dwelling units per year, then Canby has about an 8 year supply of buildable low density residential land.

Criteria 16.84.040.A.3 *Statement of potential physical, aesthetic and related social effects of the proposed development on the community as a whole and on the neighborhood of which it will become a part; and proposed actions to mitigate identified concerns, if any. A neighborhood meeting is required as per Table 16.89.020 of the City of Canby Land Development and Planning Ordinance.*

The applicant's submittal includes a statement of potential physical, aesthetic and related social effects, and proposed actions to mitigate identified concerns (*see Exhibit D*). The applicant states that the site is within the City's UGB, and is expected to develop according to the Comprehensive Plan designations. Some residents on adjacent properties may experience a loss of open space. However, vacant and undeveloped land within an UGB is expected to be utilized to accomplish the community's goals as expressed in the Comprehensive Plan. Therefore, the aesthetic and social impacts of development of the annexation site should be within the anticipated range of impacts associated with continuing growth within the City.

Additional Staff Comments: The applicant held a neighborhood meeting (*see Exhibit H*). The proposed annexation consists of 4.77 acres. The land is located inside the Canby Urban Growth Boundary, and the city limits abuts the property to the north, east, and west. According to the applicant's submittals, the property is currently developed with a single-family dwelling and four accessory structures (sheds). All of the land, with the exception of the westerly 20 foot-wide portion of the N. Pine Street right-of-way, is designated for Low Density Residential development in the City's Comprehensive Plan (the westerly 20 feet of N. Pine Street is designated Medium Density Residential). Therefore, the applicant is requesting that the easterly 4.62 acres be zoned Low Density Residential (R-1) and the westerly 0.15 acres be zoned Medium Density Residential (R-1.5) if annexed, both in conformance with the existing Canby Comprehensive Plan land use designations.

The City of Canby Comprehensive Plan's adopted methodology for forecasting the residential development potential of lands designated Low Density Residential is to subtract 20 percent of the land for public rights-of-way and easements, then subtract 5 percent of the remaining land area for an assumed vacancy rate, then multiply the remaining acreage by 6.8 dwelling units per acre for mobile/modular type construction and 4.7 dwelling units per acre for standard type construction. Using this methodology and the higher density assumption of mobile/modular type construction, the assumed residential development potential of 4.62 acres is 24 dwelling units ($4.62 - 0.924 = 3.696 - 0.185 = 3.511 \times 6.8 = 23.87$). Depending upon how the property is actually developed, more or less dwelling units may result. Since the westerly 0.15 acre of land is located within the N. Pine Street right-of-way, the development potential for that portion of the property is zero.

The Canby Comprehensive Plan does not identify any historic resources or significant wetlands on the subject property.

Criteria 16.84.040.A.4 *Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities.*

The applicant's submittal includes a statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities (*see Exhibit D*). Public facilities and services are available or can be made available, as previously discussed. Public water and sanitary sewer are available in N. Pine Street and drainage facilities are available through a connection to the North Redwood Storm Drain, Advanced Financing District, located in the Logging Road Trail. Public streets in the vicinity of the site generally have adequate capacity as stated by the City's Traffic Engineer during review of the site. Public park facilities located near the site include the Logging Road Trail (adjacent to the site), the Eco Natural Area, the 19th Avenue Loop Natural Area and Maple Street Park. Following the opening of Baker Prairie

Middle School and the re-opening of Lee School as an elementary school in the fall of 2006 the school district has adequate capacity to serve additional students.

Additional Staff Comments: The annexation application was forwarded to all public facility and service providers. All respondents to date indicated that adequate public facilities are available or will become available through development of the property (*see Exhibit E*). A traffic impact study was prepared to determine potential impacts of the proposed annexation on transportation facilities (*see Exhibit F*). The study did not identify any significant impacts caused by trip generation, and furthermore found that aligning the 17th Avenue street extension with the existing 17th Avenue alignment west of the property conforms with the City's access spacing requirement of 150 feet on a collector street, and provides for adequate site distance.

Criteria 16.84.040.A.5 *Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time.*

The applicant's submittal includes a statement of increased demand for facilities (*see Exhibit D*). Annexation by itself will not generate an increased demand on public services. One home exists on site and has been located on the site for several decades. Development of the property into multiple lots and multiple homes would increase the demand for City facilities. The site is within the City's UGB and is expected to develop according to its Comprehensive Plan designation; therefore increases in demand for public services should be within the range of impacts anticipated by the adopted Comprehensive Plan. The applicant has been advised that the City has adequate services to serve the site.

Additional Staff Comments: The annexation application was forwarded to all public facility and service providers. All respondents to date indicated that adequate public facilities are available or will become available through development of the property (*see Exhibit E*).

Criteria 16.84.040.A.6 *Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand.*

The applicant's submittal includes a statement regarding additional facilities required to meet the increased demand (*see Exhibit D*). Annexation of the property will not increase the demand for public services, however subdivision of the property into multiple lots would increase demand for public water, sewer, drainage, streets, emergency services, parks and schools. Public utilities needed to serve the development of the property would be provided by the development through construction of new public facilities by the developer at the time of subdivision.

Additional Staff Comments: The annexation application was forwarded to all public facility and service providers. All respondents to date indicated that adequate public facilities are available or will become available through development of the property (*see Exhibit E*). No respondents indicated a need for phasing of public facilities.

Criteria 16.84.040.A.7 *Statement outlining method and source of financing required to provide additional facilities, if any.*

The applicant's submittal includes a statement concerning financing additional facilities (*see Exhibit D*). Public facilities to serve the development will be provided by the development

through construction of new facilities by the developer (water, sewer, drainage, streets) through the payment of advanced financing district fees by the developer (drainage), and through the payment of SDC fees (water, wastewater, transportation, storm and parks) by homebuilders building homes within the development. Homebuilders will also pay the construction excise tax for the school district.

Additional Staff Comments: Systems development charges are collected by the City each time a building permit is issued.

Criteria 16.84.040.A.8 *Statement indicating the type and nature of any comprehensive plan text or map amendments or zoning text or map amendments that may be required to complete the proposed development.*

The applicant's submittal states that the proposed use of the site is consistent with the adopted Comprehensive Plan Map designation and the text contained in the City's Land Development and Planning Ordinance. No text or map amendments are anticipated to be needed for development of the site.

Additional Staff Comments: The applicant is requesting if the property is annexed, that the easterly 4.62 acres be zoned Low Density Residential (R-1), and that the westerly 0.15 acres be zoned Medium Density Residential (R-1.5). Therefore, if the annexation and zoning are approved, the Zoning Map of the City of Canby will need to be amended to indicate the zoning for the subject land as R-1 and R-1.5 accordingly. The R-1.5 zoning is only for the westerly 20 feet of land in the N. Pine Street right-of-way, which matches the zoning of the abutting Holmes property.

Criteria 16.84.040.A.9 *Compliance with other applicable city ordinances or policies.*

The applicant's submittal states that the application complies with other city ordinances or policies, or can be made to comply through the development process.

Additional Staff Comments: Upon annexation the property will be subject to all city ordinances and policies.

Criteria 16.84.040.A.10 *Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222.*

The applicant's submittal states that the applicant expects to comply with the provisions of state law.

Additional Staff Comments: The annexation application must comply with all applicable sections of Oregon Revised Statutes Chapter 222. The applicant submitted a signed annexation petition and represented to the City that consent to annex has been given by owners who represent more than half the owners of land in the territory, and who also own more than half the land and real property in the territory, therefore representing a triple majority. An election in the territory to be annexed is therefore not required by state law.

V. ZONING MAP AMENDMENT ANALYSIS (FINDINGS):

CMC Section 16.08.040 states that zoning of newly annexed areas shall be considered by the Planning Commission in its review and by the Council in conducting its public hearing for the annexation. CMC Section 16.54.040 sets forth approval criteria for an amendment to the zoning map. Staff recommends that Planning Commission find that the applicant's request to zone the property Low Density Residential (R-1) and Medium Density Residential (R-1.5) is in compliance with the two zoning approval criteria as follows, and that Planning Commission recommend to City Council that the zoning of the property, if annexed be designated as R-1 and R-1.5:

Criteria 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 local aspects of land conservation and development.

Policy No. 5 of the Canby Comprehensive Plan directs that the comprehensive plan land use map shall be utilized as the basis of zoning decisions. (see Exhibit G to view an excerpt of the Canby Comprehensive Plan land use map) The bulk of the subject property is designated as Low Density Residential (LDR) on the comprehensive plan land use map. However, the westerly 40 feet of the property (13,196 square feet) is located within the N. Pine Street right-of-way, and the land use map designates the centerline of N. Pine Street as the boundary between the LDR land use designation and the neighboring Medium Density Residential (MDR) designation. Therefore, of the 40 feet of property located in the Pine Street right-of-way, the easterly 20 feet of land is designated as LDR and the westerly 20 feet of land is designated as MDR. Therefore, in conformance with Comprehensive Plan Policy No. 5 the appropriate zoning designation for the westerly 20-foot-wide half of N. Pine Street (approx. 6,598 square feet) is Medium Density Residential (R-1.5), and the appropriate zoning designation for the remainder of the annexed property (approx. 4.62 acres), including the easterly 20-foot-wide half of N. Pine Street, is Low Density Residential (R-1).

Policy No. 6 of the Canby Comprehensive Plan identifies specific locations, called "Areas of Special Concern", where the unique character of the area should be considered when reviewing a zoning designation request. The subject property is not located in any of the "Areas of Special Concern".

The request to designate the easterly 4.62 acres of land as Low Density Residential (R-1) zoning, and the westerly 6,598 square feet of land as Medium Density Residential (R-1.5) zoning, is in conformance with the Canby Comprehensive Plan, and with the plans and policies of the county, state and local districts, and best preserves functions and local aspects of land conservation and development.

Criteria 16.54.040.B Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

The application was forwarded to all public facility and service providers. All respondents to date indicated that adequate public facilities are available or will become available through development of the property (see Exhibit E). Therefore, all required public facilities and services

exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation.

VI. PUBLIC INPUT RECEIVED:

Neighborhood Meeting – The applicant held a neighborhood meeting on February 18, 2009. Per the applicant’s meeting notes (*see Exhibit H*), questions received during the meeting concerned zoning and future development of the property. Comments received from the Chairman of the Northeast Canby Neighborhood Association concerned zoning and the development agreement requirement.

Staff Response to neighborhood comments:

- *What is the City’s long range plan for Territorial Road? ...* N.E. Territorial Road is identified as an “arterial” in the Transportation System Plan.
- *What guarantee do the neighbors have that the property would not be developed as high density? ...* The most appropriate zoning designation for the property, per the Canby Comprehensive Plan, is Low Density Residential for the easterly 4.62 acres, and Medium Density Residential for the westerly 6,598 square feet in the west half of the N. Pine Street right-of-way, and therefore that is the zoning that is recommended by City staff, which does not permit high density residential development. A Comprehensive Plan amendment would be required to change the zoning to something else.
- *What is the zoning of the Willamette Grove Apartments and the Holmes property? ...* The land where the apartments are located is zoned High Density Residential, and the property owned by Holmes on the west side of N. Pine Street is zoned Medium Density Residential.
- *Is it odd to have high density adjacent to low density without stepping down to medium density in between? ...* Low-, Medium-, and High-Density Residential zones are all considered to be compatible and similar use categories, because the nature of development allowed in all three zones is primarily residential. Therefore, it is not considered unusual at all to locate a high density residential zone next to a low density residential zone.
- *Will the project improve Pine Street across only the property frontage or across both properties on that side of the street that are in the County? ...* No street improvements are required when land is annexed. However, if land is developed after it is annexed into the City, then the City requires all streets abutting the property to be brought up to City street improvement standards. Off-site street improvements are only required when it is determined that the impacts generated by a development are so significant as to warrant mitigation that may include appropriate off-site improvements (when nexus and rough proportionality are demonstrated).
- *Will sanitary sewer and water have to be extended in front of both county parcels, or only the parcel owned by the applicant? ...* Canby Utility Board and the City of Canby Public Works Department and City Engineer determine what type of sewer and water line improvements must be made at the time of development.
- *Is it odd to have an offset intersection? ...* City staff have required that the applicant include in the Development Agreement that an extension of 17th Avenue be constructed in alignment with the existing 17th Avenue alignment to the west. The exact location of the 17th Avenue extension will be subject to approval by Canby’s City Engineer and Transportation Engineer.
- *Is a traffic study required? ...* Yes, a traffic study is required for an annexation application. A traffic study was prepared for this annexation application (*see Exhibit F*).

