

A G E N D A
CANBY PLANNING COMMISSION
REGULAR MEETING
City Council Chambers

Monday, January 6, 1997

7:30 p.m.

I. ROLL CALL

II. MINUTES

November 25, 1996 - held over
December 9, 1996

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. FINDINGS

CUP 96-05 - H.O.P.E.
DR 96-16 - H.O.P.E.

V. COMMISSION DISCUSSION OF PLANNING ISSUES

VI. PUBLIC HEARINGS

ANN 97-01, an application by Shimadzu U.S.A. Manufacturing, Inc. [applicant] and Ray L. and Irene E. Burden [owners] for approval to annex 58.47 acres into the City of Canby. Fifteen (15) acres will be reserved as the Logging Road Industrial Park, Phase 2, in the southwest corner of the site. This phase of the Logging Road Industrial Park will be accessed from S.E. 4th Avenue. The balance of 43.47 acres will remain in nursery production. The property is located east of the Logging Road, north of S.E. 4th Avenue [Tax Lots 700, 790, and 1700 of Tax Map 3-1E-34].

CUP 97-01, an application by Rob Petit [applicant] for approval of a Conditional Use Permit to locate a gymnastic center in Building #3 of Bruce Broetje's industrial complex located at 365 S. Redwood Street. This project will consist of the relocation of an existing use at 1000 S. Ivy [Tax Lot 1806 of Tax Map 3-1E-34C].

VAR 97-01, an application by Todd and Nancy Lucich [applicant/owner] for approval to construct a 12 foot wide gravel driveway from N.W. Territorial Road to the homesite, in variance to an order dated August 24, 1992 requiring a 20 foot paved driveway [Tax Lot 203 of Tax Map 3-1E-33BB].

SUB 97-01, an application by Dan Anderson for approval to develop a 5-lot subdivision. The site is located at the transition of S.E. 3rd Avenue and S. Redwood Street, south of S.E. 3rd Avenue and north of S.E. Township Road [Tax Lots 1800 and 1802 of Tax Map 3-1E-34C].

INT 96-01, an appeal by Pahlisch Duncan Homes, of staff's interpretation regarding setback restrictions for Phase I of Tofte Farms Subdivision, which is located on the south side of S.E. 13th Avenue east of S. Ivy Street and west of S. Redwood Street [Tax Lot 2200 of Tax Map 4-1E-3].

II. NEW BUSINESS

VIII. OLD BUSINESS

VAR 96-01 - Jones

PLANNING COMMISSION
SIGN-IN FORM

Date: January 6, 1997

PLEASE PRINT CLEARLY

ADDRESS

NAME

Kathy Colby
 Marybeth Colby
 Mike Allyn
 Don Z. Palko
 Jani Warner
 Donna Hendon
 Christopher Bando
 Rob Pett
 Eileen Bentz
 Todd & Nancy Lulich
 Roy Zimmer
 Tom B...
 Rachelle...
 Ken McKinley
 Kay & Steve Burden
 Ann O...
 Jeanne Wilson
 Evelyn Murphy
 James T...
 Chessa Knob
 Cindy Nichols
 Don Zimmer
 Ken...
 Roger
 M...
 Diana...
 1304 SE 11th Loop

1800 SW 5th Portland 97201
 1000 S Ivy Canyon
 679 S Lupine St
 1691 SE 1st
 1315...
 2790 Oxford West
 18605 S Char Ln Madras
 23230 Hwy 99E Canyon
 2391 S...
 1584 S Schneider Canyon
 2334 "C" St...
 2845 S...
 2845 S...
 2001 SE...
 9687 S...
 13191 S...
 9687 S...
 2845 S...
 2001 SE...
 1304 SE 11th Loop

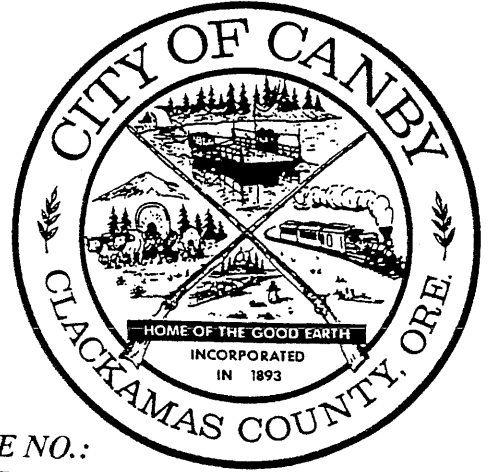
PLANNING COMMISSION
TESTIMONY SIGN-IN FORM

Date: January 6, 1997

PLEASE PRINT CLEARLY

NAME	ADDRESS
Ray Thurden	23230 SHAW 99E Canby 97013
JIM ZUPANCIC	1300 SW 5th Portland
Rob Petit	1000 S. Ivy #2300 Canby
Mel Dartator	7937 SW 4th Ave Portland 97219
Dr. Don Perman office ↑	25820 S. Lilli Ln., Canby, OR 249 N.W. 3rd, Canby OR 97013
DARNA BURTON	1435 S. BIRCH Ck, CANBY, OR 97013
MISTY A BAER-FORSMAN	11298 S BREMER RD, CANBY, OR 97013
EVELYN MURPHY	2834 "C" ST HUBBARD 97032
W. Ace Hoover	1300 S Ivy
Todd Cuckich	679 S Lupton St.
Don Rylee	1056 NE 8th Pl.
Dave [unclear]	
Mike [unclear]	15100 SW. Koll Parkway Beatsley, OR 97001
Dennis [unclear]	188th SW. SCHIFFER

- STAFF REPORT -



APPLICANT:

Shimadzu U.S.A. Manufacturing
7102 Riverwood Drive
Columbia, MD 21046

FILE NO.:
ANN 97-01
(Shimadzu)

OWNER:

Ray L. & Irene E. Burden
23230 S. Highway 99E
Canby, OR 97013

STAFF:
James S. Wheeler
Planning Director

LEGAL DESCRIPTION:

Tax Lots 700, 790, and 1700 of
Tax Map 3-1E-34

DATE OF REPORT:
December 27, 1996

LOCATION:

West of the Molalla Logging Road and east
of Walnut Street, south of SE 1st Avenue

DATE OF HEARING:
January 6, 1997

*(City Council Hearing - on
January 15, 1997)*

COMP. PLAN DESIGNATION:

Tax Lot 700: Commercial-Manufacturing
Light Industrial
Heavy Industrial
Tax Lot 790: Heavy Industrial
Tax Lot 1700: Heavy Industrial
Light Industrial

ZONING DESIGNATION:

County Zoning: EFU-20
City Zoning will be:
Agriculture
Agriculture
Agriculture & Heavy Industrial
Heavy Industrial
Agriculture & Heavy Industrial
Agriculture

I. APPLICANT'S REQUEST:

The applicant is requesting approval to annex 58.47 acres, located in the 2nd phase of the Logging Road Industrial Park, immediately east of the Molalla Logging Road. The request is for 15 acres to be zoned for industrial uses, while the remaining, approximately 43 acres will be zoned agriculture until further development of those properties are proposed.

II. MAJOR APPROVAL CRITERIA:

The Planning Commission forms a recommendation that the City Council may consider while conducting a public hearing. The City Council then forwards their recommendation to the Portland Metropolitan Area Local Government Boundary Commission (PMALGBC), where a final hearing and decision will be made.

A. Section 16.84.040 of the Canby Municipal Code states that when reviewing a proposed annexation, the Commission shall give ample consideration to the following:

1. Compatibility with the text and maps of the Comprehensive Plan, giving special consideration to those portions of policies relating to the Urban Growth Boundary.
2. Compliance with other applicable City ordinances or policies.
3. Capability of the City and other affected service-providing entities to amply provide the area with urban level services.
4. Compliance of the application with the applicable section of ORS 222.
5. Appropriateness of the annexation of the specific area proposed, when compared to other properties that may be annexed to the City.
6. Risk of natural hazards that might be expected to occur on the subject property.
7. Effect of the urbanization of the subject property on specially designated open space, scenic, historic, or natural resource areas.
8. Economic impacts which are likely to result from the annexation.

III. FINDINGS:

The applicant has submitted documentation regarding the compliance of the application proposal to the Comprehensive Plan (section 4 of exhibit 1) and the annexation criteria (section 5 of exhibit 1). Staff will only supplement or correct where needed.

A. *Background and Relationships:*

The original desire of the applicant and the property owner was to annex only the 15 acres needed for the proposed industrial development (plus a small additional amount of land for right-of-way purposes). However, the property owner does not have a 15 acre parcel that is separately saleable, and therefore will need to reconfigure the existing lots of record to accommodate the development. Because Clackamas County's property line adjustment and/or minor land partition regulations are prohibitive for this proposed development, and because the County's and City's Intergovernmental Agreement does not grant the City jurisdiction to review applications for land use developments prior to annexation, it is necessary that all three of the property owner's properties are annexed in order to accommodate the proposed development.

The Comprehensive Plan's land use designations were not established with property lines in mind. Therefore, the land use designations for the three properties range from Commercial-Manufacturing (a small portion of the norther part of tax lot 700), to Light Industrial (a sizeable portion of both tax lots 700 and 1700), to Heavy Industrial (all of tax lot 790, and a portion of both tax lots 700 and 1700). Because it is only 15 acres that are needed for development at this time, and because both the applicant and the property owner do not have a specific interest in having the remaining annexed acreage zoned non-agriculture, and because the City has an interest in the growth rate of the size of the City, the lands that are to be annexed, but not associated with the 15 acres of industrial development will be zoned agriculture.

B. Comprehensive Plan Consistency Analysis

i. Citizen Involvement

■ **GOAL:** *TO PROVIDE THE OPPORTUNITY FOR CITIZEN INVOLVEMENT THROUGHOUT THE PLANNING PROCESS*

Policy #1: Canby shall reorganize its citizen involvement functions to formally recognize the role of the Planning Commission in meeting the six required citizen involvement components of statewide planning goal No. 1, and to re-emphasize the city's commitment to on-going citizen involvement.

Policy #2: Canby shall strive to eliminate unnecessarily costly, confusing, and time consuming practices in the development review process.

ANALYSIS

1. The notification process and public hearing are a part of the compliance with adopted policies and process regarding citizen involvement. The Planning Commission seeks input of all citizens at the review of this application, and the City Council will hold a formal public hearing.
2. The Planning Commission adheres to acting upon applications within a sixty (60) day time period from the date of determination of a complete application. Any continuation of the review period is done with the approval of the applicant, or through admission of new information into the review process. The sixtieth day is February 14, 1997.

ii. Urban Growth

- **GOAL:** 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, WITH IN THE FRAMEWORK OF AN EFFICIENT SYSTEM FOR THE TRANSITION FROM RURAL TO URBAN LAND USE.*

Policy #1: Canby shall coordinate its growth and development plans with Clackamas County.

Policy #3: Canby shall discourage the urban development of properties until they have been annexed to the city and provided with all necessary urban services.

ANALYSIS

1. The County was sent a "Request for Comments" form. The County has responded with no objection to the annexation of the 58.47 acres.

iii. 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.*

- Policy #1 Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.
- Policy #2 Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.
- Policy #3 Canby shall discourage any development which will result in overburdening any of the community's public facilities or services.
- Policy #4: Canby shall limit development in areas identified as having an unacceptable level of risk because of natural hazards.
- Policy #5 Canby shall utilize the land use map as the basis of zoning and other planning or public facility decisions.
- Policy #6: Canby shall recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas.

ANALYSIS

1. The current use of the property is for a nursery operation. The developer (applicant) and the owner are working out an arrangement to save the majority of the nursery stock, and to preclude future disruption of the existing nursery stock operation with the development of the 15 acres. Additionally, the owner prefers to retain agricultural zoning for the remaining acreage as they intend to continue their operation. Staff finds that industrial and farming operations are compatible land uses.

“The properties to the west and south are inside the City limits and are zoned and under development for industrial uses.

2. The annexation of the 58.47-acre parcels will permit future development of 15 acres of the property in accordance with the Comprehensive Plan. The remaining acreage will be rezoned and developed in accordance with the Comprehensive Plan upon proper assessment that need of further industrial land has been made at that time. At this time, no further need of industrially zoned land has been determined.

3. Request for comments have been sent to all public facility and service providers (see discussion under Public Services Element). Utility services will become available to the property through development.

4. No natural hazards have been identified on the subject properties.

5. The zoning of the properties, if annexed into the City will be both agriculture and heavy industrial. The portion that will be zoned heavy industrial will conform with the Comprehensive Plan's designation. The portions that will be zoned agriculture will be used as an interim zoning until further development is planned. The annexation of these portions of the properties are necessary to allow the development of the 15 acres, but are not "slated" for development at this time. Staff finds that the agriculture zoning of the remaining lands is in compliance with this policy of the Comprehensive Plan.

6. The subject properties are not identified as one of the "unique" sites or "areas of special concern".

iv. **ENVIRONMENTAL CONCERNS**

■ **GOAL:** *1) TO PROTECT IDENTIFIED NATURAL AND HISTORICAL RESOURCES.*

2) TO PREVENT AIR, WATER, LAND, AND NOISE POLLUTION. TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.

Policy #1-R-A: Canby shall direct urban growth such that viable agricultural uses within the urban growth boundary can continue as long as it is economically feasible for them to do so.

Policy #1-R-B: Canby shall encourage the urbanization of the least productive agricultural area within the urban growth boundary as a first priority.

Policy #2-R: Canby shall maintain and protect surface water and groundwater resources.

Policy #3-R: Canby shall require that all existing and future development activities meet the prescribed standards for air, water and land pollution.

- Policy #4-R: Canby shall seek to mitigate, wherever possible, noise pollution generated from new proposals or existing activities.
- Policy #5-R: Canby shall support local sand and gravel operations and will cooperate with county and state agencies in the review of aggregate removal applications.
- Policy #6-R: Canby shall preserve and, where possible, encourage restoration of historic sites and buildings.
- Policy #7-R: Canby shall seek to improve the overall scenic and aesthetic qualities of the City.
- Policy #8-R: Canby shall seek to preserve and maintain open space where appropriate, and where compatible with other land uses.
- Policy #9-R: Canby shall attempt to minimize the adverse impacts of new developments on fish and wildlife habitats.
- Policy #1-H: Canby shall restrict urbanization in areas of identified steep slopes.
- Policy #2-H: Canby shall continue to participate in and shall actively support the federal flood insurance program.
- Policy #3-H: Canby shall seek to inform property owners and builders of the potential risks associated with construction in areas of expansive soils, high water tables, and shallow topsoil.

ANALYSIS

2-R. The storm water drainage of the subject properties will be handled on-site. Clackamas County reviews storm water management and compliance with the Federal Clean Water Act. There are no known storm water drainage issues for this area.