- *What did the traffic study say last time? ...* The current traffic study is the appropriate traffic study to review in reference to this annexation application.
- *The City passed an ordinance last summer requiring master plans and development agreements; Does it apply to this property? ...* Yes, the subject property is required to have a development agreement approved and recorded before it can be annexed into the City.
- *Will we get to see what is in the DA before the election? ...* There will be two public hearings where the Development Agreement will be reviewed by the Planning Commission and then by the City Council, and the Development Agreement is available at the Canby Planning Department upon request. Anyone can attend the public hearings and/or submit written comments to the Commission or Council regarding the development agreement.
- *What is the width of a public street? ...* The width of public streets vary, depending upon the type and location of the street. N. Pine Street is an existing collector street, and is therefore required to be 60-feet wide to meet the adequacy standards in the Canby Transportation System Plan.
- *Would the street along the apartment site be built right next to the fence? ...* The City would need to review and approve any proposed street improvements at the time of development. It is not known at this time where specific street improvements would be required when this land is developed.
- *Is the one access plan acceptable to the Fire Department? ...* As in the answer to the previous question, the City would need to review and approve any proposed street improvements at the time of development. It is not known at this time where specific street improvements would be required when this land is developed.
- *What is the size of the cul-de-sac? ...* The City Engineer and Transportation Engineer, together with the Canby Public Works Department reviews proposed street improvements for conformance with the City's street improvement specifications and Transportation System Plan. In most cases a cul-de-sac is most likely going to be considered a local street, and is therefore required to be 40 feet wide per the Canby Transportation System Plan.

Public Comments – Notices were mailed to residents and owners of property within 500 feet of the subject property, and no comments have been received yet as of the date this staff report was prepared. Any comments received by the City before the public hearing will be brought to the public hearing and distributed to the Planning Commission at that time.

VII. CONCLUSION:

Staff concludes, as detailed herein this staff report, including all attachments hereto, (1) that the proposed development agreement meets the approval criteria set forth in CMC Section 16.84.040.A.1.a; (2) that the proposed annexation meets the approval criteria set forth in CMC 16.84.040.A; and (3) that the zoning of the property, if annexed, should be R-1 and R-1.5 pursuant to the approval criteria set forth in CMC 16.54.040.

VIII. RECOMMENDATION:

Based upon the findings contained in this report, including all attachments hereto, and without the benefit of a public hearing, staff recommends that the Planning Commission recommend to City Council that:

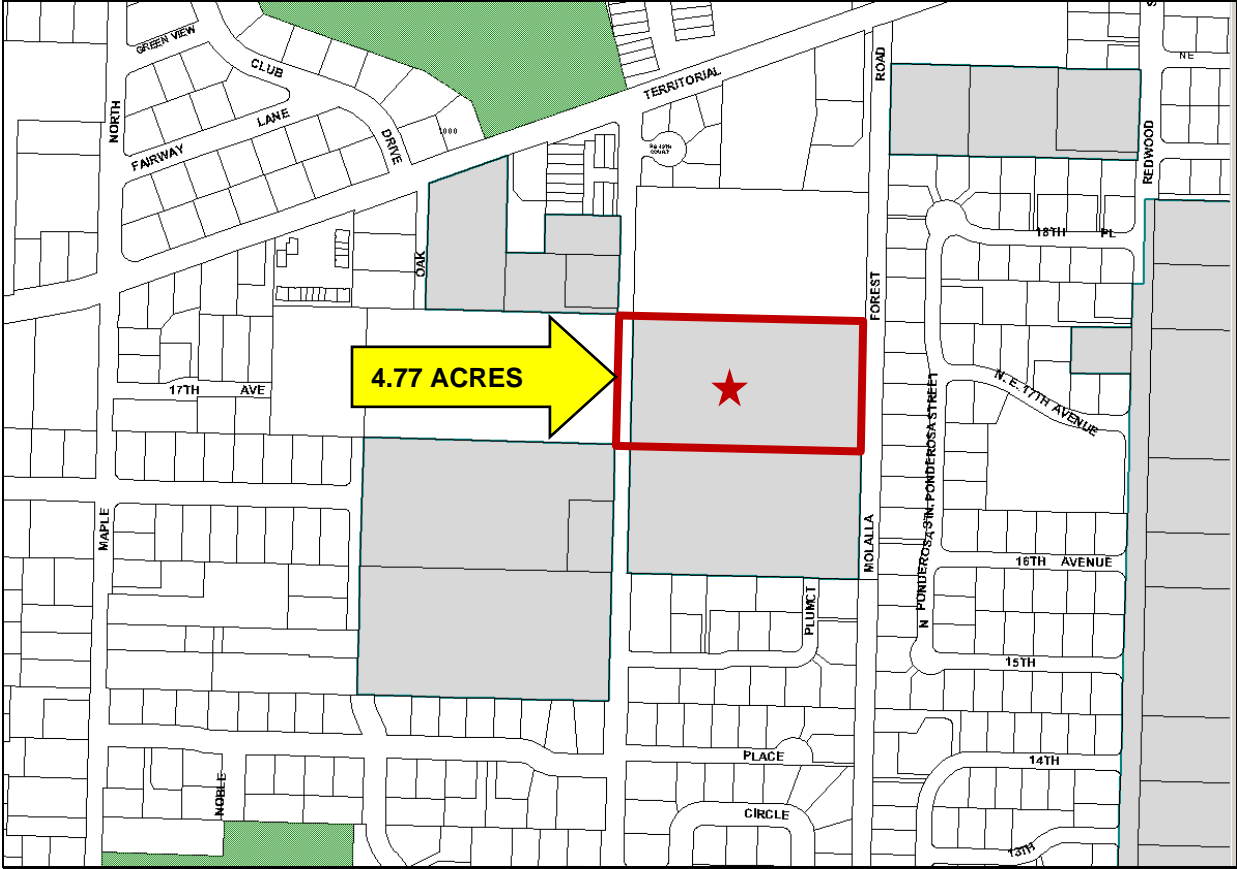
1. The Development Agreement (*Exhibit B*) should be approved, executed, and recorded; and

2. ANN 09-01 (*Exhibit C*) should be approved for submission to the electorate for vote; and
3. The zoning of the property upon annexation shall be designated as follows: The westerly 20-foot-wide half of N. Pine Street (approx. 6,598 square feet) shall be zoned Medium Density Residential (R-1.5), and the remainder of the annexed property (approx. 4.62 acres) shall be zoned Low Density Residential (R-1); and
4. The foregoing approvals should include a CONDITION, consistent with recital 1.C of the Development Agreement, that Beck shall have seven (7) calendar days from the date the City Council approves the Development Agreement, the Annexation, and the Zone Change, to record the Development Agreement; And failure to record the Development Agreement within the time specified will result in removal of the annexation application from the ballot for consideration by the electors.

Exhibits:

- A. Vicinity Map
- B. Proposed Development Agreement
- C. Proposed Annexation
- D. Applicant's Submittal
- E. Service Provider Comments
- F. Traffic Impact Study
- G. Comprehensive Plan Land Use Map
- H. Neighborhood Meeting Notes

VICINITY MAP



Location: south of N.E. Territorial Road and north of N. Plum Court, including property addressed as 1732 N. Pine Street

PROPOSED DEVELOPMENT AGREEMENT

Development Agreement is inserted into the following 8 pages.

AFTER RECORDING RETURN TO:
City of Canby
P O Box 930
Canby OR 97013

UNTIL REQUESTED OTHERWISE,
SEND TAX STATEMENTS TO:
Norman E. Beck
P O Box 638
Wilsonville OR 97070

DEVELOPMENT AGREEMENT (ANNEXATION)

RECITALS:

1. Norman E. Beck and Jenny L. Beck, husband and wife, hereinafter referred to as "BECK", own real property commonly described as 1732 N. Pine Street, Canby, OR 97013 and more particularly described in the attached Exhibit A.
2. The City of Canby, hereinafter referred to as "CANBY", is an Oregon municipal corporation.
3. The property described in Exhibit A is located within the boundaries of a designated annexation "Development Agreement Area" as shown on the City of Canby Annexation Development Map (Figure 16.84.040).
4. Canby procedures for annexation specify the Planning Commission shall conduct a public hearing to review any proposed annexations and determine the appropriate zoning designation upon annexation. The Planning Commission shall furnish its recommendation concerning annexation and assigned zoning to the City Council. The City Council will authorize an election for annexation when it is determined the applicable standards and criteria of Canby Municipal Code 16.84.040 are met and will determine appropriate zoning for the property based on the criteria set forth in the Canby Municipal Code 16.54.040. Thereafter the annexation may only be approved by a majority vote among the electorate of Canby.
5. The purpose of this Annexation Development Agreement is to satisfy the requirements of Canby Municipal Code 16.84.040 including providing adequate public information and information evaluating the physical, environmental, and related social effects of a proposed annexation. The proposed annexation does not require the statutory development agreement of ORS 94.504 et seq.

NOW, THEREFORE, it is hereby agreed:

- I. CANBY MUNICIPAL CODE 16.84.040 APPLICABLE PROVISIONS.

A. Timing of the submittal of an application for zoning. Concurrent with review of this Agreement, the Council shall consider BECK'S annexation application and request that, upon approval of the annexation by the voters, the property described in Exhibit A shall be zoned R-1. This approach will insure that the development agreement as well as the annexation and zone change approvals are consistent with City Code 16.84.

B. Scope of annexation request. In addition to the property described as Exhibit A, BECK's annexation application shall include the entire area of N. Pine Street, County Road No. 2580 adjacent to the Beck property as described in Exhibit B. One half of the area or twenty (20) feet of the area described in Exhibit B is owned by BECK. The other half is a portion of lot 61 of the plat of "Canby Gardens" (plat no. 230) located in the Southeast one-quarter of Section 28, Township 3 South, Range 1 East, of the Willamette Meridian, Clackamas County, Oregon, and owned by Thomas Holmes, hereinafter referred to as HOLMES. BECK agrees to join that portion of HOLMES property identified in Exhibit B within the annexation request. Upon annexation, BECK and HOLMES shall dedicate street right-of-way up to forty (40) feet for N. Pine Street to meet the standards of the City of Canby with future land use actions on the property as part of the development approval process.

C. Timing for Recording. BECK shall have seven (7) calendar days from the date the City Council takes final action approving this Agreement, the annexation and zone change requests to record this Agreement. Failure to record this agreement within the time specified will result in removal of the annexation application from the ballot for consideration by the electors. A condition of approval will be attached to the annexation and zone change approval imposing this same requirement.