3-R. The development of the property is subject to Site and Design Review criteria, however, those criteria do not include conformance to the Comprehensive Plan's Goals and Policies. The existing use has not created a known pollution problem. No additional construction would be permitted without further development review. Construction activity is required to comply with prescribed standards for air, water, and land pollution, through the building permit process. It is fully expected that with the annexation and subsequent development of the 15 acres (and

eventually the remaining acreage) that the prescribed standards for air, water, and land pollution will be adhered to through both the building permit process and the DEQ permitting process. Storm water drainage is mentioned in the above 2-R.

4-R. No additional noise will be expected as a result of the annexation. The development of the property will result in an industrial operation located next to other industrial operations and agricultural operations. The type of industrial operation proposed, and the location of the properties in relation to noise sensitive areas (residential lands, offices, and public gathering places) is such that noise mitigation is determined to be unnecessary.

5-R. The subject properties do not have a sand and gravel operation, nor will the annexation or future use of the land hinder any sand and gravel operation. There is no sand and gravel operation within the City limits.

6-R. The subject properties and surrounding properties are not historic sites.

7-R. The annexation itself will not affect the scenic or aesthetic quality of the City. Approval of development through the Site and Design Review process is required and complies with this policy.

8-R. The subject properties have not been designated as open space.

9-R. No wildlife or fish habitats are known on the subject properties.

1-H. The subject properties have no steep slopes.

2-H. The subject properties are not in a flood zone.

3-H. The subject properties have Latourell loam soils, which are well-drained soils. No expansive soils, shallow topsoil, high water table, or other potential risks associated with construction on the subject property have been identified.

v. **TRANSPORTATION**

■ **GOAL:** *TO DEVELOP AND MAINTAIN A TRANSPORTATION SYSTEM WHICH IS SAFE, CONVENIENT AND ECONOMICAL.*

- Policy #1: Canby shall provide the necessary improvement to city streets, and will encourage the county to make the same commitment to local county roads, in an effort to keep pace with growth.
- Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.
- Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.
- Policy #5: Canby shall actively work toward the construction of a functional overpass or underpass to allow for traffic movement between the north and south side of town.
- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #11: Canby shall work with private developers and public agencies in the interest of maintaining the transportation significance as well as environmental and recreational significance of the Willamette River.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

ANALYSIS

1. The proposed annexation will allow the construction of the first part of the infrastructure into the second phase of the Logging Road Industrial Park, in accordance with the Industrial Attraction Plan for this area. Further, the annexation proposal is a part of a financing package that will provide the infrastructure improvements at a cost to the City of approximately \$1 for every \$10 of the costs.

2. As stated in the analysis for policy 1, the annexation will facilitate the needed infrastructure improvements for the beginning development of phase 2 of the Logging Road Industrial Park.
3. There are no known "problem intersections" near the annexation properties, and proposed development site. A traffic study will accompany a site specific development proposal to identify any potential traffic hazards that the new development might create.
5. The subject properties are not involved in any possible overpass or underpass of Highway 99-E and the railroad. Development of a portion of the subject properties will provide an overpass for the Mollala Rail spur, but that is not germane to this policy.
6. Both the fire district and police department have responded to the Request for Comments, and adequate services are available or will become available through development.
8. The proposed annexation and development will provide an overpass to the "Molalla Spur" which will permit industrial traffic from phase 2 of the Logging Road Industrial Park to avoid the Township Road crossing of the "Molalla Spur".
11. The subject properties are not near the Willamette River and will have no effect on the transportation potential or use of the Willamette River.
12. The subject properties are not on roads which affect access to the City.

vi. PUBLIC FACILITIES AND SERVICES

■ GOAL: TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.

Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.

Policy #2: Canby shall utilize all feasible means of financing needed public improvements and shall do so in an equitable manner.

Policy #5: Canby shall assure that adequate sites are provided for public schools and recreation facilities.

ANALYSIS

1. All needed public facility and service providers were sent a "Request for Comments" regarding this application. Positive responses were received from the Public Works Department, Wastewater Treatment, Clackamas County, ODOT, the Fire District, the Police Department, NW Natural Gas, and Canby Telephone Association. Adequate facilities are available for the servicing of the properties to be annexed.

5. The City has adopted a Parks Master Plan in which appropriate sites or areas for recreation facilities are identified. No parks have been designated in any nearby area. Nothing further is needed from these properties in order to comply with this policy.

vii. ECONOMIC

■ GOAL: TO DIVERSIFY AND IMPROVE THE ECONOMY OF THE CITY OF CANBY.

Policy #1: Canby shall promote increased industrial development at appropriate locations.

Policy #2: Canby shall encourage further commercial development and redevelopment at appropriate locations.

Policy #4: Canby shall consider agricultural operations which contribute to the local economy as part of the economic base of the community and shall seek to maintain these as viable economic operations.

ANALYSIS

1. The proposed development of the properties to be annexed is industrial in nature. The City's proposal to temporarily zone the lands extraneous to the development as agriculture will not create an incompatible land use configuration.

Annexation of the proposed properties will also "promote development of a portion of the "Inventory of Larger Industrial Sites" as found in the Economic Element of the Comprehensive Plan, and in accordance with Implementation Measure D of this Policy.

2. The proposed development is not commercial in nature, nor does the current or proposed (after annexation) zoning of the subject property allow commercial development.

4. The proposed annexation will result in the removal of 15 acres (8 acres initially) from agricultural production, but will protect remaining agricultural lands in the second phase of the Logging Road Industrial Park from further urban encroachment. This protection is considered only a means in which to facilitate continued agricultural operations until the land is needed for urban development, as the land is included in the Urban Growth Boundary and will, therefore, eventually be urbanized.

Conclusion Regarding Consistency with the Policies of the Canby Comprehensive Plan:

In staff's review of this application, staff concludes that the proposed annexation is consistent with the policies of the Canby Comprehensive Plan.

III. CONCLUSION

Staff hereby concludes that the proposed annexation will meet the requirements of the standards and criteria included in the Canby Land Development and Planning Ordinance, Section 16.84.040, specifically related to : 1) Comprehensive Plan consistency; 2) Compliance with other applicable Codes and Ordinances; 3) Capability to provide urban level of services; 4) Compliance with ORS 199 regarding annexations of contiguous properties; 5) Appropriateness of area for annexation compared to other properties; 6) Risk of natural hazards; 7) Effect of urbanization on designated open space, scenic, historic or natural resource area; and 8) Economic impacts are correct and adequate.

IV. RECOMMENDATION

Based upon the findings and conclusions contained in this report (and without benefit of a public hearing), staff recommends that should the Planning Commission recommend approval of ANN 97-01 to the PMALGBC (Boundary Commission), through the City Council, the following understandings should apply:

1. The zoning classification for the property upon annexation will be M-2, Heavy Industrial for the 15 acres and right-of-way dedication lands, and Ag, Agriculture for the remaining lands.
2. All City and service provider regulations are to be adhered to at the time of development.

Exhibits:

1. Request for Comments
2. Application

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 16, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, CLACKAMAS COUNTY
PLANNING, MIKE JORDAN, JOHN KELLEY, ROY, STEVE, O.D.O.T.

The City has received ANN 97-01, an application by Shimadzu U.S.A. Manufacturing, Inc. [applicant] and Ray L. and Irene E. Burden [owners] for approval to annex 58.47 acres into the City of Canby. Fifteen (15) acres will be reserved as the Logging Road Industrial Park, Phase 2, in the southwest corner of the site. Out of the 15 acre proposed industrial site, approximately 7 acres will be developed for a manufacturing facility, with the balance remaining agriculturally zoned until it is developed. This phase of the Logging Road Industrial Park will be accessed from S.E. 4th Avenue. The balance of 43.47 acres will remain in nursery production. The property is located east of the Logging Road, north of S.E. 4th Avenue [Tax Lots 700, 790, and 1700 of Tax Map 3-1E-34].

We would appreciate your reviewing the enclosed application and returning your comments by December 23, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

If Non Domestic wastewater discharge requested, IDWWDP will be required

Please check one box:

- 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: Steve Hansen

Date: 12-16-96

Title: Waste Water Services

Agency: City of Canby

EXHIBIT	
1	
A Dec 23	

PLEASE RETURN ATTACHMENTS!!!

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Comments or Proposed Conditions:

Clackamas County has no objections to this request.

Please check one box:

- 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: [Signature] Date: 12/17/96

Title: Land Use & Planning Manager Agency: Clackamas Co.

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 16, 1996

TO: FIRE POLICE, CUB, CTANWT, NW NATURAL GAS, CLACKAMAS COUNTY
PLANNING, MIKE JORDAN, JOHN KELLEY, ROY, STEVE, O.D.O.T.

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Please check one box:

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- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

Signature: [Signature]

Date: 12-17-96

Title: Fire Marshal

Agency: Canby FD #62

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 16, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS CLACKAMAS COUNTY
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Please check one box:

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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: Gary F. Hyatt Date: 12/19/96
Title: Engineering Field Supervisor Agency: Northwest Nat Gas

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 16, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, CLACKAMAS COUNTY
PLANNING, MIKE JORDAN, JOHN KELLEY, ROY, STEVE, O.D.O.T.

The City has received ANN 97-01, an application by Shimadzu U.S.A. Manufacturing, Inc. [applicant] and Ray L. and Irene E. Burden [owners] for approval to annex 58.47 acres into the City of Canby. Fifteen (15) acres will be reserved as the Logging Road Industrial Park, Phase 2, in the southwest corner of the site. Out of the 15 acre proposed industrial site, approximately 7 acres will be developed for a manufacturing facility, with the balance remaining agriculturally zoned until it is developed. This phase of the Logging Road Industrial Park will be accessed from S.E. 4th Avenue. The balance of 43.47 acres will remain in nursery production. The property is located east of the Logging Road, north of S.E. 4th Avenue [Tax Lots 700, 790, and 1700 of Tax Map 3-1E-34].

We would appreciate your reviewing the enclosed application and returning your comments by December 23, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Please check one box:

- 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: Jerry Stiger Date: 12/19/96
Title: Police Chief Agency: Canby Police

PLEASE RETURN ATTACHMENTS!!!

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Comments or Proposed Conditions:

OK

Please check one box:

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

Signature: Bob Foster Date: Dec 17, 1996
Title: City Manager Agency: CITY OF CANBY

PLEASE RETURN ATTACHMENTS!!!

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Please check one box:

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

Signature: Tom Pearson Date: 12/23/96
Title: ENG. DEPT. Agency: CANBY

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

(503) 266-4021

DATE: December 16, 1996

TO: FIRE, POLICE, CUB, CTANWT, NW NATURAL GAS, CLACKAMAS COUNTY
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Comments or Proposed Conditions:

Traffic Impact Analysis was reviewed. No issues.

Please check one box:

- 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: *Angie Blay* Date: 12/23/96
Title: Planner Agency: ODOT - Reg. 1

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

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DATE: December 16, 1996

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Comments or Proposed Conditions:

TO: Canby Planning / FROM: ODOT 2B
I have forwarded this Request to Sonya Kazen,
ODOT Region 1 planning unit for their review
and comments.

Please check one box:

- 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: [Signature] (Gary Hunt) Date: 12/18/96
Title: Permits Agency: ODOT District 2B

APPLICATION FOR ANNEXATION
for
SHIMADZU U.S.A. MANUFACTURING, INC.

Submitted to:
The City of Canby
P.O. Box 930
Canby, OR 97013

Prepared by:
James D. Zupancic
Coni S. Rathbone
Christopher C. Brand
of
Davis Wright Tremaine
1300 S.W. Fifth Avenue
Portland, OR 97201

Submitted December 11, 1996

APPLICATION INFORMATION

Applicant: Shimadzu U.S.A. Manufacturing, Inc.
7102 Riverwood Drive
Columbia, MD 21046

**Applicant's
Representatives:** James D. Zupancic
Coni S. Rathbone
Christopher C. Brand
of
Davis Wright Tremaine
1300 S.W. Fifth Avenue
Portland, OR 97201
Tel: (503) 241-2300
Fax: (503) 778-5299

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Written Notice of Consent to Annexation **Tab 6**

Vicinity Map **Tab 7**

Certificate of Good Standing **Tab 8**

ANNEXATION APPLICATION

Fee: \$1500.00

OWNER

APPLICANT

Name: Ray L. & Irene E. Burden
Address: 23230 S. Highway 99E
City: Canby State: OR Zip: 97013

Name: Shimadzu U.S.A. Manufacturing, Inc.
Address: 7102 Riverwood Drive
City: Columbia State: Maryland Zip: 21046
Phone: c/o Davis Wright Tremaine (503) 241-2300
Applicants' Signature _____

DESCRIPTION OF PROPERTY:

Tax Map: 3-1E-34 Tax Lot(s): 700 Lot Size: 20.55 acres
Tax Map: 3-1E-34 Tax Lot(s): 790 Lot Size: 9.83 acres
Tax Map: 3-1E-34 Tax Lot(s): 1700 Lot Size: 28.09 acres

Legal Description, Metes and Bounds (Attach Copy)
Plat Name Not Available Lot _____ Block _____

PROPERTY OWNERSHIP LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be typed onto an 8-1/2 x 11 sheet of labels, just as you would address an envelope.

Attached under Tab 3 is a list of the names and addresses of the owners of properties located within 200 feet of the subject property. The names and address are typed onto an 8-1/2 x 11 sheet of labels.

USE
Existing: Production of nursery stock
Proposed: Out of the 15 acre proposed industrial site, approximately 7 acres will be developed for a manufacturing facility with approximately 8 acres remaining under agricultural production but available for development in the future. The balance of 43.47 acres will remain under nursery production.

Existing Structures: Pole barn on TL 700 not considered to be a "structure" by Clackamas County.

PROJECT DESCRIPTION

Annex TL's 700, 790 and 1700 into City of Canby. Application for lot line adjustment of TL's 700, 790, and 1700 is made under separate application. Result of adjustment will be an increase in TL 790 to 15 acres total. Upon annexation, zoning on TL 790 will convert from EFU-20 to Heavy Industrial consistent with the Comprehensive Plan. TL's 700 and 1700 will convert from EFU-20 to Agricultural. Upon annexation and lot line adjustment, 7-8 acres of newly adjusted TL 790 will be developed for purposes of a manufacturing facility, with the balance of the 15 acre parcel to remain in agricultural production, reserved for potential future development. TL's 700 and 1700 to remain in agricultural production.

ZONING: EFU-20 COMPREHENSIVE PLAN DESIGNATION: Heavy Industrial
PREVIOUS ACTION: (if any) None

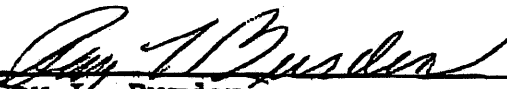
File No. _____
Receipt No. _____
Date Received _____
Completeness Date _____
Pre-App Meeting _____
Hearing Date _____

* If the applicant is not the property owner, he must attach documentary evidence of his authority to act as agent in making application.