D. Dedication of land for future public facilities including park and open space land. At the time of development, and at the discretion of the City of Canby, BECK agrees to satisfy CANBY's parkland dedication obligation based on the standards and regulations currently in place through:

1. Payment of City's park system development charge; or
2. Actual parkland dedication of land adjacent to other parkland and contiguous to the Molalla River Forest Road.

E. Construction of public improvements. At the time of development, City required public improvements will be built to Canby Municipal Code specifications by BECK. BECK agrees to provide an extension of 17th Avenue, in alignment with the existing segment west of Pine Street, east through the property and, if decided by the City at the time of tentative plat design approval, to provide a logical connection of the 17th Avenue extension to the south to connect with the extension of North Plum Court.

F. Utility availability. BECK agrees to ensure that utilities and infrastructure are available to serve the property described in Exhibit A at densities currently authorized in the R-1 zone. To the extent that additional utility or service infrastructure is required to serve the property when developed, BECK agrees to provide those utilities and services

in a way that is commensurate with the impacts from development and consistent with the City's Code. BECK also agrees to allow connection to BECK's constructed public facilities by adjacent property owners.

G. Waiver of compensation claims. BECK waives compensation or waiver of land use regulations as provided in ORS 195.300 and 195.336, as well as Measure 49, resulting from annexation and the concurrent zone change approval.

H. Rough proportionality of future exactions. To the extent that this agreement identifies specific park dedication, right-of-way dedication, utility or service obligations, these obligations are necessary and will be limited to an amount necessary to serve this development based on the proposed development application as well as on the uses and densities permitted in the R-1 zone.

I. Other commitments deemed valuable to the City of Canby. BECK agrees development will meet the requirements of the adopted CANBY Municipal Code in effect at the time of development.

II. OTHER CONSIDERATIONS.

A. Duration. This Agreement shall be effective upon CANBY, acting by and through its city council, approving this Agreement and upon its recording with the Clackamas County Recording Office. As used herein, "approval" means the granting of the approval and the expiration of the period of appeal, or if appeal is filed, the resolution of that appeal. This Agreement shall continue in effect for a period of eight (8) years after its effective date unless cancelled as provided in Section II, C below.

B. Recording. Within seven (7) calendar days after taking effect, BECK shall record this agreement with the Clackamas County Recorder's Office and provide a copy of the recorded agreement to the City Attorney.

C. Cancellation. In the event a majority of the city electorate denies the annexation, BECK may request the cancellation of this Development Agreement. BECK and CANBY agree to cooperate to prepare and record a mutually agreeable document to rescind this Development Agreement. Upon rescission, this Development Agreement shall be null and void without further legal effect.

D. Modification. This Agreement may be modified or amended upon the mutual consent of BECK and CANBY.

Dated this _____ day of _____, 2009.

Norman E. Beck

Jenny L. Beck

CITY OF CANBY, OREGON

By: _____
Amanda Klock, Interim City Administrator

Dated: _____

APPROVED AS TO FORM:

By: _____

Dated: _____

APPROVED BY ACTION OF CITY COUNCIL ON _____, 2009.
CITY COUNCIL RESOLUTION NO.: _____.

STATE OF OREGON)
) ss.
County of Clackamas) _____, 2009

Personally appeared before me, NORMAN E. BECK, and acknowledged the foregoing instrument to be his voluntary act and deed.

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
County of Clackamas) _____, 2009

Personally appeared before me, JENNY L. BECK, and acknowledged the foregoing instrument to be her voluntary act and deed.

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON)

) ss.

County of Clackamas)

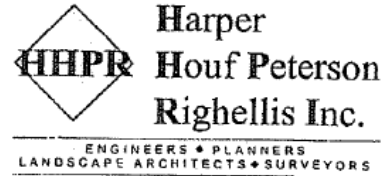
_____, 2009

Personally appeared before me, AMANDA KLOCK, as the Interim City Administrator of the City of Canby, Oregon.

Notary Public for Oregon
My Commission Expires: _____

PDX_DOCS:437228.3 [36434-00200]
09/4/09

EXHIBIT A



LEGAL DESCRIPTION FOR DEVELOPMENT AGREEMENT (BECK)

April 30, 2009

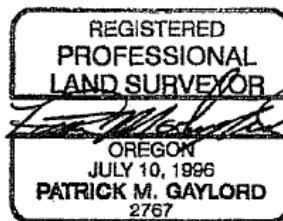
A PORTION OF LOT 77, CANBY GARDENS, PLAT NO. 230, IN THE SOUTHWEST ONE QUARTER OF SECTION 27, T3S, R1E, W.M., CITY OF CANBY, STATE OF OREGON MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT A POINT IN THE SOUTH LINE OF LOT 77, CANBY GARDENS AND THE WEST RIGHT-OF-WAY LINE OF THE MOLALLA FOREST ROAD, 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 77; THENCE ALONG THE SOUTH LINE OF THE SAID LOT, NORTH 89°55'49" WEST 589.90 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF NORTH PINE STREET, COUNTY ROAD NO. 2580; THENCE ALONG THE SAID RIGHT OF WAY LINE, NORTH 00°01'58" WEST 329.97 FEET TO A POINT IN THE NORTH LINE OF LOT 77; THENCE ALONG THE SAID NORTH LINE, SOUTH 89°55'41" EAST 589.99 FEET TO A POINT IN THE SAID WEST RIGHT-OF-WAY OF THE MOLALLA FOREST ROAD; THENCE ALONG THE SAID WEST RIGHT OF WAY LINE, SOUTH 00°01'00" EAST 329.95 FEET TO THE POINT OF BEGINNING. CONTAINING 4.47 ACRES MORE OR LESS.

TOGETHER WITH THE EAST ONE HALF OF NORTH PINE STREET, COUNTY ROAD NO. 2580, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF LOT 77, CANBY GARDENS AND THE WEST RIGHT-OF-WAY LINE OF THE MOLALLA FOREST ROAD, 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 77; THENCE ALONG THE SOUTH LINE OF THE SAID LOT, NORTH 89°55'49" WEST 589.90 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF NORTH PINE STREET, COUNTY ROAD NO. 2580 AND THE TRUE POINT OF BEGINNING; THENCE NORTH 89°55'49" WEST 20.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 77, BEING ALSO A POINT IN THE CENTERLINE OF NORTH PINE STREET; THENCE ALONG THE WEST LINE OF THE SAID LOT AND THE SAID STREET CENTERLINE, NORTH 00°01'58" WEST 329.97 FEET TO THE NORTHWEST CORNER OF THE SAID LOT; THENCE ALONG THE NORTH LINE OF SAID LOT 77, SOUTH 89°55'41" EAST 20.00 FEET TO THE NORTHWEST CORNER OF THE HEREIN ABOVE DESCRIBED TRACT OF LAND; THENCE LEAVING THE NORTH LINE OF LOT 77 ALONG THE EAST RIGHT-OF-WAY LINE OF NORTH PINE STREET SOUTH 00°01'58" EAST 329.97 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 0.15 ACRES MORE OR LESS.

THE COMBINED AREAS TALLING 4.62 ACRES MORE OR LESS.



ZTec Engineers, Inc.

Civil ♦ Structural ♦ Surveying

John Middleton, P.E.

Ron Sellards, P.E.

Chris Fischborn, PLS

3737 SE 8th Ave.

Portland, OR 97202

(503)235-8795

fax. 233-7889

email chris@ztecengineers.com

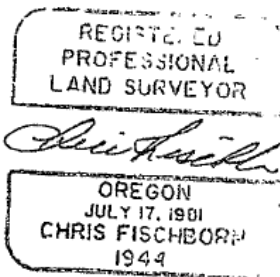
LEGAL DESCRIPTION

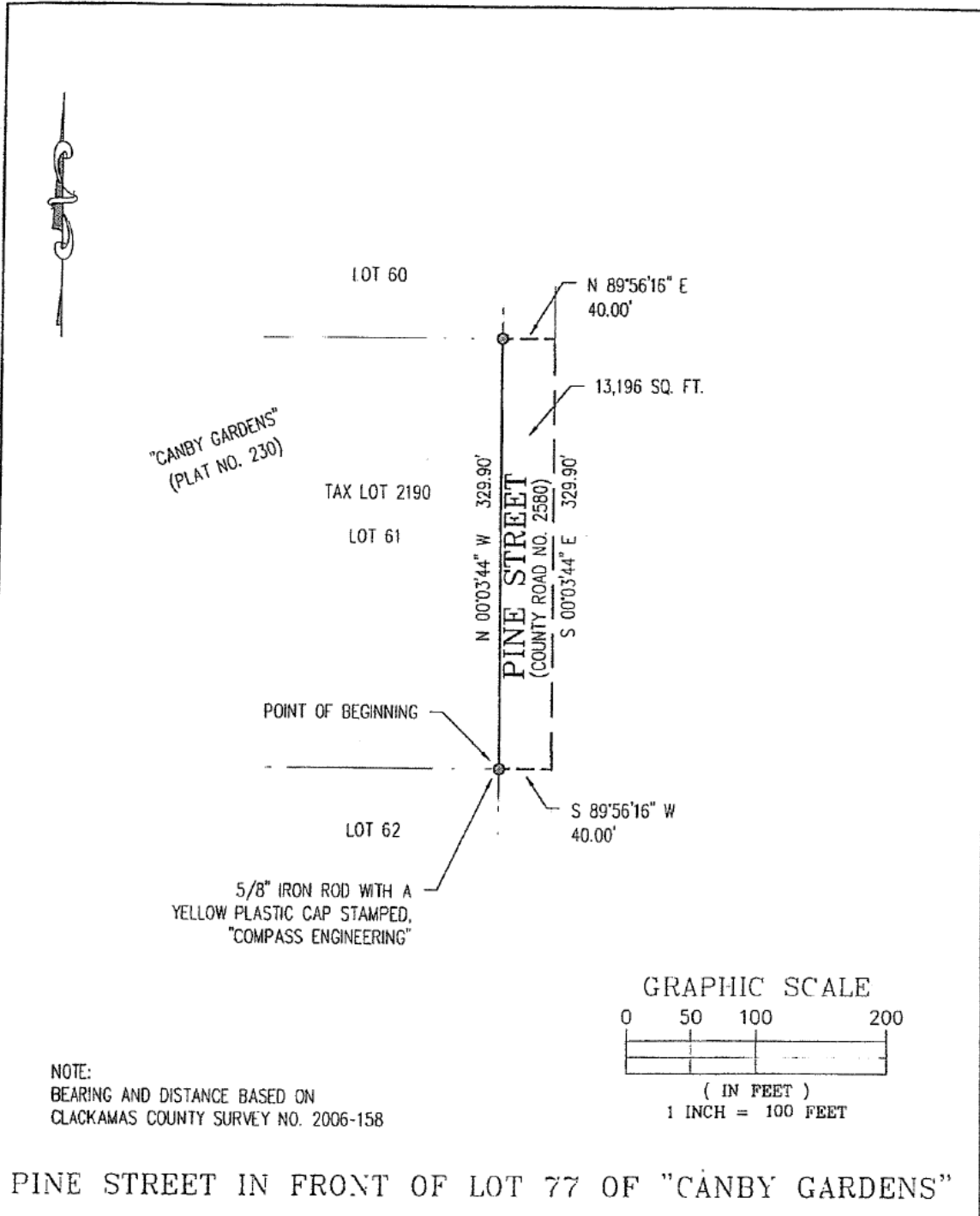
PINE STREET IN FRONT OF LOT 77 OF "CANBY GARDENS"

A tract of land being a portion of Pine street (County Road No. 2580), located in the Southeast one-quarter of Section 27, Township 3 South, Range 1 East, of the Willamette Meridian, Clackamas County, Oregon. Said tract of land being more particularly described as follows:

Beginning at a 5/8 inch iron rod with a yellow plastic cap stamped, "Compass Engineering," found at the intersection of the South line of said lot 61 with the West right-of-way line of said Pine street; thence North 00°03'44" West, along said West right-of-way line, a distance of 329.90 feet to a 5/8 inch iron rod with a yellow plastic cap stamped, "Compass Engineering," found at a point on the North line of said lot 61; thence North 89°56'16" East, at a right angle to said West right-of-way line, a distance of 40.00 feet to the point of the East right-of-way line of said Pine street; thence South 00°03'44" East, along said East right-of-way line, a distance of 329.90 feet to a point; thence South 89°56'16" West, at a right angle to said West right-of-way line, a distance of 40.00 feet to the true point of beginning of the tract of land herein described.

Said tract of land contains an area of 13,196 square feet more or less.





TITLE: ANNEXATION EXHIBIT		ZTec ENGINEERS, INC. 3737 S.E. 8TH AVE. PORTLAND, OREGON 97202 (503) 235-8795
DATE: 5/28/09	PLOT DATE: 5/28/09	
DWG BY: JWS	CHK BY: CCF	
SHEET: PINE ST.	FILE: S1202-58.dwg	CLIENT: CITY OF CANBY

PROPOSED ANNEXATION

SISUL ENGINEERING

A Division of Sisul Enterprises, Inc.

375 PORTLAND AVENUE, GLADSTONE, OREGON 97027

(503) 657-0188

FAX (503) 657-5779

LEGAL DESCRIPTION FOR ANNEXATION

AUGUST 25, 2009

A PORTION OF LOT 77, CANBY GARDENS, PLAT NO. 230, IN THE SOUTHWEST ONE QUARTER OF SECTION 27, T3S, R1E, W.M., CLACKAMAS COUNTY, STATE OF OREGON. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF LOT 77, CANBY GARDENS AND THE WEST RIGHT-OF-WAY LINE OF THE MOLALLA FOREST ROAD, A DISTANCE OF 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 77; THENCE ALONG THE SOUTH LINE OF THE SAID LOT, NORTH 89°55'49" WEST, A DISTANCE OF 589.90 FEET TO A POINT IN THE EAST RIGHT-OF-WAY LINE OF NORTH PINE STREET, COUNTY ROAD NO. 2580; THENCE ALONG THE SAID EAST RIGHT-OF-WAY LINE, NORTH 00°01'58" WEST, A DISTANCE OF 329.97 FEET TO A POINT IN THE NORTH LINE OF LOT 77; THENCE ALONG THE SAID NORTH LINE, SOUTH 89°55'41" EAST, DISTANCE OF 589.99 FEET TO A POINT IN THE SAID WEST RIGHT-OF-WAY LINE OF THE MOLALLA FOREST ROAD; THENCE ALONG THE SAID WEST RIGHT-OF-WAY LINE, SOUTH 00°01'00" EAST, A DISTANCE OF 329.95 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.47 ACRES MORE OR LESS.

TOGETHER WITH A TRACT OF LAND BEING A PORTION OF NORTH PINE STREET, COUNTY ROAD NO. 2580, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTH LINE OF LOT 77, CANBY GARDENS AND THE WEST RIGHT-OF-WAY LINE OF THE MOLALLA FOREST ROAD, A DISTANCE OF 50 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 77; THENCE ALONG THE SOUTH LINE OF THE SAID LOT, NORTH 89°55'49" WEST, A DISTANCE OF 589.90 FEET TO A POINT IN THE EAST RIGHT-OF-WAY LINE OF NORTH PINE STREET, COUNTY ROAD NO. 2580 AND THE TRUE POINT OF BEGINNING; THENCE NORTH 89°58'02" WEST, AT A RIGHT ANGLE TO SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 40.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF NORTH PINE STREET; THENCE ALONG THE WEST RIGHT-OF-WAY LINE OF NORTH PINE STREET NORTH 00°01'58" WEST, A DISTANCE OF 329.97 FEET TO A POINT; THENCE SOUTH 89°58'02" EAST, AT A RIGHT ANGLE TO SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 40.00 FEET TO A POINT IN THE NORTH LINE OF SAID LOT 77; THENCE LEAVING THE NORTH LINE OF SAID LOT 77 ALONG THE EAST RIGHT-OF-WAY LINE OF NORTH PINE STREET SOUTH 00°01'58" EAST, A DISTANCE OF 329.97 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 0.30 ACRES MORE OR LESS.

THE COMBINED AREAS TALLING 4.77 ACRES MORE OR LESS.

APPLICANT'S SUBMITTAL

ANNEXATION CRITERIA

(Canby Municipal Code Section 16.84.040)

A. The following criteria shall apply to all annexation requests.

- 1. The City of Canby Annexation Development Map shall determine which properties are required to submit either (see Figure 16.84.040):*
 - a. A Development Agreement (DA) binding for all properties located within the boundaries of the designated DA area as shown on the City of Canby Annexation Development Map. The terms of the Development Agreement may include, but are not limited to:*
 - 1. Timing of the submittal of an application for zoning.*
 - 2. Dedication of land for future public facilities including park and open space.*
 - 3. Construction of public improvements.*
 - 4. Waiver of compensation claims.*
 - 5. Waiver of nexus or rough proportionality objections to future exactions.*
 - 6. Other commitments deemed valuable to the City of Canby.*

For newly annexed properties that are within the boundaries of a DA area as designated on the City of Canby Annexation Development Map: A Development Agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest prior to the City Council granting a change in zoning classification.

Response: The site is within a Development Agreement area identified on the City of Canby Annexation Development Map. This DA area includes two properties, the tax lot being proposed for annexation, Tax Lot 2500, and the adjacent parcel to the south, Tax Lot 2600. A Development Agreement is being prepared between the two land owners and will be submitted as an Addendum to the application.

- b. A development Concept Plan (DCP) binding for all properties located within the boundaries of a designated DCP area as shown on the City of Canby Annexation Development Map. A Development Concept Plan shall address City infrastructure requirements including:*
 - 1. Water*
 - 2. Sewer*
 - 3. Stormwater*
 - 4. Access*
 - 5. Internal Circulation*
 - 6. Street Standards*
 - 7. Fire Department requirements*
 - 8. Parks and open space*

For newly annexed properties that are within the boundaries of a DCP area as designated on the City of Canby Annexation Development Map: A Development Concept Plan shall be adopted by the City Council prior to granting a change in zoning classification.

Response: The site is not within a Development Concept Plan area as shown on the City of Canby Annexation Development Map. The provisions of this section do not apply to this application.

2. Analysis of the "need" for additional property within the city limits shall be provided.

Response: "Need" was discussed with relation to the "Land Use Element" of the Comprehensive Plan. The annexation would add 4.47 acres to the City's supply of available, buildable land, approximately a two months' supply. The development process, from land acquisition to annexation to subdivision application to completion of public facilities improvements, can take well over a year. The estimated supply of land may vary, depending on rate of growth and difficulties involved in the development process, such as obtaining financing, designing and constructing public improvements, and so on. The proposed annexation would add approximately two months' supply of buildable land in the R-1 zone (based on projections of annual need for dwellings) that would become part of the available land supply within the City for use in 2010 through 2011, given the time involved in converting raw land to suitable lots ready for building permits.

3. Statement of potential physical, aesthetic and related social effects of the proposed development on the community as a whole and on the neighborhood of which it will become a part; and proposed actions to mitigate proposed concerns, if any.

Response: The site is within the City's UGB, and is expected to develop according to the Comprehensive Plan designations. Some residents on adjacent properties may experience a loss of open space. However, vacant and undeveloped land within an UGB is expected to be utilized to accomplish the community's goals as expressed in the Comprehensive Plan. Therefore, the aesthetic and social impacts of development of the annexation site should be within the anticipated range of impacts associated with continuing growth within the City.

4. Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities.

Response: Public facilities and services are available or can be made available, as previously discussed. Public water and sanitary sewer are available in N. Pine Street and drainage facilities are available through a connection to the North Redwood Storm Drain, Advanced Financing District, located in the Logging Road Trail. Public streets in the vicinity of the site generally have adequate capacity as stated by the City's Traffic Engineer during review of the site. Public park facilities located near the site include the Logging Road Trail (adjacent to the site), the Eco Natural Area, the 19th Avenue Loop Natural Area and Maple Street Park. Following the opening of Baker Prairie Middle

School and the re-opening of Lee School as an elementary school in the fall of 2006 the school district has adequate capacity to serve additional students.

5. Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time.

Response: Annexation by itself will not generate an increased demand on public services. One home exists on site and has been located on the site for several decades. Development of the property into multiple lots and multiple homes would increase the demand for City facilities. The site is within the City's UGB and is expected to develop according to its Comprehensive Plan designation; therefore increases in demand for public services should be within the range of impacts anticipated by the adopted Comprehensive Plan. The applicant has been advised that the City has adequate services to serve the site.

6. Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand.

Response: Annexation of the property will not increase the demand for public services, however, subdivision of the property multiple lots would increase demand for public water, sewer, drainage, streets, emergency services, parks and schools. Public utilities needed to serve the development of the property would be provided by the development through construction of new public facilities by the developer at the time of subdivision.

7. Statement outlining method and source of financing required to provide additional service, if any.

Response: Public facilities to serve the development will be provided by the development through construction of new facilities by the developer (water, sewer, drainage, streets) through the payment of advanced financing district fees by the developer (drainage), and through the payment of SDC fees (water, wastewater, transportation, storm and parks) by homebuilders building homes within the development. Homebuilders will also pay the construction excise tax for the school district.

8. Statement indicating the type and nature of any Comprehensive Plan text or map amendments or Zoning text or map amendments that may be required to complete the proposed development.

Response: The proposed use of the site is consistent with the adopted Comprehensive Plan Map designation and the text contained in the City's Land Development and Planning Ordinance. No text or map amendments are anticipated to be needed for development of the site.

9. Compliance with other applicable city ordinances or policies.

Response: The application complies with other city ordinances or policies, or can be made to comply through the development process.

10. Compliance with applicable sections of ORS 222.

Response: The applicant expects to comply with these provisions of state law.

Conclusion: The criteria of Section 16.84.040 are satisfied, as demonstrated by the foregoing narrative.

Conclusion

The foregoing narrative describes a proposal for annexation of 4.47 Acres. The annexation supports the City's goals and policies and satisfies applicable criteria identified in the City's Comprehensive Plan and Land Development and Planning Code. Therefore, the proposed annexation should be approved and forwarded to the voters.