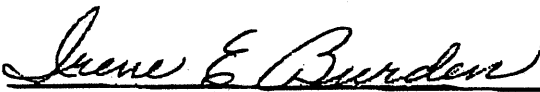
NOTICE OF AUTHORIZATION

We, Ray L. Burden and Irene E. Burden, who reside at 23230 S. Highway 99E, Canby, Oregon 97013, state that we are currently the owner of real property located in Clackamas County, Oregon, measuring exactly fifteen (15) net acres, preliminarily shown in the attached Exhibit A (the "Property"). We hereby authorize Shimadzu U.S.A. Manufacturing, Inc., or its assigns, whose address is 7102 Riverwood Drive, Columbia, Maryland 21046, to make application for land use approvals related to the Property, including, but not limited, to application for lot line adjustment, application for annexation into the City of Canby, application for design review, and application for annexation to the City of Canby through the Portland Area Metropolitan Boundary Commission.

Signed this 6 day of December, 1996.



Ray L. Burden



Irene E. Burden

f:\4\44093\2\applicat\notice.doc

Exhibit "A"

TL400

TL900

TL800

TL700

EASEMENT →

Shimadzu U.S.A.
Manufacturing, Inc.
(Proposed)

Site

(15 Net Acres)

TL900

BURDEN
TL790

BURDEN
TL1700

JVNW
TL1803

CITY OF
CANBY
TL1500

4th AVE.

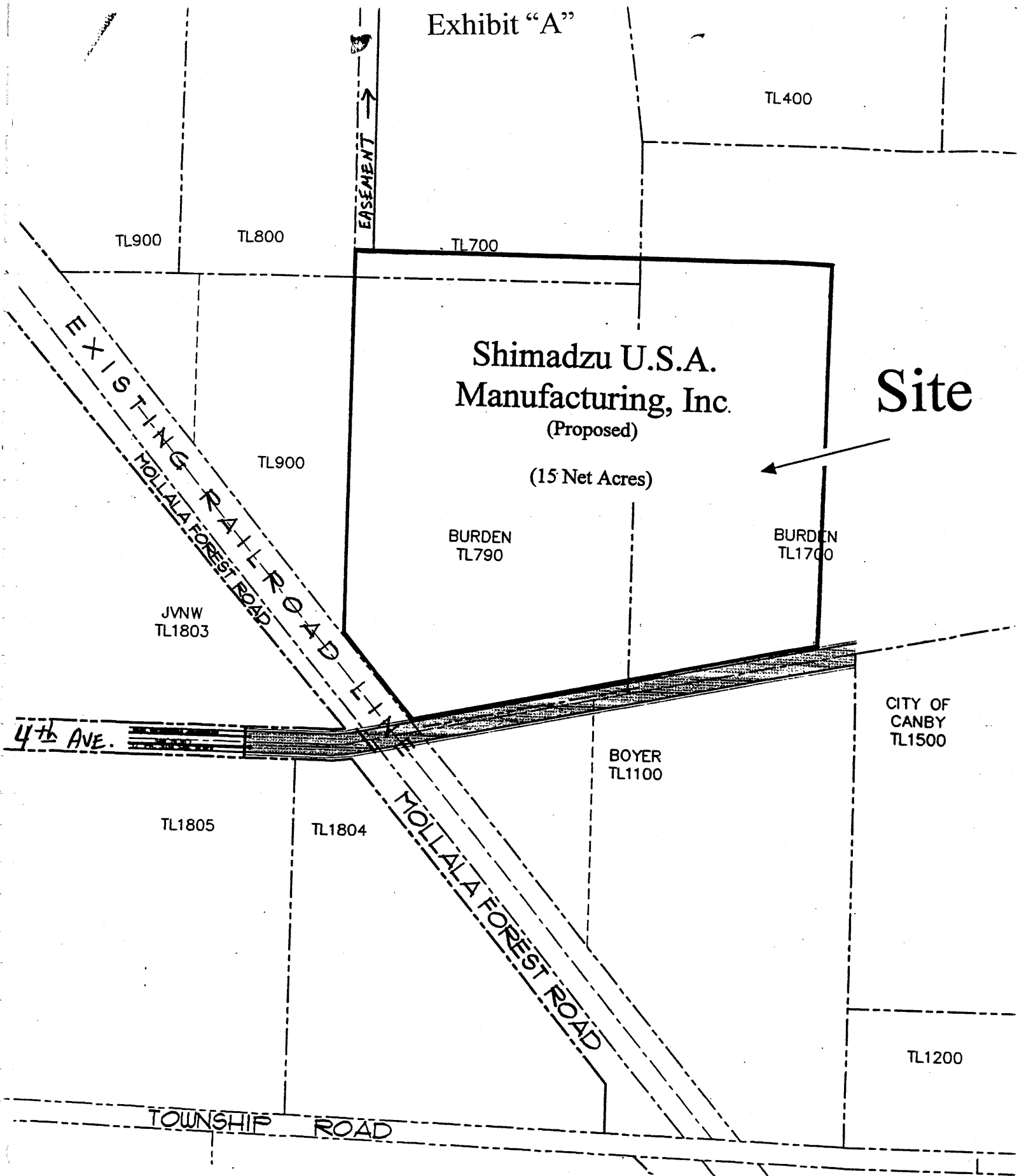
BOYER
TL1100

TL1805

TL1804

TL1200

TOWNSHIP ROAD



*** METROSCAN LABELS ***

Date: 12/05/96
Report: Laser 3 Across Labels
Sort: Site Address
Count: 18

For: MARY LOU KNIGHT
Of: DAVIS, WRIGHT, TREMAINE
By: ASHELEY BIESEMEYER
C/O VICKIE, TNT-TOWER

Fred Kahut
PO Box 550
Canby OR 97013

Douglas Hanson
1506 S Township Rd
Canby OR 97013

Cheryl Anderson
641 N Baker Dr
Canby OR 97013

ANDERSON PROPERTIES L L
NO STREET NAME or NUMBER
Canby OR 97013

CITY OF CANBY
PO Box 930
Canby OR 97013

Leighton Perkins
Patricia Perkins
446 S Walnut St
Canby OR 97013

Gilbert & E Adelyn Borg
23397 S Mulino Rd
Canby OR 97013

Ivan Leonard Arneson
1445 SE 1st Ave
Canby OR 97013

Irene Burden
23230 S Highway 99e
Canby OR 97013

Roy & Betty Zimmer
1691 SE 1st Ave
Canby OR 97013

Keith Guisinger
1793 SE 1st Ave
Canby OR 97013

Frank & Margaret Madeira
1907 SE 1st Ave
Canby OR 97013

Ray Burden
23230 S Highway 99e
Canby OR 97013

Jacque Parsons
PO Box 728
Canby OR 97013

BOYER TOP SOIL INC
2001 S Township Rd
Canby OR 97013

Robert & Rebecca Ford
294 S Walnut St
Canby OR 97013

Elizabeth Rover
388 S Walnut St
Canby OR 97013

Thomas Fitzpatrick
Donna Fitzpatrick
399 S Walnut St
Canby OR 97013

**APPLICATION FOR ANNEXATION
APPLICATION FOR LOT LINE ADJUSTMENT**

SHIMADZU U.S.A. MANUFACTURING, INC.

Written Statement of Proposal

The Applicant seeks approval for two applications made under separate cover, one for annexation governed by the City of Canby Land Development and Planning Ordinance ("LDPO") 16.84 and another for lot line adjustment governed by LDPO 16.58. The Annexation Application seeks to annex into the City of Canby approximately 58.47 acres ("Subject Property") located in Clackamas County but within the City of Canby's Urban Growth Boundary ("UGB"). All of the Subject Property lies within proposed Phase II of the City of Canby's Industrial Park. The lot line adjustment application seeks to adjust the lot lines of tax lots 700, 790 and 1700 found on Tax Map 3-1E-34, with the effect of enlarging tax lot 790 to a total of fifteen acres. Upon annexation, the 58.47 acres will convert from County zoning of EFU-20 to the City's Heavy Industrial zoning. Upon approval of the lot line adjustment application, the Applicant will develop approximately 7 to 8 acres of the newly-adjusted tax lot 790 for its manufacturing facility. The remaining acreage on tax lot 790 will remain in production of nursery stock until it is developed later by the Applicant. The Applicant had initially proposed to annex only the newly-adjusted tax lot 790. The Applicant and the City learned that Clackamas County would not permit the adjustment of tax lot 790 creating the fifteen acre parcel unless and until the Property was annexed into the City of Canby. Accordingly, the Applicant is making contemporaneous applications for annexation and lot line adjustment. It is the Applicant's understanding that the City may approve the application for lot line adjustment conditioned on final annexation approval by the City of Canby and the Portland Metropolitan Boundary Commission.

**STATEMENT OF COMPLIANCE WITH APPLICABLE PROVISIONS
OF COMPREHENSIVE PLAN**

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.

APPLICABLE POLICIES:

FINDING NO. 3

The essential purpose of establishing an Urban Growth Boundary for the City of Canby is to distinguish urbanizable land from land which is to remain rural through the duration of this planning period. This serves as a basic statement of the City's intent in terms of annexation and supplying urban services to areas which are now essentially rural.

Policy No. 3: Canby Shall Discourage The Urban Development of Properties Until They Have Been Annexed to The City And Provided With All Necessary Urban Services.

Implementation Measures:

A) A change in the use of urbanizable land uses designated on the Land Use Map of the Clackamas County Comprehensive Plan to uses shown on the City Comprehensive Plan shall occur upon annexation to the City.

- Development of land for uses on the City Comprehensive Plan will be encouraged to occur on underdeveloped lands adjacent to or encompassed by the existing City limits prior to the conversion of other lands within the boundary.

Response: Both the Comprehensive Plan's Industrial/Commercial Development Site Inventory and the Industrial Attraction Plan for the City of Canby identify the Subject Property as suitable and available for industrial development upon annexation into the City. It is the Applicant's understanding that there are no underdeveloped lands adjacent to or encompassed by the existing City limits which are suitable with respect to zoning, site selection and proximity to infrastructure. Accordingly, it is appropriate to begin the development of Phase II of the City of Canby's Industrial Park.

- Urban facilities and services must be adequate in condition and capacity to accommodate the additional level of growth, as allowed by the City Comprehensive Plan prior to, or concurrent with, the land use changes.

Response: Urban facilities and services do not currently serve the Subject Property. The Industrial Attraction Plan for the City of Canby indicates the need to extend Urban Facilities and Services to the Subject Property. See Industrial Attraction Plan for the City of Canby §§ 3.2., 3.3.

As discussed in the Statement of Satisfaction of Standards and Criteria for Annexation, LDPO 16.84, the City of Canby, the Oregon Economic Development Department and the Applicant are currently in the process of securing funding for infrastructure which will serve the Subject Property as well as other properties located in Phase II.

B) Within the unincorporated area, the County shall maintain zoning which requires minimum lot sizes in excess of five acres.

Response: Not Applicable.

C) Urban level facilities or services such as, but not limited to, public sewer or water systems, shall be provided only to areas that have been annexed to the City. Clackamas County will prevent densities and intensities of development which would necessitate the provision of urban services not planned for by the City. This would apply to urban development outside the Urban Growth Boundary as well as to development within the Urban Growth Boundary which the City is not yet prepared to annex.

Response: As discussed in the Statement of Satisfaction of Standards and Criteria for Annexation, LDPO 16.84, the City of Canby, the Oregon Economic Development Department and the Applicant are currently in the process of securing funding for infrastructure which will serve the Subject Property as well as other properties located in Phase II.

D) The adopted maps showing growth phasing shall be used as a general guideline for the City's outward expansion. Areas designated as Type "A" urbanization lands shall generally be annexed prior to those areas shown as Type "B", etc. Annexation which is not in keeping with the phased growth concept shall only be permitted when the following findings are made:

Response: The Subject Property lies primarily within the Type B area, with some acreage apparently lying in the Type C area. The proposal keeps with the phased growth concept because lands suitable for this development no longer exist in Type A lands. Accordingly, the Applicant should not have to bear the burden of the following findings. To remove any doubt that the proposed development is appropriate, however, such findings are made.

Proponents of the proposed annexation have borne the burden of proving the appropriateness of the annexation. Such burden being greatest for those proposals which are least in keeping with the phased growth concept.

Response: This proposal is consistent with the phased growth concept. Conversations with the City of Canby have revealed that only ten acres remain within the Type A urbanization lands and such lands are zoned Commercial Manufacturing. This Type A site does not meet the site specifications for this proposal. Accordingly, it is appropriate to locate the proposed development in a Type B area. It appears from the map on page 29 of the Comprehensive Plan that some of the acreage of the proposed site may lie within the Type C area. This intrusion into the Type C area is incidental and occurs by reason of land ownership, site design and infrastructure and utility efficiencies. The proposed development will lie primarily within the Type B area, which is appropriate at this time for the City's growth and development.

- There will be some special benefit to the City overall as a result of the annexation which would occur if the phased growth pattern was followed.

Response: There will a special benefit to the City as a result of the annexation. The City of Canby, the Oregon Economic Development Department and the Applicant are currently in the process of securing funding for infrastructure which will serve the Subject Property as well as other properties located in Phase II. These funds will consist of a \$500,000 grant from the Oregon Transportation Commission, a \$127,500 grant from the Oregon Economic Development Department and a \$127,500 loan to the City of Canby, \$63,750 of which will be satisfied by the Applicant by participation in an Advance Financing District ("AFD") and an excess contribution. The remaining loan funds outstanding to the City of Canby, \$63,750, will be paid by the City and financed through an Advanced Financing District throughout the remainder of the benefitted Phase II properties, excluding the Subject Property.

- The annexation will result in no adverse impacts on the City's planned provision of public facilities and services.

Response: As discussed above, the annexation will actually result in a positive impact on the City's planned provision of public facilities and services in that the City will receive approximately \$627,500 in grant monies, \$63,750 from the Applicant and will recover \$65,750 via an AFD for the provision of public facilities and services to Phase II of the Industrial Park.

- The annexation is appropriate in terms of timing for City growth and development.

Response: The annexation is appropriate in terms of timing for City growth and development for at least two reasons: First, lands suitable for this type of

development do not exist in the Type A lands inventory, meaning that it is appropriate to begin developing Type B properties; and as discussed above, the City is in a position to receive substantial amounts of state funds in the form of grants, contributions and recovery under an AFD to develop the infrastructure to Phase II of the Industrial Park which will facilitate the further development of Phase II.

E) Where such public facilities as sewer and water lines are provided within a road right-of-way, annexation and mutually compatible development shall generally be encourage simultaneously on both sides of the road to assure maximum efficiency in the use of those services and to reduce development costs.

Response: The proposal entails the extension of public facilities such as sewer and water lines to be provided within a right-of-way and will facilitate compatible industrial development on the south side of the Subject Property in the future. Simultaneous compatible development is not feasible at this time due to current demand for properties within Phase II. The Applicant's proposed development and the accompanying infrastructure and utility improvements will serve as a "springboard" to future development in Phase II by supplying an attractive anchor facility as well as the infrastructure necessary for the development of adjacent compatible uses. The extension of public facilities through the Subject Property will assure maximum efficiency in the use of those services and reduce development costs in the long run.