SERVICE PROVIDER COMMENTS

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-7001

FAX 266-1574

DATE: October 09, 2009

RECEIVED

OCT 16 2009

CURRAN-McLEOD

- TO:
- FIRE
 - POLICE
 - PUBLIC WORKS
 - CANBY ELECTRIC
 - CANBY WATER
 - WWTP - Darwin Trammel
 - WWTP - Jeff Crowther
 - CITY ENGINEER
 - CTA
 - NW NATURAL
 - WILLAMETTE BROADBAND
 - CANBY DISPOSAL
 - CITY ATTORNEY
 - BIKE AND PEDESTRIAN COMM
 - PGE
 - CANBY AREA TRANSIT
 - CANBY POST OFFICE
 - CLACKAMAS COUNTY ASSESSOR
 - CLACKAMAS COUNTY 911
 - CLACKAMAS COUNTY TRANSPORTATION
 - TRAFFIC SAFETY COMMITTEE
 - CLACKAMAS COUNTY
 - CANBY SCHOOL DISTRICT
 - OREGON DEPT. TRANSPORTATION
 - ODOT/REGION 1/DIST 2B
 - STATE OF OREGON/REVENUE
 - CANBY BUSINESS REVITALIZATION
 - PARKS AND RECREATION
 - CITY TRANSPORTATION ENGINEER
 - BUILDING OFFICIAL
 - OTHER _____
 - OTHER _____

The City has received ANN 09-01, an application from Norman and Jenny Beck requesting to annex 4.77 acres into the City of Canby, and requesting to change the zoning thereof from Clackamas County RRF-5 to City of Canby R-1 (Low Density Residential). The property is located south of N.E. Territorial Road and north of N. Plum Court, and includes land identified by Clackamas County Assessor Map & Tax Lot No. 31E27C-02500 together with a tract of land lying within the boundaries of a portion of N. Pine Street.

Please review the enclosed application and return comments to Melissa Hardy by **Friday, October 23, 2009**. Thank you.

Comments or Proposed Conditions:

PINE STREET R.O.W. ANNEXATION PROCEDURE WAS COORDINATED LAST JULY.
PINE STREET SHALL BE IMPROVED TO COLLECTOR STREET STANDARDS WITH PARKING ON ONE SIDE, R.O.W. DEDICATION (10') WILL BE REQUIRED ALONG ENTIRE SITE FRONTAGE.
ADEQUACY
PLEASE CHECK ONE BOX AND SIGN BELOW:

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

RECEIVED
OCT 20 2009
BY _____

Signature: [Handwritten Signature] Date: 10/16/2009

Title: Project Engineer Agency: Curran-McLeod, Inc

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-7001

FAX 266-1574

DATE: October 09, 2009

- TO:**
- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
| <input type="checkbox"/> CANBY ELECTRIC | <input type="checkbox"/> CLACKAMAS COUNTY TRANSPORTATION |
| <input type="checkbox"/> CANBY WATER | <input type="checkbox"/> TRAFFIC SAFETY COMMITTEE |
| <input type="checkbox"/> WWTP - Darvin Trammel | <input type="checkbox"/> CLACKAMAS COUNTY |
| <input type="checkbox"/> WWTP - Jeff Crowther | <input type="checkbox"/> CANBY SCHOOL DISTRICT |
| <input type="checkbox"/> CITY ENGINEER | <input type="checkbox"/> OREGON DEPT. TRANSPORTATION |
| <input type="checkbox"/> CTA | <input type="checkbox"/> ODOT/REGION 1/DIST 2B |
| <input type="checkbox"/> NW NATURAL | <input type="checkbox"/> STATE OF OREGON/REVENUE |
| <input type="checkbox"/> WILLAMETTE BROADBAND | <input type="checkbox"/> CANBY BUSINESS REVITALIZATION |
| <input type="checkbox"/> CANBY DISPOSAL | <input type="checkbox"/> PARKS AND RECREATION |
| <input type="checkbox"/> CITY ATTORNEY | <input type="checkbox"/> CITY TRANSPORTATION ENGINEER |
| <input type="checkbox"/> BIKE AND PEDESTRIAN COMM | <input type="checkbox"/> BUILDING OFFICIAL |
| <input type="checkbox"/> PGE | <input type="checkbox"/> OTHER _____ |
| <input type="checkbox"/> CANBY AREA TRANSIT | <input type="checkbox"/> OTHER _____ |

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Please review the enclosed application and return comments to Melissa Hardy by **Friday, October 23, 2009**. Thank you.

Comments or Proposed Conditions:

Please check one box and sign below:

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

Signature: Darvin Trammel **Date:** 10/23/09

Title: Wastewater Supervisor **Agency:** WWTP

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

(503) 266-7001

FAX 266-1574

DATE: October 09, 2009

- TO:**
- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
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| <input type="checkbox"/> CANBY DISPOSAL | <input type="checkbox"/> PARKS AND RECREATION |
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Comments or Proposed Conditions:

Please check one box and sign below:

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- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

Signature:  Date: 10/15/09

Title: Wtr Dept. Foreman Agency: Canby Utility

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-7001

FAX 266-1574

DATE: October 09, 2009

- TO:
- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
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| <input type="checkbox"/> CANBY WATER | <input type="checkbox"/> TRAFFIC SAFETY COMMITTEE |
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| <input type="checkbox"/> PGE | <input type="checkbox"/> OTHER _____ |
| <input type="checkbox"/> CANBY AREA TRANSIT | <input type="checkbox"/> OTHER _____ |

The City has received ANN 09-01, an application from Norman and Jenny Beck requesting to annex 4.77 acres into the City of Canby, and requesting to change the zoning thereof from Clackamas County RRFF-5 to City of Canby R-1 (Low Density Residential). The property is located south of N.E. Territorial Road and north of N. Plum Court, and includes land identified by Clackamas County Assessor Map & Tax Lot No. 31E27C-02500 together with a tract of land lying within the boundaries of a portion of N. Pine Street.

Please review the enclosed application and return comments to Melissa Hardy by Friday, October 23, 2009. Thank you.

Comments or Proposed Conditions:

the canby utility Annexation Policy will apply to this
project

Please check one box and sign below:

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

Signature: *Jim McDowell* Date: 10-21-09

Title: Line Foreman Agency: Canby Utility Elect

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-7001 FAX 266-1574

DATE: October 09, 2009

- TO:
- | | |
|---|--|
| <input type="checkbox"/> FIRE | <input type="checkbox"/> CANBY POST OFFICE |
| <input type="checkbox"/> POLICE | <input type="checkbox"/> CLACKAMAS COUNTY ASSESSOR |
| <input type="checkbox"/> PUBLIC WORKS | <input type="checkbox"/> CLACKAMAS COUNTY 911 |
| <input type="checkbox"/> CANBY ELECTRIC | <input type="checkbox"/> CLACKAMAS COUNTY TRANSPORTATION |
| <input type="checkbox"/> CANBY WATER | <input type="checkbox"/> TRAFFIC SAFETY COMMITTEE |
| <input type="checkbox"/> WWTP - Darvin Trammel | <input type="checkbox"/> CLACKAMAS COUNTY |
| <input type="checkbox"/> WWTP - Jeff Crowther | <input type="checkbox"/> CANBY SCHOOL DISTRICT |
| <input type="checkbox"/> CITY ENGINEER | <input type="checkbox"/> OREGON DEPT. TRANSPORTATION |
| <input type="checkbox"/> CTA | <input type="checkbox"/> ODOT/REGION 1/DIST 2B |
| <input type="checkbox"/> NW NATURAL | <input type="checkbox"/> STATE OF OREGON/REVENUE |
| <input type="checkbox"/> WILLAMETTE BROADBAND | <input type="checkbox"/> CANBY BUSINESS REVITALIZATION |
| <input type="checkbox"/> CANBY DISPOSAL | <input type="checkbox"/> PARKS AND RECREATION |
| <input type="checkbox"/> CITY ATTORNEY | <input type="checkbox"/> CITY TRANSPORTATION ENGINEER |
| <input type="checkbox"/> BIKE AND PEDESTRIAN COMM | <input type="checkbox"/> BUILDING OFFICIAL |
| <input type="checkbox"/> PGE | <input type="checkbox"/> OTHER _____ |
| <input type="checkbox"/> CANBY AREA TRANSIT | <input type="checkbox"/> OTHER _____ |

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- Adequate public services are not available and will not become available

Signature: Freida Hakut Date: 10-15-09
 Title: President Agency: Canby Disposal Co.

TRAFFIC IMPACT STUDY

TECHNICAL MEMORANDUM

TO: Melissa Hardy, City of Canby
FROM: Catriona Sumrain, TOPS *CS*
DATE: June 4, 2009
SUBJECT: Traffic Report
Beck Annexation



321 SW 4th Ave., Suite 400
Portland, Oregon 97204
phone: 503.248.0313
fax: 503.248.9251
lancasterengineering.com

INTRODUCTION

This memo is written to provide the results of a traffic analysis to examine the impacts of annexing a property into Canby City Limits. The property is located at 1732 N Pine Street, which is on the east side of N Pine Street and south of NE Territorial Road. A traffic study had been prepared by Lancaster Engineering on January 6, 2006 and examined the impacts of annexation.

The site is approximately 4.47 acres and is planned for R-1 (Low-Density Residential) zoning upon annexation. The site could be developed with up to 23 homes under the future zoning designation. Figure 1 in the technical appendix is the vicinity map of the site.

A development agreement is underway for the annexation. Although a final agreement has not yet been reached, it is likely the agreement will include the condition that future access to the site be located in alignment with the future extension of NE 17th Avenue.

PREVIOUS TRAFFIC IMPACT STUDY

The results and conclusions of the previous traffic study showed that the operational impacts of the annexation were minimal. The level of service at N Pine Street and NE Territorial Road was projected to be A with the proposed annexation.

The previous study further concluded that access location was a greater concern, particularly with regard to possible access to the property opposite the site and existing access to the north.

TRIP GENERATION

Annexation of the property would allow development to occur under the City's R-1 zoning designation. Since there is no development plan associated with an annexation, a reasonable worst-case scenario was assumed.

To estimate the number of trips that will be generated by proposed annexation, trip rates from *ITE TRIP GENERATION* were used. Land-use code 210, *Single-Family Detached Housing*,



Melissa Hardy
 June 4, 2009
 Page 2 of 3

was used. The trip rates are based on number of dwelling units and were calculated for a worst-case development of 23 homes.

The results of the trip generation calculations show that the proposed annexation will generate up to 17 trips during the morning peak hour. Of these, 4 trips will be entering the site and 13 trips will be exiting the site. During the evening peak hour, up to 23 trips will be generated, with 14 trips entering the site and 9 trips exiting the site. During the weekday, up to 220 trips are expected, with half entering and half exiting the site.

LAND USE	SIZE	VAR	AM PEAK HOUR			PM PEAK HOUR			WEEKDAY		
			In	Out	Total	In	Out	Total	In	Out	Total
			SFD	23 d.u.		4	13	17	14	9	23

Because a residential development is typically an origin or destination for trips, no reduction was taken for pass-by trips. Also, no reduction was made for transit use.

Figures 2 and 3 in the technical appendix show the expected trip distribution and assignment for the site.

SITE ACCESS

It is likely that the development agreement will stipulate site access located in alignment with the existing segment of NE 17th Avenue. This would place site access approximately 95 feet north of the southern property line. It was this location that was examined for safety and access. Figure 4 in the technical appendix shows the location of existing access points as well as the approximate spacing distance of future site access.

N Pine Street is classified as a Collector. Minimum access spacing for a Collector is 150 feet. If the site access is placed in alignment with NE 17th Avenue, there will be approximately 205 feet between the site access and the closest driveway to the north and about 315 feet to the closest driveway to the south. Both driveways are located on the west side of N Pine Street.

The closest driveway to the north serves a home located on a flagpole-shaped lot. If there will be any development on this lot, it is possible that access would still be to N Pine Street. Assuming a full-width access at this location leads to a future access spacing of about 185 feet.

It is unlikely that if the nearby properties are also annexed and developed future street access would be located at the current driveways. For this reason, measurements were also taken to the Willamette Grove apartment driveway and an assumed location for NE 16th Avenue. Aligning site access with NE 17th Avenue results in an access spacing of about 295 feet to the Willamette Grove apartment driveway to the north and about 235 feet to "NE 16th Avenue" to the south.



Melissa Hardy
June 4, 2009
Page 3 of 3

Placing site access in alignment with NE 17th Avenue conforms to the City's access spacing requirements if no additional access is allowed onto N Pine Street. In addition, this access location allows for further annexation of nearby properties without unduly restricting future development of those properties.

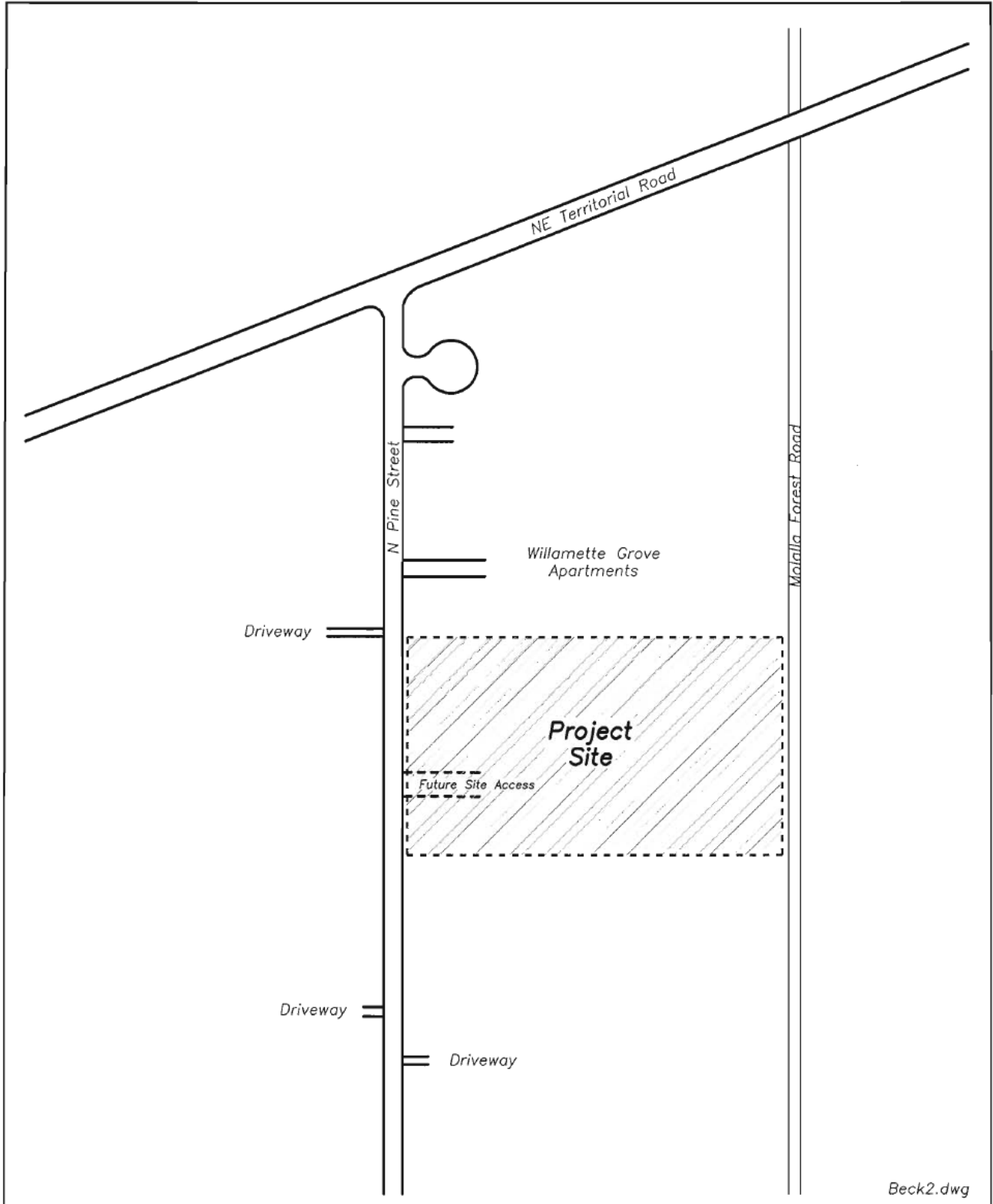
Sight distance was examined at the site access location. In accordance with guidelines in *A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS*, published in 2004 by the American Association of State Highway and Transportation Officials (AASHTO), sight distance was examined at a point 15 from the edge of the roadway, assuming a 38-foot curb-to-curb width and based on a driver's eye height of 3.5 feet with an oncoming driver's eye height of 3.5 feet. The posted speed on N Pine Street is 25 mph, requiring a minimum of 280 feet of sight distance in either direction.

N Pine Street is straight and level and there are no obstructions to the sight distance in either direction. Sight distance will be adequate at an access location aligned with NE 17th Avenue.

TRANSPORTATION PLANNING RULE

Because the site is proposed for annexation, the provisions in the Transportation Planning Rule (OAR 660-012-0060) apply.

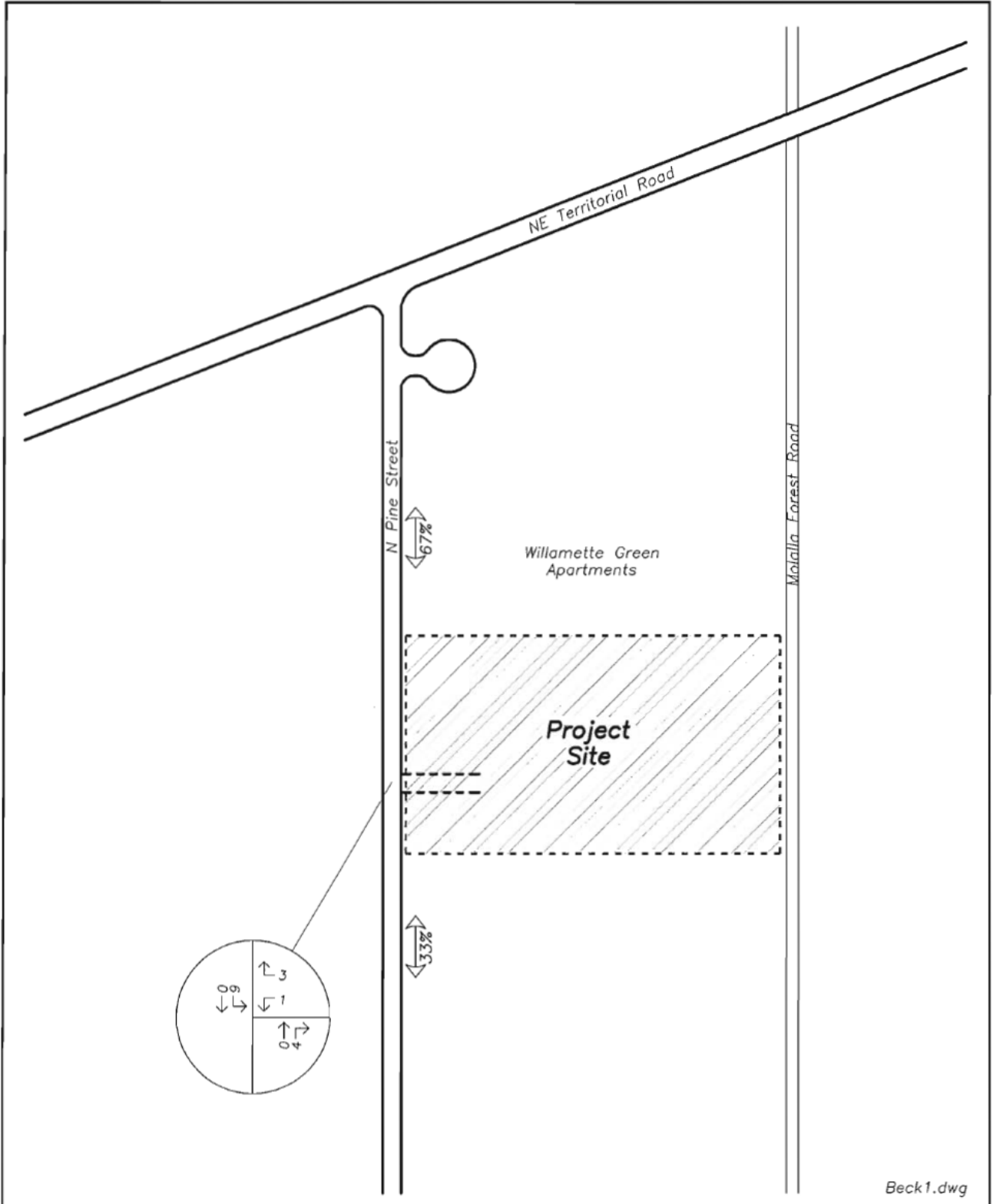
The previous traffic impact analysis showed that the annexation would not significantly affect the transportation system. Since traffic volumes have not changed substantially since the previous traffic study, a new analysis would report similar results. The annexation would not significantly affect the transportation system. The proposed annexation meets the requirements of the Transportation Planning Rule.