LAND USE ELEMENT

The Applicant has not identified any provisions of the Land Use Element which would require findings made on the part of the Applicant.

ENVIRONMENTAL CONCERNS ELEMENT

APPLICABLE POLICIES:

Policy No. 1-R-A: Canby Shall Direct Urban Growth Such That Viable Agricultural Uses Within The Urban Growth Boundary Can Continue As Long As It Is Feasible For Them To do So.

Implementation Measures:

A) Maintain zoning provision which allow agricultural operation within the City limits.

Response: Upon annexation, the Subject Property less the newly adjusted tax lot 790 will convert from Clackamas County zoning EFU-20 to City of Canby zoning Agricultural. Upon annexation and lot line adjustment the newly-adjusted tax lot 790 will convert from Clackamas County zoning of EFU-20 to City of Canby Zoning Heavy Industrial. After annexation and lot line adjustment, however, approximately 7 to 8 acres of the newly-adjusted tax lot 790 will remain in production of nursery stock under lease to the current owner (or their son), of the Subject Property.

B) Conduct development reviews such that agricultural operation are regarded as part of the accepted pattern of local land use rather than a nuisance to residents.

Response: Not applicable.

Policy No. 1-R-B: Canby Shall Encourage The Urbanization Of the Least Productive Agricultural Area Within The Urban Growth Boundary As A First Priority.

Implementation Measures:

A) Coordinate water and sewerage planning to facilitate this Policy.

Response: It is the Applicant's understanding that the City is currently coordinating water and sewerage planning to facilitate this policy.

B) Coordinate street and road improvements with this Policy.

Response: It is the Applicant's understanding that the City is currently coordinating water and sewerage planning to facilitate this policy.

C) Encourage growth into areas where land is fragmented into small parcels which are not conducive to product agricultural use.

Response: It is the Applicant's understanding that there is no reasonable alternative land with respect to zoning and proximity to infrastructure to sustain this development. Furthermore, the Subject Property is specifically identified in the Industrial/Commercial Development Site Inventory of the Comprehensive Plan and the Industrial Attraction Plan for the City of Canby for heavy

Industrial zoning upon annexation. Additionally, the proposal is designed to keep the maximum amount of land in productive agricultural use.

D) Review annexation proposals in light of the growth phasing strategies of the Urban Growth Element.

Response: See Discussion of Policy 3 of Urban Growth Element.

Policy No. 3-R: Canby Shall Require That All Existing And Future Development Activities Meet The Prescribed Standards For Air, Water, and Land Pollution.

Implementation Measures:

A) Include performance standards relative to pollution as part of the Development Review process applying to industrial development.

Response: This proposal is for annexation and lot line adjustment and not Development Review. This criteria will be addressed during Development Review. The Applicant will be subject to regulation by the Oregon Department of Environmental Quality and the Federal Environmental Protection Agency for purposes of the manufacturing process.

B) Participate in regional planning efforts and programs to upgrade the environment.

Response: Not Applicable.

PUBLIC FACILITIES AND SERVICES ELEMENT

Goal: To Assure The Provision Of A Full Range Of Public Facilities And Services To Meet The Needs Of The Residents and Property Owners Of Canby.

APPLICABLE POLICIES:

Policy No. 2: Canby Shall Utilize All Feasible Means Of Financing Needed Public Improvements And Shall Do So In An Equitable Manner.

Implementation Measures:

A) Promote the creation of Local Improvement Districts as a means of financing needed improvements. This will require political and staff commitment as well as

"seed money" from the annual budget for those particular improvements which will benefit the entire community.

Response: Not Applicable.

B) Utilize creative methods of assessment to assure that most costs are borne by those who will benefit the most from improvements.

Response: As discussed earlier, \$63,750 of the infrastructure and utility improvements will be financed by means of an Advanced Financing District. An additional \$63,750 will be contributed by the Applicant. This sum will be in addition to the \$627,500 in grant moneys received by the City for the construction of required infrastructure and utilities.

**STATEMENT OF SATISFACTION OF STANDARDS
AND CRITERIA FOR ANNEXATION**

16.84.040 - Standards and Criteria

A. In judging whether or not an Annexation Application shall be approved, the Commission shall give ample consideration to the following standards and criteria:

1. Compatibility with the text and maps of the Comprehensive Plan, giving special consideration to those portions or policies relating to the Urban Growth Boundary.

Response: A Written Statement of Proposal, including a discussion of conformance with applicable Comprehensive Plan provision is attached under Tab 4.

2. Compliance with other applicable City Ordinances or policies.

Response: A discussion with James Wheeler, City Planner for the City of Canby, indicated that there are no other City Ordinances applicable to this request.

3. Capability of the City and other affected service-providing entities to amply provide the areas with urban level services.

Response: The City of Canby, the Oregon Economic Development Department ("OEDD") and the Company have identified the infrastructure and utilities necessary to amply provide the area with urban-level services. This infrastructure and utilities includes roadway, including the extension of 4th Avenue and a bridge spanning the existing railroad, sewer, water, electricity, phone, gas, cable and storm water management facilities. The City Engineer for the City of Canby, Curt McLeod, has estimated infrastructure and utility costs in the amount of \$755,000, including contingencies. The director of the Oregon Department of Transportation, Mr. Bruce Warner has agreed to recommend that the Oregon Transportation Commission provide a \$500,000 grant to the City of Canby towards these costs. An application with the Oregon Transportation Commission is currently pending. Additionally, the OEDD is working with the City of Canby to provide the remaining \$255,000 through OEDD's Special Public Works Fund. This Fund is usually disbursed in the combination of grant and loan to the City. The maximum

grant amount is one-half of the total request. Assuming the maximum grant is made available, \$127,500 would need to be repaid by the City of Canby. The other \$127,500 would be made as a simple grant to the City of Canby. The Applicant and the City of Canby intend to split the \$127,500 loan made to the City by OEDD. Accordingly, the Applicant will pay a sum of \$63,750 to the City and the City of Canby will pay to OEDD \$63,750 of its own funds which will be recovered by means of an Advance Financing District which will be used to assess future development of benefitted properties in Phase II for the cost of this infrastructure.

4. Compliance of the application with the applicable sections of Oregon Revised Statutes 222. (In other words, a "triple majority" type application must contain proof that a triple majority does, in fact, exist, etc.).

Response: A telephone conversation with Mr. Ken Martin, the Executive Director for the Portland Metropolitan Area Local Boundary Commission indicated that for purposes of this application, the provisions of Oregon Revised Statutes Chapter 199, and not Oregon Revised Statutes Chapter 222, apply to the application at hand. Specifically, ORS 199.490(2)(a)(B) governs this application for purposes of the Boundary Commission. This provision provides: "A resolution adopted by the governing body of the affected city or district upon receiving written consent to annexation from a majority of the electors registered in the territory proposed to be annexed and written consent to the annexation of their land from the owners of more than half the land in the territory proposed to be annexed." Ray L. and Irene E. Burden are the only electors registered in the territory proposed to be annexed and are the only owners of the land in the territory proposed to be annexed. Ray L. and Irene E. Burden, by means of their Notice of Authorization, consent to annexation as a majority of the electors registered in the territory proposed to be annexed and consent to the annexation of their land as the owners of more than one-half of the land in the territory proposed to be annexed. A Written Notice of Consent to Annexation is attached under Tab 6.

5. Appropriateness of the annexation of the specific area proposed, when compared to other properties which might reasonably be expected to be annexed to the City.

Response: The specific area proposed is appropriate for annexation when compared to other properties which might reasonably

be expected to be annexed into the City for several reasons: The Subject Property is within the City's Urban Growth Boundary; the Subject Property is specifically identified in the City's Industrial Attraction Plan prepared by Richard Carrothers Associates; the Subject Property is specifically identified in the Industrial/Commercial Site Inventory in the City's Comprehensive Plan; the Subject Property, once annexed and developed will constitute the initial industrial development in Phase II of the City of Canby's Industrial Park; and the Property is readily served by an efficient extension of infrastructure and utilities from Phase I of the City of Canby's Industrial Park. More discussion on the appropriateness of this annexation when compared to other properties which might reasonably be expected to be annexed into the City can be found in the Written Statement of Proposal, attached under Tab 4.

6. Risk of natural hazards which might be expected to occur on the subject property.

Response: There is no identified risk of natural hazards which might be expected to occur on the Subject Property.

7. Effect of the urbanization of the Subject Property on specially designated open space, scenic, historic or natural resource areas.

Response: Urbanization of the Property will have no effect on specially designated open space, scenic, historic or natural resource areas as no such specially designated areas exist in the vicinity of the Subject Property.

8. Economic impacts which are likely to result from the annexation.

Response: The economic impacts of the annexation and subsequent development will be several: the Applicant will be a new employer in the community creating jobs in the community further enabling local residents to live and work in the City of Canby; the development will add to the tax base of the City of Canby; the development will create a multiplier effect, creating opportunities for local suppliers and support businesses in the community; the development will serve as a "springboard" to the further development of Phase II of the City's Industrial Park by both serving as an attractive "anchor" industry and enabling the expansion of existing infrastructure and utilities in Phase II.

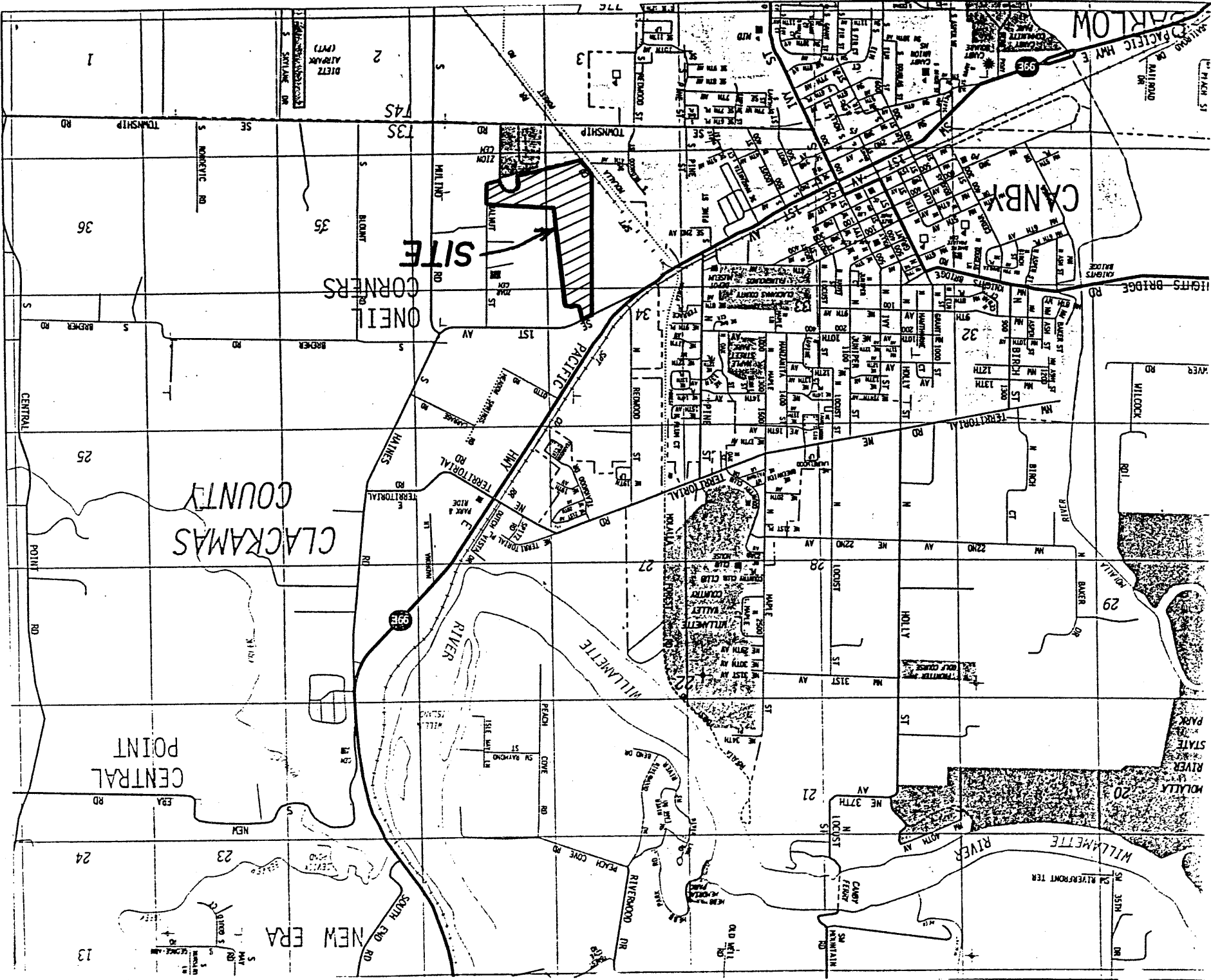
**WRITTEN NOTICE OF CONSENT TO ANNEXATION
FOR PURPOSES OF ORS 199.490(2)(a)(B)**

We, Ray L. Burden and Irene E. Burden, who reside at 23230 South Highway 99E, Canby, Oregon 97013, state that we are currently the only electors registered in the territory proposed to be annexed, more definitely described as Tax Map 3-1E-34, tax lots 700, 790 and 1700 constituting approximately 58.47 acres (the "Subject Property"), and are the only owners of the Subject Property, hereby express our consent that the Subject Property be annexed into the City of Canby.

Signed this ___ day of December, 1996

Ray L. Burden

Irene E. Burden



CERTIFICATE

State of Oregon

OFFICE OF THE SECRETARY OF STATE
Corporation Division

I, PHIL KEISLING, Secretary of State of Oregon, and Custodian of the Seal of said State, do hereby certify:

SHIMADZU U.S.A. MANUFACTURING, INC.

was

incorporated

under the Oregon

Business Corporation Act

on

October 15, 1996

*and is active on the records of the Corporation
Division as of the date of this certificate.*

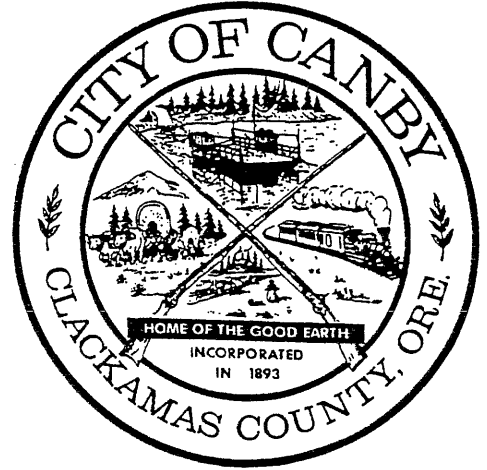
*In Testimony Whereof, I have hereunto set
my hand and affixed hereto the Seal of the
State of Oregon.*

PHIL KEISLING, Secretary of State



By Marilyn R. Smith
Marilyn R. Smith
December 5, 1996

- STAFF REPORT -



APPLICANT

Rob Petit
1000 S. Ivy St.
Canby, OR 97013

FILE NO.:

CUP 97-01

OWNER:

Bruce Broetje
P.O. Box 904
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lots 1806 of Tax Map 3-1E-34C

DATE OF REPORT:

December 27, 1996

LOCATION:

365 S. Redwood Street
West side of S. Redwood Street
North of Township Rd.

DATE OF HEARING:

January 6, 1997

COMP. PLAN DESIGNATION:

Light Industrial

ZONING DESIGNATION:

M-1 (Light Industrial)

I. APPLICANT'S REQUEST:

The applicant is requesting approval of a Conditional Use Permit to locate a gymnastics center in an industrial building at 365 S. Redwood Street. This project will consist of the relocation of the existing gymnastics center facility currently located at 1000 S. Ivy Street.

II. APPLICABLE REGULATIONS

City of Canby General Ordinances:

- 16.32 Light Industrial Zone
- 16.32.020 Conditional Uses
- 16.88 General Standards

City of Canby Comprehensive Plan:

- I. Citizen Involvement
- II. Urban Growth
- III. Land Use
- IV. Environmental Concerns
- V. Transportation
- VI. Public Facilities and Services
- VII. Economics
- VIII. Housing
- IX. Energy

III. MAJOR APPROVAL CRITERIA

16.50.010 Authorization to Grant or Deny Conditional Uses

In judging whether or not a conditional use permit 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.
- 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.

IV. FINDINGS:

A. Background and Relationships:

The owner of Champion Gymnastics Center, Rob Petit, recently applied for an amendment of text that would allow for commercial recreation uses in the (M-1) light industrial zone. The application was given approval (TA 96-02, approved 11/25/96 by planning commission, 12/4/96 by city council) to allow commercial recreation as a conditional use in the light industrial zone. This conditional use permit application is the next stage of land use approval needed for the center to locate in Building #3 of the Bruce Broetje complex at 365 S. Redwood Street.

The first two buildings that have been constructed by Mr. Broetje, have been occupied prior to bringing the buildings into compliance with all of the appropriate building codes. Building 1 is now in compliance. The conditions of approval for the site development (DR 93-08 & DR 94-05) were not completed prior to occupancy. Because of this past history, no occupancy should be permitted for building 3 until all previous conditions of approval have been met and the building are brought into compliance with all applicable building codes.

In searching for a new location the Center has found a shortage of local large commercial building facilities that provide sufficient space for its use. Light industrial development standards allow for larger warehouse type structures that are able to provide adequate area and height requirements for commercial recreational facilities. The inclusion of commercial recreation facilities as a conditional use in the light industrial zone furnishes these commercial users with adequate facilities.

B. Comprehensive Plan Consistency Analysis

i. Citizen Involvement Element

GOAL: TO PROVIDE THE OPPORTUNITY FOR CITIZEN INVOLVEMENT THROUGHOUT THE PLANNING PROCESS.

Policy #1: Canby shall reorganize its citizen involvement functions to formally recognize the role of the Planning Commission in meeting the six required citizen involvement components of statewide planning goal No. 1, and to re-emphasize the city's commitment to on-going citizen involvement.

Policy #2: Canby shall strive to eliminate unnecessarily costly, confusing, and time consuming practices in the development review process.

ANALYSIS

1. The notification process and public hearing are a part of the compliance with adopted policies and process regarding citizen involvement.
2. The Planning Commission adheres to acting upon applications within a sixty (60) day time period from the date of determination of a complete application. Any continuation of the review period is done with the approval of the applicant, or through admission of new information into the review process. The sixtieth day is February 3, 1997.

ii. Urban Growth Element

- GOAL:**
- 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, WITH IN THE FRAMEWORK OF AN EFFICIENT SYSTEM FOR THE TRANSITION FROM RURAL TO URBAN LAND USE.***

Policy #1: Canby shall coordinate its growth and development plans with Clackamas County.

ANALYSIS

1. The property is entirely within both the Urban Growth Boundary and the City Limits. No direct input from the County has been determined to be necessary or desirable nor was any sought.

iii. 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.***

Policy #1 Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.

Policy #2 Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

- Policy #3 Canby shall discourage any development which will result in overburdening any of the community's public facilities or services.
- Policy #4: Canby shall limit development in areas identified as having an unacceptable level of risk because of natural hazards.
- Policy #5 Canby shall utilize the land use map as the basis of zoning and other planning or public facility decisions.
- Policy #6: Canby shall recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas.

ANALYSIS

1. The property contains a three building industrial complex. Currently buildings #2 and #3 are still under construction. The adjacent surrounding properties are zoned Light Industrial (M-1), the same as the subject property. The property to the north, across the transition of S.E. 3rd/S. Redwood Street, is vacant, but has been approved for a commercial/industrial business park. To the west is row crop agriculture. The property to the east, across S. Redwood Street is currently under construction by JV Northwest. The area to the south contains the existing Hanson residence and further south is Oregon Custom Cabinets.
2. The property owner, Bruce Broetje, is currently constructing Buildings #2 and #3 of the light industrial complex. The applicant will be housed in Building #3. The location of this commercial recreational use to the property will increase the utilization of light industrial land in the City.
3. Request for comments have been sent to all public facility and service providers (see-discussion under Public Services Element).
4. No natural hazards have been identified on the subject property.
5. The zoning of the property, M-1, Light Industrial, is consistent with the Land Use Map designation for the property (Light Industrial). Commercial Recreation is a conditional use permitted in the M-1 zone. The property meets the minimum lot size of 5,000 square feet for parcels in the M-1 zone.

6. The subject property is partially within the "areas of special concern" G. The Comprehensive Plan specifically identifies this area for potential industrial/commercial development. The proposed application, specifically the use of the buildings for industrial uses as permitted outright in the M-1 zone as well as commercial recreation uses as conditional uses, is in conformance with this policy. The approval of a conditional use permit for this project conforms to the desires for this use of this area as stated in this policy.

iv. Environmental Concerns Element

GOAL: 1) TO PROTECT IDENTIFIED NATURAL AND HISTORICAL RESOURCES.

2) TO PREVENT AIR, WATER, LAND, AND NOISE POLLUTION. TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.

Policy #1-R-A: Canby shall direct urban growth such that viable agricultural uses within the urban growth boundary can continue as long as it is economically feasible for them to do so.

Policy #2-R: Canby shall maintain and protect surface water and groundwater resources.

Policy #3-R: Canby shall require that all existing and future development activities meet the prescribed standards for air, water and land pollution.

Policy #4-R: Canby shall seek to mitigate, wherever possible, noise pollution generated from new proposals or existing activities.

Policy #5-R: Canby shall support local sand and gravel operations and will cooperate with county and state agencies in the review of aggregate removal applications.

Policy #6-R: Canby shall preserve and, where possible, encourage restoration of historic sites and buildings.

Policy #7-R: Canby shall seek to improve the overall scenic and aesthetic qualities of the City.

- Policy #8-R: Canby shall seek to preserve and maintain open space where appropriate, and where compatible with other land uses.
- Policy #9-R: Canby shall attempt to minimize the adverse impacts of new developments on fish and wildlife habitats.
- Policy #10-R: Canby shall attempt to minimize the adverse impacts of new developments on wetlands.
- Policy #1-H: Canby shall restrict urbanization in areas of identified steep slopes.
- Policy #2-H: Canby shall continue to participate in and shall actively support the federal flood insurance program.
- Policy #3-H: Canby shall seek to inform property owners and builders of the potential risks associated with construction in areas of expansive soils, high water tables, and shallow topsoil.

ANALYSIS

- 1-R-A. The property has been developed and this conditional use will, therefore, not adversely affect the continuation of agricultural operations within the urban growth boundary.
- 2-R. The storm water drainage of the subject property is handled on-site. Clackamas County reviews storm water management and compliance with the Federal Clean Water Act.
- 3-R. The existing use has not created a known pollution problem. Construction activity is required to comply with prescribed standards for air, water, and land pollution, through the building permit process and the State's Department of Environmental Quality standards.
- 4-R. Insubstantial noise will be expected as a result of the conditional use of the property to allow for commercial recreational uses. The building in which it will be located is a minimum of 300 feet to the nearest residential building (which is actually located in the industrial zone).
- 5-R. The subject property is not a sand and gravel operation, nor will the proposed partition or future use of the land hinder any sand and gravel operation. There is no sand and gravel operation within the City limits.
- 6-R. The subject property and surrounding properties are not historic sites.

7-R. The proposed conditional use of the property will not affect the scenic or aesthetic quality of the City. The visual impacts of development of the subject parcel were reviewed through the Site and Design Review process (DR 93-08 and DR 94-05).

8-R. The subject property is not considered to be open space at this time.

9-R. No wildlife or fish habitats are known on the subject property.

10-R. No wetlands are known on the subject property.

1-H. The subject property has no steep slopes.

2-H. The subject property is not in a flood zone.

3-H. The subject property has loam soil, a deep, well-drained soil. No expansive soils, shallow topsoil, high water table, or other potential risks associated with construction on the subject property have been identified.

v. ***Transportation Element***

GOAL: TO DEVELOP AND MAINTAIN A TRANSPORTATION SYSTEM WHICH IS SAFE, CONVENIENT AND ECONOMICAL.

Policy #1: Canby shall provide the necessary improvement to city streets, and will encourage the county to make the same commitment to local county roads, in an effort to keep pace with growth.

Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.

Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.

Policy #4: Canby shall work to provide an adequate sidewalks and pedestrian pathway system to serve all residents.

Policy #5: Canby shall actively work toward the construction of a functional overpass or underpass to allow for traffic movement between the north and south side of town.

- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #11: Canby shall work with private developers and public agencies in the interest of maintaining the transportation significance as well as environmental and recreational significance of the Willamette River.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

ANALYSIS

1. No street improvement is required as a part of this conditional use approval. The existing gravel parking and maneuvering areas surrounding all buildings in the complex will need to be improved to hard surface as conditioned in DR 93-08 and DR 94-05. These conditions of approval will need to be completed prior to occupancy of the building.
2. No new roads will be needed as a result of the proposed development.
3. There are two major intersections near the subject property, S. Pine Street and Highway 99E, and S. Redwood Street and S.E. Township Road. At this time, these intersections are not considered to be "problem intersections". The City has a Transportation Systems Plan that includes improvements of "problem intersections", and is paid, in part, by Transportation System Development Charges.
4. Sidewalks are in place along the property's frontage on S. Redwood Street.

6. The fire district and police department have responded to the Request for Comments and have indicated that both adequate services are available and no further conditions related to the conditional use permit.
7. South Redwood Street has been built to "collector" standards, which has room for the provision of a bike lane. A bike lane has been provided along the western side of South Redwood.
8. The existing uses and the proposed use of the property have no specific use for the rail facilities that exist in Canby.
9. The proposed conditional use permit has no bearing on efforts to improve or expand nearby air transport facilities.
10. The mass transit system in operation in Canby has no direct bearing on the proposed conditional use permit. No future transit stops have been proposed. The City has adopted a Transportation Systems Plan which includes mass transit considerations. No further consideration of mass transit, in relation to the proposed development of the property, is required by the Transportation Plan.
11. The subject properties are not near the Willamette River and will have no effect on the transportation potential or use of the Willamette River.
12. The subject properties are fully within the City limits and is not near any "entry point" into the City.

vi. PUBLIC FACILITIES AND SERVICES

GOAL: TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.

- Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.
- Policy #2: Canby shall utilize all feasible means of financing needed public improvements and shall do so in an equitable manner.
- Policy #5: Canby shall assure that adequate sites are provided for public schools and recreation facilities.

ANALYSIS

1. All needed public facility and service providers were sent a "Request for Comments" regarding this application. Positive responses were received from the Waste Water Treatment Plant, and Police Department. All have indicated that adequate facilities and/or services are available. The Public Works Department has indicated that conditions are needed to provide for the improvement of the existing gravel area to a hard surface around all buildings.

The has been no recent indication, unofficial or otherwise, of potential inadequacy of facilities or services for electric, water, and telephone facilities which have been built to the subject property.

2. No new roads will be needed as a result of the proposed development.

5. The City has adopted a Parks Master Plan in which appropriate sites or areas for recreation facilities are identified. No parks have been designated in the vicinity of the subject property. The Logging Road is City property and will be used in a manner that might be construed as a "linear park" in that the "road" will be used as a walking/bike path.

vii. Economic Element

GOAL: *TO DIVERSIFY AND IMPROVE THE ECONOMY OF THE CITY OF CANBY.*

Policy #1: Canby shall promote increased industrial development at appropriate locations.

Policy #2: Canby shall encourage further commercial development and redevelopment at appropriate locations.

Policy #4: Canby shall consider agricultural operations which contribute to the local economy as part of the economic base of the community and shall seek to maintain these as viable economic operations.

ANALYSIS

1. The proposed commercial recreational use is a conditional use in light industrial areas, as the current M-1 zone allows. The site is serviced by infrastructure that was specifically designed and constructed with light industrial uses in mind.

2. The proposed conditional use is commercial recreational in nature. The location of gymnastics center in this location provides for commercial recreational uses that require large building space to utilize the appropriate light industrial areas.

4. The proposed development is commercial recreational in nature. The current use of the site is non-agricultural. The project will have no direct adverse impacts on agricultural operations.

viii. HOUSING

GOAL: *TO PROVIDE FOR THE HOUSING NEEDS OF THE CITIZENS OF CANBY.*

Policy #2: Canby shall encourage a gradual increase in housing density as a response to the increase in housing costs and the need for more rental housing.

Policy #3: Canby shall coordinate the location of higher density housing with the ability of the city to provide utilities, public facilities, and a functional transportation network.

Policy #4: Canby shall encourage the development of housing for low income persons and the integration of that housing into a variety of residential areas within the city.

Policy #5: Canby shall provide opportunities for mobile home developments in all residential zones, subject to appropriate design standards.

ANALYSIS

2. The proposed conditional use, and the associated proposed development, will not affect housing density.

3. The proposed conditional use does not include higher density housing. Future development of the properties will not include higher density housing.

4. The proposed conditional use does not include housing for low income persons. Future development of the property will not include housing for low income persons.

5. The proposed conditional use is not a mobile home development. Future development of the properties will not include mobile/manufactured home development.

ix. Energy Conservation Element

GOAL: *TO CONSERVE ENERGY AND ENCOURAGE THE USE OF RENEWABLE RESOURCES IN PLACE OF NON-RENEWABLE RESOURCES.*

Policy #2: Canby shall encourage development projects which take advantage of wind and solar orientation and utilization.

ANALYSIS

2. The proposed conditional use will not significantly or adversely alter the wind and solar orientation of the industrial complex.

Conclusion Regarding Consistency with the Policies of the Canby Comprehensive Plan:

Based upon the above described analysis, the proposal is consistent with or can, with conditions, be made consistent with the policies of the Comprehensive Plan.