VICINITY MAP



FIGURE
1
APPENDIX



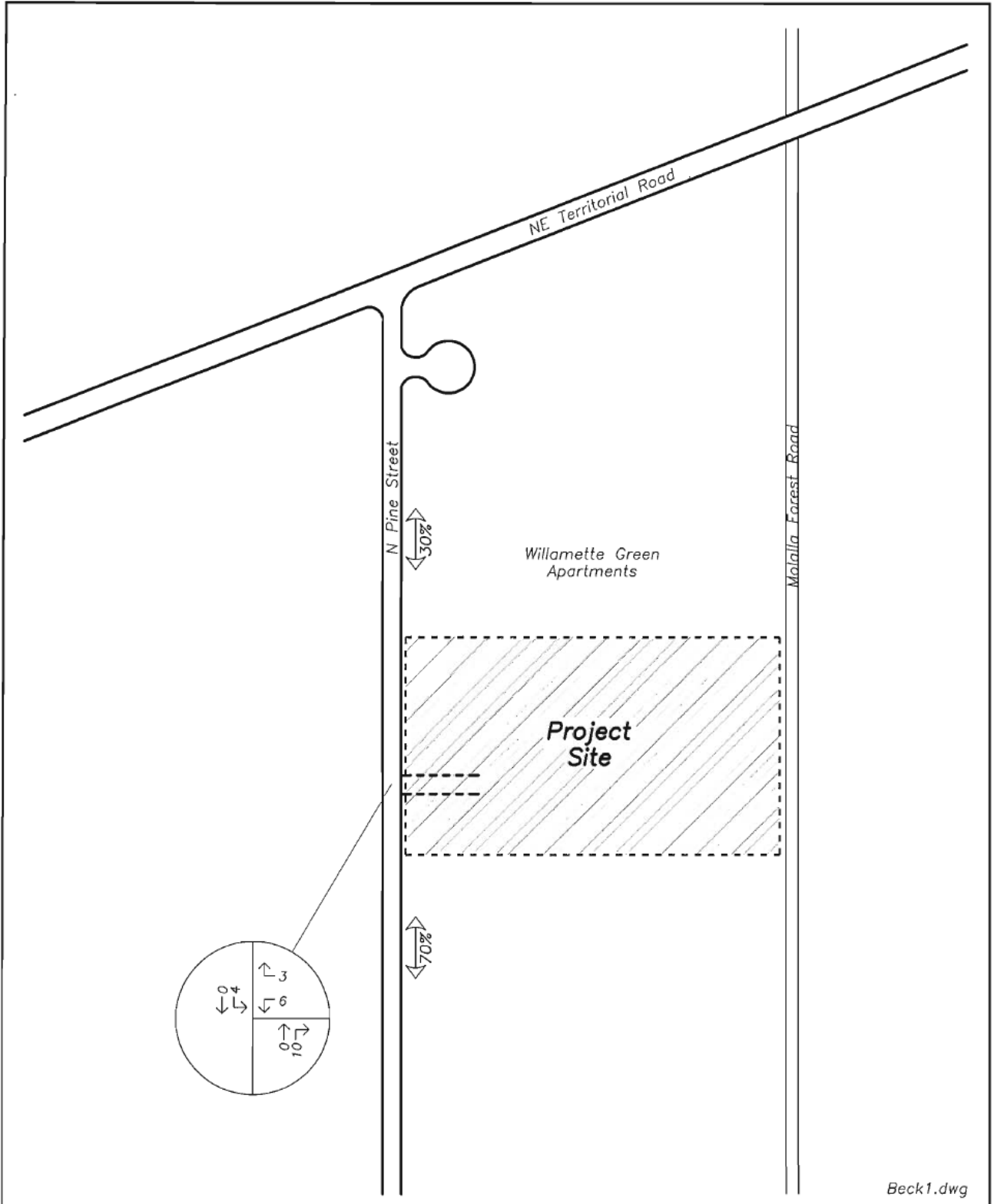
Beck1.dwg



SITE-GENERATED TRAFFIC
 Proposed Development Plan
 AM Peak Hour



FIGURE
 2
 APPENDIX



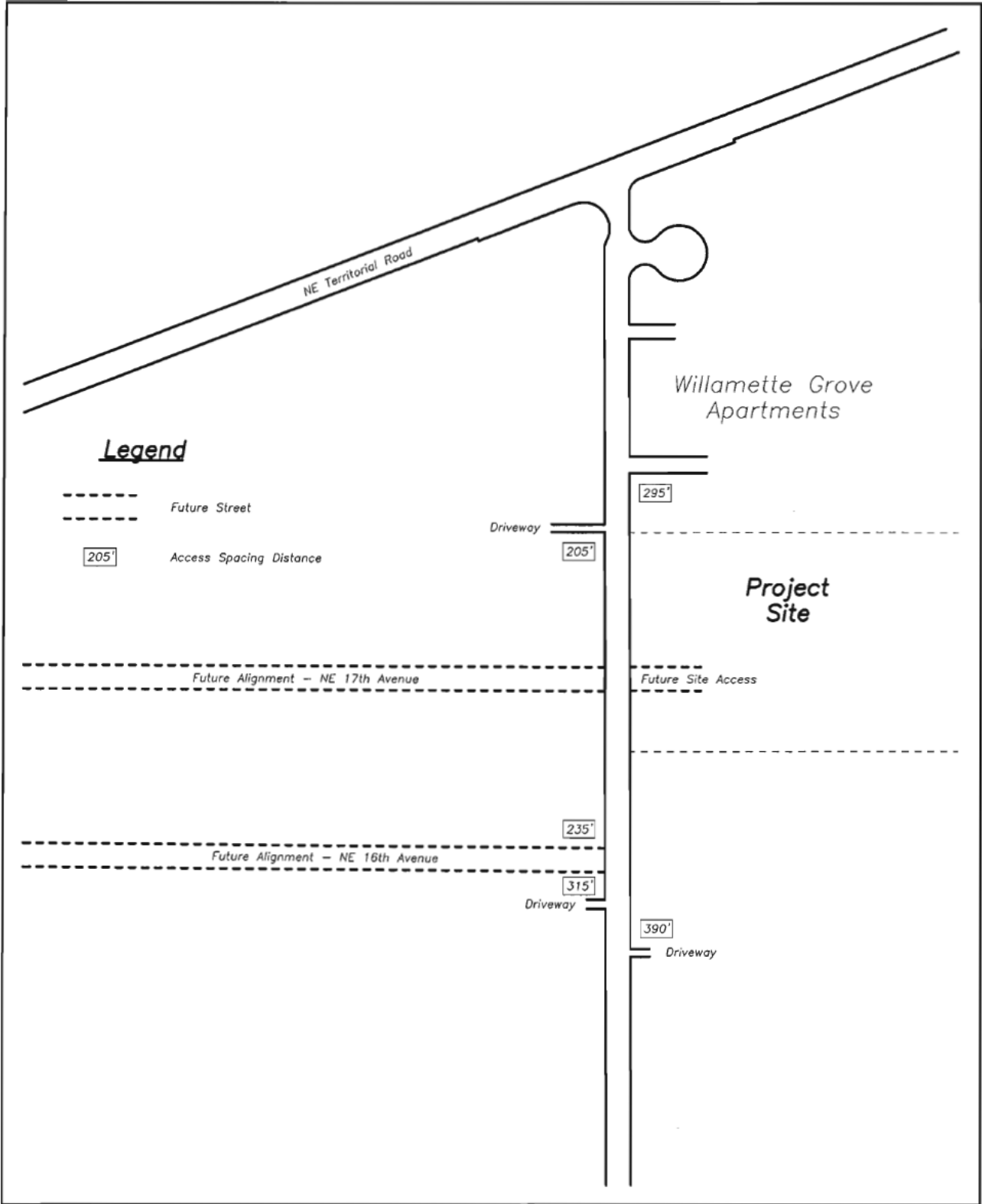
Beck1.dwg



SITE-GENERATED TRAFFIC
 Proposed Development Plan
 PM Peak Hour



FIGURE
 3
 APPENDIX



ACCESS SPACING
 Year 2009 Background Conditions
 AM Peak Hour

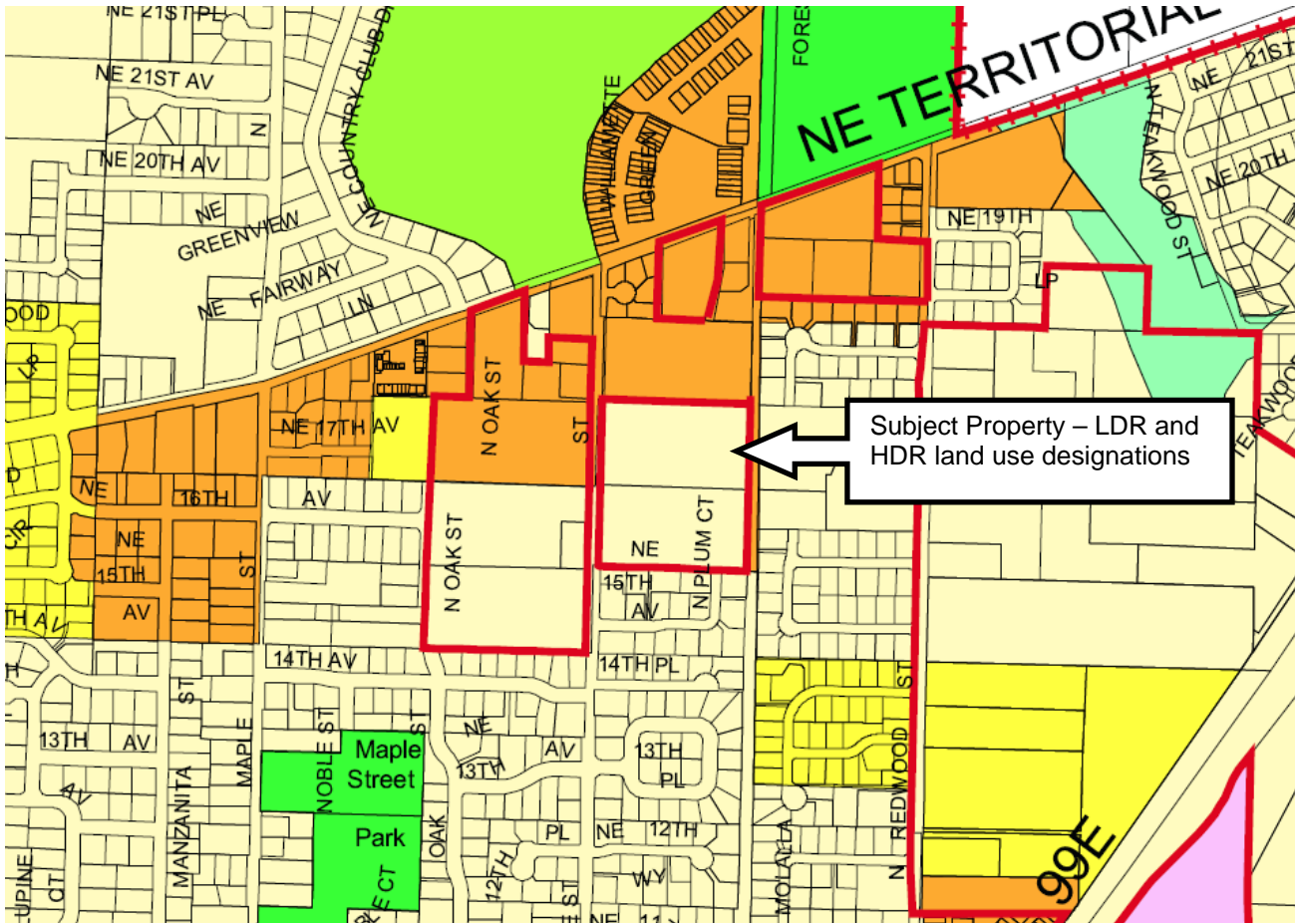


FIGURE
 4

APPENDIX

COMPREHENSIVE PLAN LAND USE MAP

(Excerpt)



NEIGHBORHOOD MEETING NOTES

Beck Pine Street Annexation - Neighborhood Meeting
Regularly scheduled NECNA meeting, February 19, 2009, 7:00 pm
Willamette Green Clubhouse

A list of meeting attendees provided by the NECNA is attached.

The presentation began at approximately 7:05 PM.

The applicant's representative, Pat Sisul of Sisul Engineering provided maps of the site and the general area and described the proposed annexation and the General Land Use plans. Two plans were provided, Plan 1, which is the same General Land Use Plan provided when the parcel was proposed for annexation in 2006 which features a single connection from the site to Pine Street and Plan 2, which featured two connections to Pine Street and a slightly different lot arrangement. The site is zoned R-1, which allows for minimum lot sizes of 7,000 sf and with either plan 19 lots could be created on the 4.5 acre property.

Pat Sisul explained that this neighborhood meeting was the first opportunity for neighbors of the development to ask questions and offer comments. A pre-application meeting was going to be held with the City in the next week and an application had to be submitted to the City by the end of February in order to make the November election. A Planning Commission hearing and a City Council hearing will likely be held in April and May.