C. Evaluation Regarding Conditional Use Approval Criteria

1. Comprehensive Plan Consistency

The previous discussion determined the proposal's relation to Comprehensive Plan consistency. The application for a conditional use permit is found to be consistent with the policies of the Comprehensive Plan.

2. Site Suitability

The site is generally flat, and is large enough to accommodate the proposed uses and buildings with the appropriate setbacks. Parking demand is the only outstanding site suitability consideration. The layout of the development is to provide a total of 49 parking spaces. The first two buildings, housing industrial uses, require 8.4 parking spaces for the office space and 20 parking spaces for the industrial space, for a total of 28.4 parking spaces. Building #3, a total of 11,200 square feet, will house the gymnastics center. Under "All Others" from Table 16.10.030, Commercial: the parking demand is one space for every 550 square feet, or a total of 20.4 parking spaces. Therefore, the total demand on the development is 48.8 parking spaces, and because there will be 49 parking spaces available, it is considered to be sufficient to accommodate the proposed use.

3. **Availability of Public Services and Facilities for the Site**
Utility and public safety facilities and services are available in adequate capacity to serve the proposed use.
4. **Compatibility with Surrounding Uses**
The proposed conditional use will allow the property to house a commercial recreational use. The use of the property will not alter the character of the surrounding area in a manner which substantially limits or precludes the surrounding properties for the uses listed in the light industrial zone.

V. CONCLUSION

Based on the above analysis, and without benefit of a public hearing, staff concludes that, with appropriate conditions:

1. The proposed conditional use 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
2. The characteristics of the site are suitable for the proposed use;
3. That all required public facilities and services exist to adequately meet the needs of the proposed development, and that no significant increase in demand for public facilities and service will result from the proposed conditional use; and,
4. The proposed conditional use will not alter the character of the surrounding areas in such a way as to substantially limit or preclude the uses allowed.

VI. RECOMMENDATION:

Based upon the application and drawings submitted, facts, findings and conclusions of this report, and without benefit of a public hearing, staff recommends approval of CUP 97-01, with the following conditions:

1. Prior to the occupancy of Building #3 all conditions of approval set forth by DR 93-08 and DR 94-05 shall be met.
2. Prior to the occupancy of Building #3, all three buildings shall meet all of the building code requirements for the businesses that are occupying them.

Exhibits:

1. Application and Site Plan
2. Request for Comments

CONDITIONAL USE APPLICATION

Fee: \$900

OWNER

APPLICANT

Name Bruce Broetje
Address PO Box 904
City Canby State OR Zip 97013
SIGNATURE _____

Name Rob Petit
Address 591 NE 22nd
City Canby State OR Zip 97013
Phone: 651-3159

DESCRIPTION OF PROPERTY:

Tax Map 3-1E-34C Tax Lot(s) 1806 Lot Size 2.5 ac.
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be typed onto an 8-1/2 x 11 sheet of labels, just as you would address an envelope.

USE

Existing light industrial
Proposed Recreational/Commercial Champion Gymnastic Center Inc.

Existing Structures _____

PROJECT DESCRIPTION

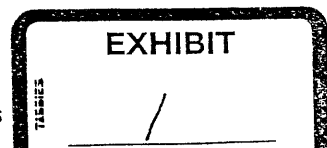
To allow Rob Petit d.b.a. Champion Gymnastic Center Inc. to operate as a recreational/commercial business in a light industrial zone as a conditional use.

ZONING M-1 COMPREHENSIVE PLAN DESIGNATION _____

PREVIOUS ACTION (if any) TA 96-01

File No. CUP 97-01
Receipt No. _____
Received by ~~12-5-96~~ LV.
Date Received 12-5-96
Completeness Date 12-5-96
Pre-Ap Meeting _____
Hearing Date 1-13-97

* If the applicant is not the property owner, he must attach documentary evidence of his act as agent in making application.



(4.41 Ac)

EFU-20

SOUTHERN PACIFIC

MOLALLA PACIFIC

FOI

86 - 02

LOGGING ROAD

S REDWOOD STREET

INDUSTRIAL

PARK

S.E. 4TH AVENUE

800
6.55 Ac.

1902
13.06 Ac.

1800
0.81 Ac.

1803

1806

PARCEL 1
(2.50 Ac.)

589°36'26"E 580.13

522.95 389°36'26"E

1805

(8.28 Ac.)

GOV. LOT
21

1100
0.68 Ac. 570

S. LINE D.L.C. NO. 56
2003.10
S 78°40'12"W

PP 1994-52

PP 1993-187

1810

PARCEL 3
(2.01 Ac.)

PARCEL 2
(1.87 Ac.)

13.12

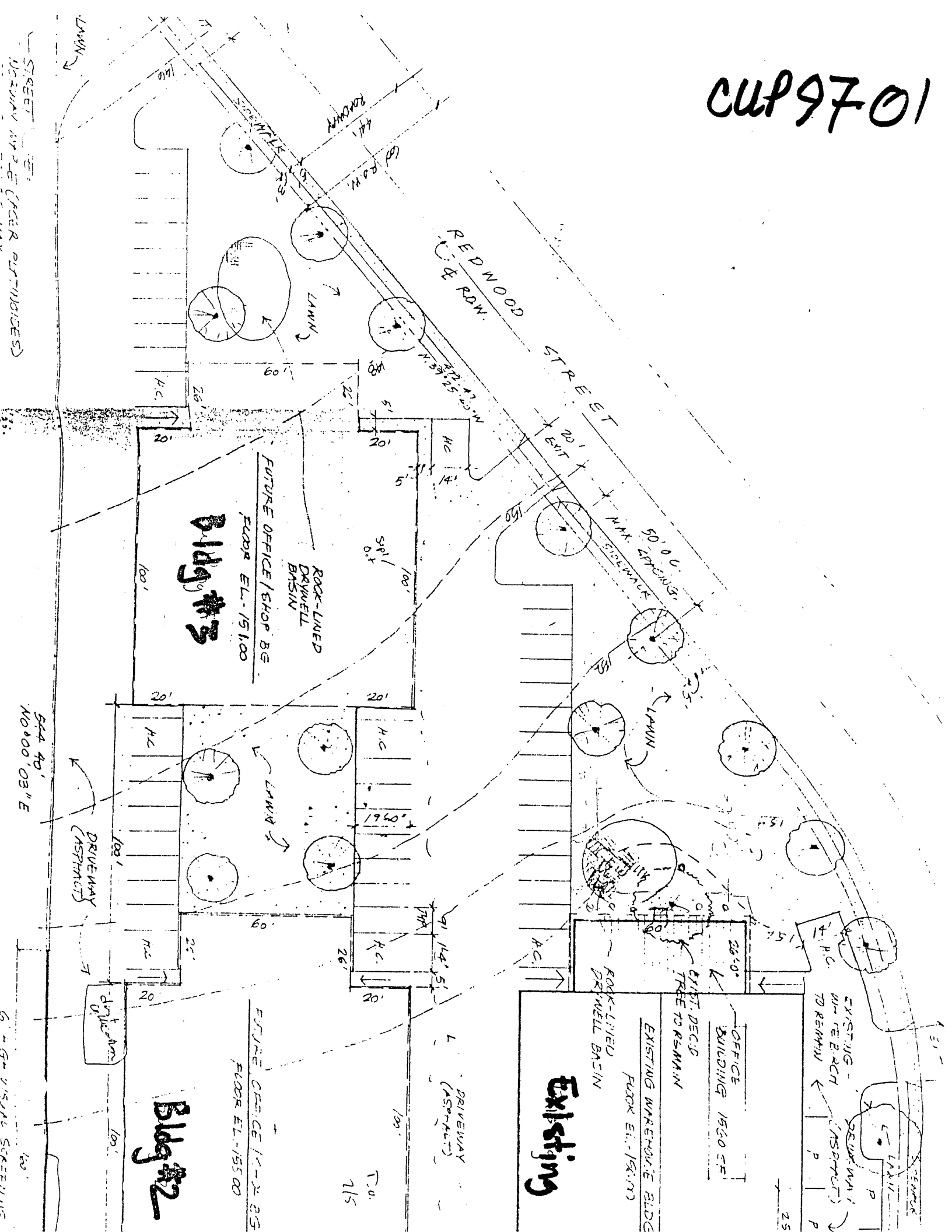
S 88°45'55"W
388.89

S 88°45'55"W
207.25

N 88°22'31"W

603.78

CUP 9701



PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE

The City has received CUP 97-01, an application by Rob Petit [applicant] for approval of a Conditional Use Permit to locate a gymnastic center in Building #3 of Bruce Broetje's industrial complex located at 365 S. Redwood Street. This project will consist of the relocation of an existing use at 1000 S. Ivy [Tax Lot 1806 of Tax Map 3-1E-34C].

We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

The AREA surrounding Building #3 needs to be a HARD SURFACE. Building #1 EXISTING SURFACE ALSO should be HARD SURFACE NOT GRAVEL.

Please check one box:

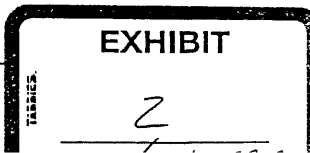
- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available

Signature: ROY L. HESTER

Date: Dec. 5, 1996

Title: Public Works Supervisor

Agency: City of



PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CVB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

The City has received CUP 97-01, an application by Rob Petit [applicant] for approval of a Conditional Use Permit to locate a gymnastic center in Building #3 of Bruce Broetje's industrial complex located at 365 S. Redwood Street. This project will consist of the relocation of an existing use at 1000 S. Ivy [Tax Lot 1806 of Tax Map 3-1E-34C].

We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Please check one box:

- 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: Greg Taylor Date: 12/5/96
 Title: Chief of Police Agency: Police Dept.

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: November 15, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN JOHN KELLEY,
ROY, STEVE, CLACKAMAS COUNTY [CHRIS CHRISTOFFERSON]

The City has received CUP 96-05/PUD 96-01 an application by an application by H.O.P.E. [applicant/owner] for approval to amend CUP 91-05/PUD 91-01 with regard to: 1) meeting the 2.0 acres of parkland within the campus by the creation of a "linear park" on the outer perimeter of the campus, developed as the various phases of Hope Village are completed; 2) permitting an entry point to be located on S. Ivy at the south corner of the Village, which would be an "entrance only," with no exits onto Ivy permitted; 3) to phase the parking provisions as the community center is actually built; and 4) amending the master plan to include the health facility as part of the assisted living facility, using the original health facility site for rental housing maintaining the same overall density. The site is located on the west side of S. Ivy at the corner of S.W. 13th Avenue [Tax Lots 800 and 801 of Tax Map 4-1E-4D].

We would appreciate your reviewing the enclosed application and returning your comments by **November 25, 1996** PLEASE. The Planning Commission plans to consider this application on **December 9, 1996**. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

No Comment

Please check one box:

- 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: *[Signature]* Date: _____

Title: _____ Agency: _____

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE

The City has received CUP 97-01, an application by Rob Petit [applicant] for approval of a Conditional Use Permit to locate a gymnastic center in Building #3 of Bruce Broetje's industrial complex located at 365 S. Redwood Street. This project will consist of the relocation of an existing use at 1000 S. Ivy [Tax Lot 1806 of Tax Map 3-1E-34C].

We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

MM

Please check one box:

- 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: Steve Hansen Date: 12/10/96
Title: WWTP Supervisor Agency: City of Canby

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE, HIGH SCHOOL

The City has received VAR 97-01, an application by Todd and Nancy Lucich [applicant/owner] for approval to construct a 12 foot wide gravel driveway from N.W. Territorial Road to the homesite, in variance to an order dated August 24, 1992 requiring a 20 foot paved driveway [Tax Lot 203 of Tax Map 3-1E-33BB].

We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Please check one box:

- 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: _____ Date: _____

Title: _____ Agency: _____

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE

The City has received CUP 97-01, an application by Rob Petit [applicant] for approval of a Conditional Use Permit to locate a gymnastic center in Building #3 of Bruce Broetje's industrial complex located at 365 S. Redwood Street. This project will consist of the relocation of an existing use at 1000 S. Ivy [Tax Lot 1806 of Tax Map 3-1E-34C].

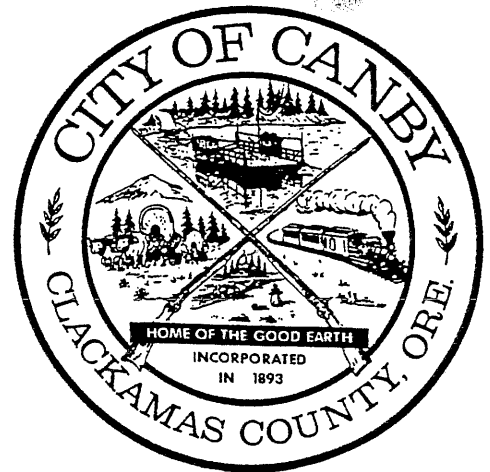
We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Please check one box:

- 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: Janey Pettit Date: 12/11/96
Title: Engineering Field Supervisor Agency: NW Natural Gas



- STAFF REPORT -

APPLICANT:

Todd and Nancy Lucich
679 S. Lupine Street
Canby, OR 97013

FILE NO.:

VAR 97-01

OWNER:

Todd and Nancy Lucich
679 S. Lupine Street
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lot 700 of Tax Map 3-1E-33BB

DATE OF REPORT:

December 27, 1996

LOCATION:

401 N.W. Territorial Road
South side of N.W. Territorial Road

DATE OF HEARING:

January 6, 1997

COMP. PLAN DESIGNATION:

Low Density Residential

ZONING DESIGNATION:

R-1 (Low Density Residential)

I. APPLICANT'S REQUEST:

The applicant is requesting approval to construct a 12 foot wide gravel driveway from N.W. Territorial Road to the flag lot homesite at 401 N.W. Territorial Road in variance to the required minimum 20 foot wide paved access strip. The paved access strip was a condition of approval as part of an approved minor land partition for the property.

II. APPLICABLE CRITERIA:

This is a quasi-judicial land use application. In judging whether a Variance should be approved, the Planning Commission must consider the following standards:

16.88.150.D Standards and Criteria.

A variance may be granted only upon determination that **all** of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the City and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control; and
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone; and
3. Granting of this variance will not be materially detrimental to the intent or purposes of the City's Comprehensive Plan or the Land Development and Planning Ordinance; and
4. Granting of this variance will not be materially detrimental to other property within the same vicinity; and
5. The variance requested is the minimum variance which will alleviate the hardship; and
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, acting in deliberate violation of these or other City regulations.

III. OTHER APPLICABLE CRITERIA:

- | | | |
|----|-----------|------------------------------------|
| A. | 16.64.040 | Subdivision Design Standards lots |
| B. | 16.16.030 | Development Standards in R-1 Areas |
| C. | 16.60.030 | Minor Partitions |

IV. BACKGROUND:

The applicant owns a flag lot parcel of property at 401 N.W. Territorial Road on the south side of N.W. Territorial. The property was part of a minor land partition approval (MLP 92-06) which created the two lots. Approval for the land partition contains a condition of approval stipulating that an access strip to the subject parcel shall be paved for a full twenty (20) foot width. The adjacent properties are residential, rural residential, and agricultural in nature with the area to the north, across N.W. Territorial Road, in the county and developed to county standards.

Additional conditions of the MLP 92-06 approval provided for a permanent easement and dedication needed for the future extension of N. Grant Street, sixty (60) feet in width.

To the south and east of the property lies a 10 acre lot owned by the school district. The future extension of N. Grant Street is dependent the district's plan for retaining or selling the land. The district's action affects the immediacy of the N. Grant road construction and therefore, has a bearing on the subject property's access road and the requirement for its construction. No information has been received that indicates when the extension of N. Grant will take place. The extension may occur within two years or it may not happen until a much longer time period. The request before the Commission is for a variance to Section 16.64.040(I)(2) and the order (MLP 92-06) to construct a 12' wide gravel access drive.

V. REVIEW FOR CONFORMANCE TO SECTION 16.88.150.D.:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the City and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control.

The extraordinary circumstances that apply to this property and do not apply generally to other properties in the City and within the same zone, is that the extension of N. Grant Street will affect the development of the property's access road. The future construction will impact the property's access road regardless if it is a paved drive or a gravel drive, as requested. Staff concedes that although the circumstances face the property are extraordinary and have control of when the extension of N. Grant Street will occur, the applicant/owner was cognizant of the provisions for road extension and the condition for providing a paved access prior to the purchase and development of the property and additionally, the

applicant/owner has submitted and received approval for a building permit application indicating a 20' wide paved access drive. Additionally, while the time period for the extension of N. Grant Street may be as short as a year or two, it could just as easily be 12 or 14 years.

Due to the extraordinary circumstances stated in the first part of this section, staff tentatively believes that this criteria **has been** met.

- B. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone.

The applicant argues that the adjacent property owners have been allowed to have gravel driveways, however, these drives are not allowed but are “grandfathered” in that they were pre-existing prior to the Zoning and Planning Ordinance. The Ordinance states that flag lots with access strips over one hundred (100) feet in length are to be a minimum of twenty (20) feet in width and shall be paved for the entire width from connection with the public street to the main area of the lot (Section 16.64.040.I.2.). The applicant, as the owner of a flag lot, maintains substantially the same property rights as are possessed by owners of other flag lot property in the city and within the same zone. The findings and conditions set forth in the land partition approval provided for the N. Grant Street improvement and is similar to conditions of approval provided other properties in the City where similar future road improvements are needed. Staff believes that this criteria **has not been** met.

- C. Granting of this variance will not be materially detrimental to the intent or purposes of the City's Comprehensive Plan or the Land Development and Planning Ordinance.

The applicant states that the city has allowed the adjacent property owners to have gravel driveways and a gravel driveway at this residence is consistent with the surrounding property owners. As previously stated, these drives on the adjacent properties are “grandfathered” in that they were pre-existing prior to the Zoning and Planning Ordinance. The Comprehensive Plan designates that the R-1 zone conforms with the category of Low Density Residential land use designation. The Land Development and Zoning Ordinance also states that minor land partitions shall be in conformance with all applicable requirements of the Ordinance and includes criteria [Section 16.60.030(C)] that specifies the overall design and arrangement of parcels shall be functional and shall adequately provide building

site, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or use of adjacent properties. The provisions set forth in the MLP 92-06 conditions of approval are in accordance to this unique situation. Staff concurs with the applicant that there are other gravel drives in the vicinity of the subject property however, some of these drives are pre-existing drives for properties in the city and the other drives belong to properties that are in the county and built to county standards. Staff concludes that the granting of the variance will be materially detrimental to the intent for development of flag lot parcels and the provision for providing access drives as set for by the Land Development and Zoning Ordinance. Therefore, staff believes that this criteria **has not been met**.

- D. Granting of this variance will not be materially detrimental to other property within the same vicinity.

No complaints of the requirement for providing paved access drives for flag lots parcels has been received. Staff believes that this record is sufficient to show that a granting of the use will not be materially detrimental to other property with the same vicinity. Staff believes that this criteria **has been met**.

- E. The variance requested is the minimum variance which will alleviate the hardship.

The variance requested is not the minimum variance which will alleviate the hardship. A minimum variance to alleviate the hardship for the property could consist of a request for a change in the access strip width, from 20 feet reduced to 12 feet in width, or if a request is for a change in drive surface, from paved drive to gravel drive. Therefore, staff tentatively believes that this criteria **has not been met**.

- F. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, acting in deliberate violation of these or other City regulations.

As best as staff can determine, the applicant/owner has not been acting in deliberate violation of these or other City regulations. Staff tentatively believes that the request for a variance to an order was not done in deliberate violation of these or other City regulations. Therefore, staff tentatively believes that this criteria **has been met**.

VI. CONCLUSION

Staff concludes that the variance requested to construct a 12 foot wide gravel driveway from N.W. Territorial Road to the flag lot homesite at 401 N.W. Territorial Road in variance to the required minimum 20 foot wide paved access strip does not meet criteria B, C, and E. Staff concludes that the other criteria for the granting of a variance have been met. Staff concludes that the requested variance should be denied, in that, the variance is not necessary for the owner to have substantially the same property rights as owners of other property similarly zoned and located, granting of the variance will be materially detrimental to the intent or purposes of the Land Development and Planning Ordinance, and that the requested variance is not the minimum required to remedy the hardship.

VII. RECOMMENDATION:

Based upon the findings and conclusions in this report, the information submitted by the applicant, and without benefit of public hearing, staff recommends denial of VAR 97-01.

Exhibits:

1. Application and Vicinity Map
2. Responses to Request for Comments

VARIANCE APPLICATION

Fee: \$900

OWNER

APPLICANT

Name Todd & Nancy Lucich

Name _____

Address 679 S. Lupine St.

Address SAME

City Canby State OR Zip 97013

City _____ State _____ Zip _____

SIGNATURE Todd Lucich

Phone: 266-6456

Nancy M. Lucich

DESCRIPTION OF PROPERTY:

Tax Map 3 1E 33BB Tax Lot(s) 203 Lot Size .72 acres
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property (if the address of the property owner is different from the situs, a label for the situs must also be prepared and addressed to "Occupant"). Lists of property owners may be obtained from any title insurance company or from the County Assessor. If the property ownership list is incomplete, this may be cause for postponing the hearing. The names and addresses are to be typed onto an 8-1/2 x 11 sheet of labels, just as you would address an envelope.

USE

Existing _____

Proposed _____

Existing Structures _____

PROJECT DESCRIPTION

Gravel - a driveway 12' wide from NW Territorial Road to home site as designated on site plan in variance to an order dated August 24, 1992, requiring a 20' paved driveway.

ZONING _____ COMPREHENSIVE PLAN DESIGNATION _____

PREVIOUS ACTION (if any) _____

File No. 96-02 97-01

Receipt No. 2236

Received by LV

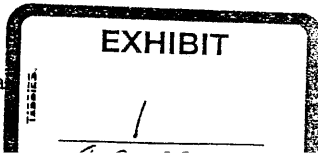
Date Received 12-4-96

Completeness Date _____

Pre-Ap Meeting _____

Hearing Date _____

* If the applicant is not the property owner, he must attach documentary evidence of his act as agent in making application.



DATE: October 21, 1996

RE: Lucich Variance Application
401 NW Territorial Road
Tax Lot 203

SUBJECT: Variance standards and approval criteria

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the City and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners(s) of the property have no control. The property driveway is included in the Grant Street future road dedication. When Grant Street is continued to Territorial Road from where it currently ends, all costs incurred to complete a 20 foot wide paved driveway, as required by the city ordinances, will be a major loss to the property owner. We have been told this could occur in two years or less. It is difficult to justify an \$8,000+ cost only to have it torn up in such a short time frame when all other driveways within 200 feet are gravel.
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the City and within the same zone. All property owners around Applicant's property have been allowed to have gravel driveways.
3. Granting of this variance will not be materially detrimental to the intent or purposes of the City's Comprehensive Plan or the land development and planning ordinance. The City has already allowed other property owners around Applicant's property to have gravel driveways. A gravel driveway at this residence would only be consistent with the surrounding property owners. When you consider all the land surrounding Applicant's property is used for agricultural purposes such as tree farming and hazelnut orchards, allowing a gravel driveway would be a fair and reasonable judgmental decision.
4. Granting of this variance will not be materially detrimental to other property within the same vicinity. Other properties within the same vicinity already have gravel driveways so a gravel driveway to Applicant's property

would not be detrimental. When you consider all the land surrounding Applicant's property is used for agricultural purposes such as tree farming and hazelnut orchards, allowing a gravel driveway would be a fair and reasonable judgmental decision.

5. The variance requested is the minimum variance which will alleviate the hardship. Until Grant Street is completed, the property will only have one single-family dwelling on it. Applicant feels a 12 foot wide gravel driveway to the homesite would be wide enough for domestic as well as emergency vehicle access. Excessive amounts of money and material should not have to go into the driveway just to be torn up when Grant Street is completed. Applicant would also be able to preserve the trees that line the driveway.

6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, acting in deliberate violation of these or other City regulations. Applicant purchased the parcel of land as set forth on the attached Site Plan. The driveway is an integral part of the property and is entirely within the Grant Street future road dedication.

TERRITORIAL RD.

20.38'

WATER METER

30.63'

ELEV. 97.5'

EXISTING ELECTRIC TRANS.

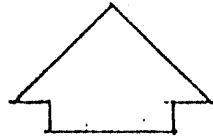
EXISTING RESIDENCE

1 1/2" Ø
SCH. 40
PVC.

206.82'

227.31'

233.84'
S. 0°-03'-44" E.



NORTH

SCALE 1" = 40'

SITE PLAN

"VACANT"

2" PVC CONDUIT @ 36" DEEP

NEW GRAVEL DRIVE (12' WIDE)

* 30' OF DEDICATION IS ON THIS LOT.

* 60' WIDE FUTURE ROAD DEDICATION

6'

12'

ELEV. 98.5'

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE, HIGH SCHOOL

The City has received VAR 97-01, an application by Todd and Nancy Lucich [applicant/owner] for approval to construct a 12 foot wide gravel driveway from N.W. Territorial Road to the homesite, in variance to an order dated August 24, 1992 requiring a 20 foot paved driveway [Tax Lot 203 of Tax Map 3-1E-33BB].

We would appreciate your reviewing the enclosed application and returning your comments by December 13, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Sanitary Sewer is NOT AVAILABLE. Septic System can be installed with County Permit.

N.W. Territorial Rd is a County Road, City performs no maintenance on this section. The driveway should be built to City standards. Being a County Road, the driveway could be gravel with a 20 Foot Asphalt apron ~~to be~~ ^{connected} connected to Territorial Rd. The remaining driveway could be 12 Foot wide Gravel.

I agree with the Application Statement Number One. Statement Number Three is incorrect, in sentence two.

With the surrounding property owners with gravel driveways, this driveway could be built to County standards

Please check one box:

- 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: Roy Hester

Date: 12-6-96

Title: Public Works Supervisor

Agency: City of

EXHIBIT

2

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 5, 1996

TO: FIRE, POLICE, CUB, CTA/NWT, NW NATURAL GAS, MIKE JORDAN, JOHN KELLEY,
ROY, STEVE, HIGH SCHOOL

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Comments or Proposed Conditions:

Please check one box:

- 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: [Handwritten Signature] Date: 12/5/96
 Title: Chief of Police Agency: Police Dept



CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANERZANDEN
DIRECTOR

MEMORANDUM

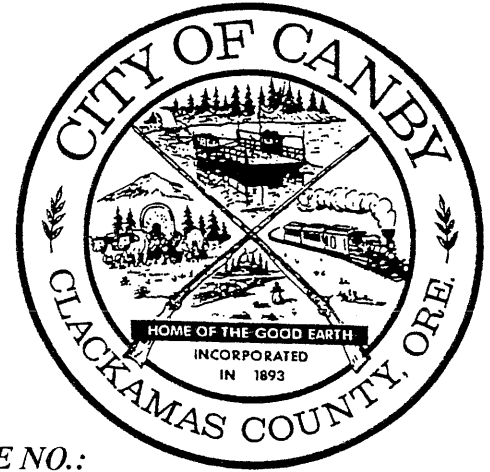
TO: City of Canby, Planning
FROM: Clackamas County Construction and Development *WJZ*
DATE: December 20, 1996
RE: VAR 97-01 Lucich
3-1E-33BB-TL 203

This office has the following comments pertaining to this proposal:

1. This office has no objection to the proposed variance provided the applicant is required to obtain a Standard Driveway Entry Permit for entry onto a County paved road. The applicant shall pave the entry between the existing edge of pavement and property line to County standards. The purpose of the paved entry is to properly control and direct surface water away from the traveled portion of the County road, provide better traction at the egress point, and to reduce the amount of gravel that is transported to our road from the driveway.
2. The County has not designated the portion of Territorial Road west of Holly a Collector or Arterial street. This may conflict with the City's designation or as development occurs and more traffic is directed to Territorial Road by new streets the "local" designation may change. To be consistent with the remainder of Territorial Road this portion may become a Minor Arterial. In anticipation of this occurring the City may wish to require a dedication of right-of-way at this time to establish the future intersection location and a desired right-of-way width for Territorial. The County's standard for arterials is 70 feet of right-of-way. A minimum of two 12 foot travel lanes, two 6 foot bike lanes, standard curbs, 6 foot unobstructed sidewalk, and utilities (including storm sewer) is required. Usually a 14 foot center lane is also required.
3. If the applicant is anticipating conducting work within the County right-of-way for utility cuts for the new home a Utility Cut Permit is required and must be obtained from DTD.

WPS/CtyofCanbyLucich.doc
EN97-249

- STAFF REPORT -



APPLICANT:

Dan Anderson
641 N. Baker Drive
Canby, OR 97013

FILE NO.:

SUB 97-01
(Anderson)

OWNER:

Christian/Anderson Prop. LLC
641 N. Baker Drive
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lots 1800 and 1802 of
Tax Map 3-1E-34C

DATE OF REPORT:

December 27, 1996

LOCATION:

South of the transition of S.E. 3rd
Avenue and S. Redwood Street and
North of S.E. Township Road.

DATE OF HEARING:

January 6, 1997

COMP. PLAN DESIGNATION:

Light Industrial

ZONING DESIGNATION:

M-1 (Light Industrial)

I. APPLICANT'S REQUEST:

The applicant is requesting approval for a five (5) lot subdivision, on an approximately 13 acre parcel located in the Logging Road Industrial Park on the south of the transition of S.E. 3rd Avenue and S. Redwood Street. The proposed subdivision will divide the 13 acre parcel into 5 smaller lots with the anticipation of attracting light industrial users needing smaller acreage. The five parcels will consist of a 4 acre lot, 4.5 acre lot, two (2) lots of 2 acres each, and a 0.5 acre triangular lot.