Below are some of the questions asked during the meeting:

- What guarantee do the neighbors have that the property would not be developed as high density? *The site is identified in the City's Comprehensive Plan as Low Density Residential and will come into the City with R-1 zoning. In order to change the zoning, the applicant would have to go through a Comprehensive Plan adjustment and a zone change, which are not easy processes to go through. We doubt there would be any support from the City for such a change. The applicant indicated that he had no intentions of developing the site as anything other than low density residential.*
- What is zoning of the Willamette Grove Apartments and the Holmes property? *The apartments are zoned R-2, the Holmes property is either R-1.5 or R-2.*
- Is it odd to have high density adjacent to low density without stepping down to medium density in between? *It's not uncommon, but each city is different in their approach. It looks as though the City of Canby chose to locate high density zoning along the Territorial Road corridor, likely because there is a transit line on that street. Higher density is typically located near transit of commercial areas.*
- Will the project improve Pine Street across only the property frontage or across both properties on that side of the street that are in the County? *Likely only along the property frontage.*
- Will sanitary sewer and water have to be extended in front of both County parcels, or only the parcel owned by the applicant? *Likely only the parcel owned by the applicant, however, we have not yet had the pre-application meeting with the City, so we do not know for sure. If*

the applicant was required to extend waterline or sewer beyond his site, then he would be able to create an Advanced Financing District to collect fees for the additional footage from the people fronting the line at the time that they make connection to it.

- *Is it odd to have an offset intersection? (in reference to the alignment of the applicant's 18th Avenue and 18th Avenue alignment on the Holmes property) Yes that would be untypical. We've heard that there was a reason why the Holmes property located their access where it is shown on their concept plan. Their alignment is centered on the property line common to the Becks' property and the apartment site. We cannot align with that street without a dedication from the apartment site, an unlikely scenario. The City traffic engineer is aware of the issue and the City will have to direct an outcome as subdivisions are approved.*
- *Is a traffic study required? An update of the earlier study is being done.*
- *What did the traffic study say last time? The traffic study identified no concerns in the immediate area of the site. The City's traffic engineer has informed me that nothing has changed in the vicinity of the site that would alter the report from 2005/2006.*
- *The City passed an ordinance last summer requiring master plans and development agreements; does it apply to this property? Yes, this property is required to enter into a Development Agreement. This will be the first annexation that has to enter into a DA, and we're not sure who writes it or when it has to be written. We should get answers at our pre-app meeting next week.*
- *Will we get to see what is in the DA before the election? We anticipate so. The preliminary indication from the City Staff is that they feel that the DA needs to be prepared before the application goes before the City Council for recommendation to the voters. This would be several months prior to the election.*
- *What is the width of a public street? 40 feet of right of way, 36 feet from curb to curb. Sidewalks are in an easement behind the right-of-way.*
- *Would the street along the apartment site be built right next to the fence? That is how we have it shown. If the City required a sidewalk along that side of the street the street would have to be moved off the fence in order to accommodate it, but we don't know whether a sidewalk along the apartment complex side of 18th Avenue would be required. This would be answered when a subdivision application was submitted.*
- *Is the one access plan acceptable to the Fire Department? The Fire Department will allow one access to serve up to 25 homes, although more can be served if fire sprinkler systems are installed. City Code will allow one access for up to 30 homes. Nineteen homes are likely.*
- *What is the size of the cul-de-sac? We've shown a half street and a half cul-de-sac. The curb to curb width on the cul-de-sac has to be 96 feet for the fire department to use it as a turnaround.*
- *Norm Beck indicated that they intended to bring the property into the City, but had no immediate plans to develop it. We have a Master Plan for the site only because the City requires that a plan be submitted with the application.*
- *There were no objections offered. A vote was taken and Plan A was preferred to Plan B.*

The presentation was ended at approximately 7:55 PM. The regular meeting continued.

Notes prepared by
Patrick A. Sisul, Sisul Engineering

NECNA Meeting 18th February 2009

We discussed the annexation request with mister Beck and his representative mister Pat Sisul. We have no objection to this request if the following issues are adhered to.

#1 There is a binding development agreement.

#2 There is no change in zoning. Currently listed as low density residential R-1 Mr Beck stated he has no intensions of asking for a change.

#3 All other City codes are followed.

There were also discussions as to why some proposed streets on opposite sides accessing Pine do not align with each other. The street in question is N E 18th Ave on Mr Tom Holmes proposed development and N E 18th on the Beck property. It was pointed out that past developments is preventing future alignment. This is another example of a need for Master Plans. I am also submitting a land use plan provided by Mr Sisul. Our group voted this as the most desirable.

Leonard Walker Chairman NECNA



MINUTES
CANBY PLANNING COMMISSION
7:00 PM – November 9, 2009
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Chair Dan Ewert, Vice Chair Jan Milne, Commissioners Sean Joyce, Chuck Kocher, Misty Slagle and Jared Taylor

ABSENT: None

STAFF: Bryan Brown, Planning Director; Melissa Hardy, Associate Planner; and Jill Thorn, Planning Staff

OTHERS PRESENT: Tom Vandervert, Lisa Bonifant and City Councilor Brian Hodson

1. **CALL TO ORDER**
2. **CITIZEN INPUT** None
3. **PUBLIC HEARINGS** None
4. **NEW BUSINESS**

MOD 09-04 of DR 98-08 - The applicant is requesting an Intermediate Modification of Site and Design Review approval DR-98-08 in order to change Condition #39 to reduce the amount of vehicle parking required, and to allow removal of 10 vehicle parking spaces and construction of a drive-through automated teller machine (ATM) with signage.

Melissa Hardy presented the staff report of November 9, 2009 and explained the process.

Commissioner Slagle asked if other changes in the center would have to go through some process.

Ms Hardy said that there are three levels of modifications, a minor, an intermediate, and a major modification, and that any new buildings or additional floor space would require the Planning Commission to review.

Mr. Brown said some changes could be considered a Minor Modification, in which case it would be a decision of the Planning Director and not the Commission.

Commissioner Ewert stated that the change in the parking requirement would free up 20,000 square feet and would that application have to come before the Commission

Mr. Brown stated that if another pad was developed it would be a Type 3 application which was the same as the original application.

Commissioner Ewert asked if there was a reason to bring the parking requirement in line with the current code.

Ms Hardy said the Commission could instead find that removal of only 10 parking spaces is needed and adjust the ratio to that number.

Commissioner Milne said she had concerns about the safety of the placement of the ATM in regard to the location of the bottle return machine and small children.

Mr. Brown said that possibly the applicant could be able to address that question.

Commissioner Joyce asked how the standard went from 5 to 3 spaces per 1,000 vehicles.

Mr. Brown stated that 5 was based on Christmas and Thanksgiving parking but over the years it had been found that covering that much surface was extreme. Also, with encouragement, more people were using transit and bicycles; so most of the jurisdictions have reduced to 3 spaces per 1,000 vehicles.

Applicant: Tom Vandervert of CLC Associates stated they would like to have Condition No. 39 modified in order to eliminate 10 parking spaces. He stated they supported the recommendation of the staff. He felt the location of the ATM will not interfere with people entering the bottle return area. The ATM is designed for 2 or 3 cars to stack. He felt the ATM structure qualified as a building, thus the wall signs would meet the code.

Commissioner Ewert expressed concerns about the high risk of problems with the stacking area.

Mr. Vandervert stated that at the most there would be only 2 or 3 vehicles as the location of the ATM was off the beaten path

Commissioner Ewert expressed concerns about the stacking of vehicles and whether trucks would have space to operate.

Mr. Vandervert said this was the location that Fred Meyer wanted to have the ATM area.

Commissioner Taylor asked if there was any statistical information from Fred Meyer on the number of actual empty spaces.

Mr. Vandervert stated that there was no information. He also stated that Fred Meyer would be fine with a 4 spaces per 1,000 vehicles and that Wal-Mart requires 5 spaces per 1,000 vehicles.

Ms Hardy stated the only information the City had on parking space use was from the 1998 parking demand analysis where they surveyed two other Fred Meyer shopping centers and found that the demand was 2.2 per 1,000 vehicle space.

Commissioner Milne asked if this ATM would be replacing the branch on Holly Street.

Ms Bonifant said no.

Commissioner Kocher suggested the ATM be moved further away from the bottle return be moved down to separate the two functions more.

Mr. Vandervert said Fred Meyer had already said no to that proposal.

Commissioner Joyce noted that in the drawing the 3rd car stuck out a little and wondered if taking 12 parking spaces would not be a safer thing.

Commissioner Ewert felt this was creating another activity and creating a potential traffic jam.

Commissioner Milne felt there was congestion now when the trucks deliver to Denny's now.

Commissioner Taylor stated it was not the Commission's concern as the code is being met.

Ms Bonifant stated there would be 3 ATM machines inside and outside the store that most people would use during the hours of 7 AM to 11 PM when the Fred Meyer store was open.

Commissioner Ewert expressed concerns about flow and queuing.

Mr. Vandervert stated he understood the concerns, but this was not a high intensive use and that Fred Meyer did not feel there is a problem.

Commissioner Joyce stated that taking 2 or 3 more spaces would allow for better stacking.

Commissioner Taylor said that would require removing some of the landscaping and that could be an issue.

Ms Hardy said that taking out the small landscape island would still allow the over all landscaping requirements to be met. She suggested the Commission could require the applicant to submit a transportation analysis or give the applicant six months to see if the current configuration works, and if not they would come back to the Commission to request additional changes.

Commissioner Milne stated she was not concerned as most of the use would be after hours.

Mr. Brown stated that this was an internal private parking lot and cars could go around cars that were in line to use the ATM.

Commissioner Slagle stated that the average time to use the ATM machine was not long enough to cause great delays.

Commissioner Milne stated she liked holding a card that could fix any problems in the future.

Commissioner Ewert had concerns about freeing up 20,000 square feet that could be developed.

Mr. Brown stated that was not likely to happen.

Commissioner Taylor said he had concerns about providing something the applicant had not asked for in the reduction of the parking.

Commissioner Slagle stated she didn't want to give more, but wanted the ability to review future development.

Commissioner Ewert asked about normal size spaces compared to compact size spaces.

Ms Hardy said that the code allowed up to 30% of the spaces to be for compact.

Commissioner Taylor said he was good with the signage request and would like to see the 4.1 spaces per 1,000 vehicles be reduced to only 4.

Proponents: None

Opponents: None

Neutral: None

Rebuttal: None

Commissioner Taylor moved to approve Modification 09-04 of DR 98-08 application as presented but to modify Condition 4 to change the parking ratio to from 3 vehicle parking spaces per 1,000 to 4 vehicle parking spaces per 1,000 vehicle parking spaces. It was seconded by Commissioner Slagle. The motion passed 5-1 with Commissioner Ewert voting No.

5. FINAL DECISIONS

a. MOD 09-04 of DR 98-08 – Chase/Fred Meyer - It was moved by Commissioner Taylor to approve the written findings for MOD 09-04 of DR 98-08 – Chase/Fred Meyer – as presented but to modify Condition 4 to change the parking ratio from 3 vehicle parking spaces per 1,000 to 4 vehicle parking spaces per 1,000 vehicle parking spaces.. It was seconded by Commissioner Kocher. The motion passed 5-1 with Commissioner Ewert voting No.

6. MINUTES

September 28, 2009 - Commissioner Milne moved to approve minutes of September 28, 2009 as presented. Motion seconded by Commissioner Kocher and passed 4-0 with Commissioners Ewert and Taylor abstaining.

7. ITEMS OF INTEREST FROM STAFF – Planning Director Bryan Brown stated he had finished the bi-monthly report for the City Council and would have the Planning Department Work Plan emailed to the members of the Commission. He also welcomed City Councilor Brian Hodson as the new liaison from City Council to the Planning Commission.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – Commissioner Milne expressed her appreciation for the fact the new theater was now open.

9. ADJOURNMENT