II. APPLICABLE CRITERIA:

A. City of Canby Code Section 16.62.020

This is a quasi-judicial land use application. Applications for a subdivision shall be evaluated based upon the following standards and criteria:

- i. Conformance with the text and applicable maps of the Comprehensive Plan.
- ii. Conformance with other applicable requirements of the land development and planning ordinance.
- iii. The overall design and arrangement of lots shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
- iv. 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 land division.

B. Other Applicable Policies and Regulations:

City of Canby General Ordinances:

- 16.32 M-1 Light Industrial Zone
- 16.56 Land Division Regulations - General Provisions
- 16.62 Subdivisions - Applications
- 16.64 Design Standards
- 16.66 Subdivisions - Planning Commission Action
- 16.68 Subdivisions - Final Procedures and Recordation

III. FINDINGS:

A. Background and Relationships

The subject property is located in the Logging Road Industrial Park south of the transition of S.E. 3rd Avenue and S. Redwood Street. The subject property was annexed in 1991 (ANN 91-05, approved 12/01/91).

The applicant is now requesting approval to subdivide the parcel into 5 lots. The applicant also proposes to combine a .039 acres parcel (Tax Lot 1800 of Tax Map 3-1E-34C), identified as Parcel G on the tentative plot plan, in the northwest corner of the subject property with Parcel A (Part of tax Lot 1802 of Tax Map 3-1E-34C) of the subdivision. The combining of these parcels is in fulfillment of the recent lot line adjustment approval by the applicant in DR 96-12/CUP 96-04/LLA 96-01, approved 10/28/96.

The property is a part of the benefitted area of the Logging Road Industrial Park Road Project. There is a reimbursement charge for the advanced financed public improvement (S. Redwood Street) that will be assessed to the properties with this development.

B. Comprehensive Plan Consistency Analysis

i. Citizen Involvement Element

GOAL: *TO PROVIDE THE OPPORTUNITY FOR CITIZEN INVOLVEMENT THROUGHOUT THE PLANNING PROCESS.*

Policy #2: Canby shall strive to eliminate unnecessarily costly, confusing, and time consuming practices in the development review process.

ANALYSIS

2. The Planning Commission adheres to acting upon applications within a sixty (60) day time period from the date of determination of a complete application. Any continuation of the review period is done with the approval of the applicant, or through admission of new information into the review process. The sixtieth day is February 8, 1997.

iii. 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.*

Policy #1 Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.

Policy #2 Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

Policy #3 Canby shall discourage any development which will result in overburdening any of the community's public facilities or services.

Policy #4: Canby shall limit development in areas identified as having an unacceptable level of risk because of natural hazards.

Policy #5 Canby shall utilize the land use map as the basis of zoning and other planning or public facility decisions.

Policy #6: Canby shall recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas.

A) A map of "Areas of Special Concern" is to be regarded as having the full force and effect of the Land Use Map in determining appropriate land uses and levels of development. Development proposals, even those that appear to conform with existing zoning, will be considered to conform with the Comprehensive Plan only if they meet the requirements imposed here.

B) Area "G" is similar to area "A" in many respects. Located south of Highway 99-E along S. Pine Street, it too has potential for either commercial or industrial development. Commercial uses will be limited to "heavy" commercial activities which are closely related to industrial activities or larger shopping centers based around a department store of the sort which can be expected to draw from a regional market area. It is recognized that the Land Use Map contains sufficient area for commercial uses of all sorts other than larger department store complex types.

By designating this area for special treatment this problem should be resolved, while providing safe highway access and minimizing conflicts with the railroad. The extension of S. Pine Street to connect with Township road will be a high priority regardless of the specific nature of development in the area. Upon annexation area "G" could be zoned either M-1 or C-M, depending upon the nature of the development proposed.

ANALYSIS

1. The parcel, currently used for row corp agriculture, is zoned M-1, Light Industrial zone and is proposed to be developed with light industrial uses. The Comprehensive Plan land use designation of the subject parcel is Light Industrial. The property is surrounded by light industrial zoned and high density residential zoned properties. To the west is an existing hazelnut orchard and the Orchards Apartment complex. To the north is industrial land owned by the applicant and currently scheduled for development as the Canby Business Center, a 46 unit light industrial/commercial manufacturing business park. To the east, lies light industrial land containing the Broetje property and Oregon Custom Cabinets. To the south across S.E. Township Road an island of county land, residential in nature, that is designated as High Density Residential in the Comprehensive Plan.

The subdivision will permit a higher number of industrial uses to be located near residential properties (to the west and south), but will also restrict the size of the uses. The smaller industrial uses will off-set the adverse effect of increasing the number of industrial uses that will result from the subdivision.

2. The intensification of the use of the land that will result from the subdivision, will permit a more efficient use of the industrial land by smaller industrial developments.
3. Request for comments have been sent to all public facility and service providers (see discussion under Public Services Element). Adequate services are or will become available through the development of the properties.
4. No natural hazards have been identified on the subject property.
5. The zoning of the property M-1, Light Industrial zone, is consistent with the Land Use Map designation for the property (Light Industrial). The minimum lot size for parcels in the M-1 zone is 5000 square feet. All parcels will meet the minimum lot size.
6. The subject property is located in Area G and identified as one of the "unique" sites or "areas of special concern" in the Comprehensive Plan. The area contains vacant and existing agricultural parcels. The area is planned for light industrial and commercial manufacturing uses.

iv. Environmental Concerns

GOALS: TO PROTECT IDENTIFIED NATURAL AND HISTORICAL RESOURCES.

TO PREVENT AIR, WATER, LAND, AND NOISE POLLUTION.

TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.

- Policy #1-R-A: Canby shall direct urban growth such that viable agricultural uses within the urban growth boundary can continue as long as it is economically feasible for them to do so.
- Policy #1-R-B: Canby shall encourage the urbanization of the least productive agricultural area within the urban growth boundary as a first priority.
- Policy #2-R: Canby shall maintain and protect surface water and groundwater resources.
- Policy #3-R: Canby shall require that all existing and future development activities meet the prescribed standards for air, water and land pollution.

- Policy #4-R: Canby shall seek to mitigate, wherever possible, noise pollution generated from new proposals or existing activities.
- Policy #7-R: Canby shall seek to improve the overall scenic and aesthetic qualities of the City.
- Policy #8-R: Canby shall seek to preserve and maintain open space where appropriate, and where compatible with other land uses.
- Policy #9-R: Canby shall attempt to minimize the adverse impacts of new developments on fish and wildlife habitats.
- Policy #10-R: Canby shall attempt to minimize the adverse impacts of new developments on wetlands.
- Policy #1-H: Canby shall restrict urbanization in areas of identified steep slopes.
- Policy #2-H: Canby shall continue to participate in and shall actively support the federal flood insurance program.
- Policy #3-H: Canby shall seek to inform property owners and builders of the potential risks associated with construction in areas of expansive soils, high water tables, and shallow topsoil.

ANALYSIS

1-R-A. The subject property is currently used for row crop agriculture. The annexation of the properties (ANN 91-05) and the construction of S. Redwood Street by the City were for the purposes of commercial and industrial development of the subject (and neighboring) properties. Development of the property, and therefore preservation of the existing agricultural operation, does not hinge on the subdivision of the property. The subdivision may allow for partial and temporary preservation of the existing agricultural operation through the partial, sequential development of the property that may result from the subdivision.

1-R-B. Infrastructure planning and improvements that service this property have been completed, and permit the development of this property for industrial uses.

2-R. The storm water drainage of the subject property is handled on-site. Clackamas County reviews storm water management and compliance with the Federal Clean Water Act, for each individual lot upon development of that lot. The street drainage is reviewed by the City. The Public Works Supervisor has noted in the request for comment that approval of the subdivision will facilitate elimination agricultural land storm water runoff into S. Redwood Street by facilitating development of the property.

3-R. The existing use has not created a known pollution problem. Any subsequent development activity directly related to industrial development, is required to comply with prescribed standards for air, water, and land pollution, through the building permit process. Storm water drainage is mentioned in the above 2-R.

4-R. Noise will be expected as a result of industrial construction. Further, industrial construction noise is regulated by the City's Noise Ordinance.

7-R. The subdivision of this property will not affect the scenic and aesthetic quality of the City. Future development of the proposed parcels will affect the scenic and aesthetic quality of the City. The visual impacts of development of the subject parcels will be reviewed through the Site and Design Review process, both now and in the future.

8-R. The subject property is not considered to be "open space" as defined in this policy. Buffering of industrial uses next to residential properties will be considered on a case-by-case development basis.

9-R. No wildlife or fish habitats are known on the subject property.

10-R No wetlands are know on the subject property.

1-H. The subject property has no steep slopes.

2-H. The subject property is not in a flood zone.

3-H. The subject property has Latourell loam soil, which is a deep, well-drained soil. No expansive soils, shallow topsoil, high water table, or other potential risks associated with construction on the subject properties have been identified..

v. ***Transportation***

GOAL: TO DEVELOP AND MAINTAIN A TRANSPORTATION SYSTEM WHICH IS SAFE, CONVENIENT AND ECONOMICAL.

Policy #1: Canby shall provide the necessary improvement to city streets, and will encourage the county to make the same commitment to local county roads, in an effort to keep pace with growth.

Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.

Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.

- Policy #4: Canby shall work to provide an adequate sidewalks and pedestrian pathway system to serve all residents.
- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #9: Canby shall support efforts to improve and expand nearby air transport facilities.
- Policy #11: Canby shall work with private developers and public agencies in the interest of maintaining the transportation significance as well as environmental and recreational significance of the Willamette River.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

ANALYSIS

1. No new public streets will be required to service the properties.
2. The impact of the additional traffic that the proposed commercial/ industry will create, will be paid for through the imposition of Transportation System Development Charges.

Parcels A, B, F and G will have access on S.E. 3rd Avenue and S. Redwood Street which has the necessary road improvements and sidewalks in place. Parcels C and D will have access on S.E. Township Road. Township Road is a county road and has been designated as a minor arterial which requires a right-of-way of 70 feet and constructed pavement width of 50 feet curb to curb. Clackamas County Transportation has submitted comments pertaining to the proposal and have listed the required improvements along the property's frontage on Township Road. Improvements will consist of a half-street improvement, standard curb, six (6) foot bike lane, storm sewer, pavement tapers and a six (6) foot sidewalk. The County also requires dedication of right-of-way along Township Road to permit construction of the required improvements, to implement the County's standard for arterial streets, and to align with other right-of-way along Township. A permit for Street Construction and Encroachment must be obtained prior to any construction. The County has stated that the permit is also needed prior to the recording of the plat, however, further development review and the road requirements will be required upon development of the properties.

The County has also recommended that Parcels C and D shall share one ingress and egress location on Township Road, as it is the County's preference to have access spaced every 500 -600 feet apart along arterioles. The City does not have a specific standard for access drive spacing however, the City's access requirements (Section 16.10.070.B) state that access drives shall be a minimum of 50 feet from the intersections of any collector or arterial streets and that no access drives shall be constructed within five feet of an adjacent property line, except where the property owners elect to provide joint access. Specific access locations for Parcels C and D will be addressed during Site and Design Review process of the respective developments.

3. There are two major intersections near the subject property, S. Pine Street and Highway 99E, and S. Redwood Street and S.E. Township Road. At this time, these intersections are not considered to be "problem intersections". Improvement of a half-street improvement will be constructed along Township Road as a part of the development of the property. Clackamas County Transportation has stated that the county must be notified when specific development proposals are being considered for each parcel to determine if a traffic study is needed to assess the impacts at S. Redwood Street and S.E. Township Road. The City has a Transportation Systems Plan that includes improvements of "problem intersections", and is paid, in part, by Transportation System Development Charges.
4. Sidewalks are in place along S. Redwood and S.E. 3rd Avenue. Sidewalks, unobstructed and 6 foot in width, will be required along the frontage of Township Road as stated by Clackamas County.
6. The fire district and police department have responded to the Request for Comments and have indicated that both adequate services are available or will become available through development and no further conditions related to the proposed development.
7. South Redwood Street has been built to "collector" standards with a bike lane along the western side of South Redwood. Clackamas County has requested a six (6) foot wide bike lane as a design standards for minor arterioles (Township).
8. The existing use and the proposed use of the properties have no specific use for the rail facilities that exist in Canby.
9. The proposed subdivision will have no bearing on efforts to improve or expand nearby air transport facilities.
11. The subject property is not near the Willamette River and will have no effect on the transportation potential or use of the Willamette River.
12. The subject property is fully within the City limits and is not near any "entry point" into the City.

vi. *Public Facilities and Services*

GOAL: *TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.*

- Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.
- Policy #2: Canby shall utilize all feasible means of financing needed public improvements and shall do so in an equitable manner.
- Policy #3: Canby shall adopt and periodically update a capital improvement program for major city projects.
- Policy #5: Canby shall assure that adequate sites are provided for public schools and recreation facilities.

ANALYSIS

1. All needed public facility and service providers were sent a "Request for Comments" regarding this application. Positive responses were received from the Public Works Department, Police Department, Fire District, Clackamas County, and Canby Telephone Association. All have indicated that adequate facilities and/or services are available. There has been no recent indication, unofficial or otherwise, of potential inadequacy of facilities or services for electric, water, and telephone facilities which have been built in S. Redwood Street and are located immediately adjacent to the subject property. Two utility poles will need to be relocated as part of the street improvements.

The Public Works has indicated that sewer is available on S.E. 3rd Avenue and that all parcels in this proposed subdivision could be served from the connection. The Public Works department has submitted a service plan with their request for comments that specifies an 8" sewer line that will run along Parcel B's eastern and southern property lines. A special easement will have to be provided for this line, if it is located outside of the standard utility easements that will be located along the perimeter of the new lots.

2. Public improvements that are required prior to the development of these properties are the improvement of the half-street arterial street to county standards including curb and sidewalk. The provision of the sewer to parcels A through D shall be provided as a part of the subdivision in order to assure appropriate utility service to all lots at the time of the subdivision.

3. The subject properties are a part of the area benefitting from the Logging Road Industrial Park road improvements project. Major infrastructure improvements have been or are under construction which will benefit this property and are being

initially funded through the City. Development of property within the benefitted property zones is the mechanism by which the City will be able to pay for the improvements. The improvements include the S Pine Street/S. Redwood Street road connection between Highway 99-E and Township Road, and sewer and water mains to service the southeastern portion of the City, including the subject property. Reimbursement for the improvements occurs with the development of the property.

5. The City has adopted a Parks Master Plan in which appropriate sites or areas for recreation facilities are identified. No parks have been designated in the vicinity of the subject property. In the vicinity of the property is the Logging Road which is City property and will be used in a manner that might be construed as a "linear park" in that the "road" will be used as a walking/bike path.

vii. ECONOMIC

GOAL: TO DIVERSIFY AND IMPROVE THE ECONOMY OF THE CITY OF CANBY.

Policy #1: Canby shall promote increased industrial development at appropriate locations.

Policy #2: Canby shall encourage further commercial development and redevelopment at appropriate locations.

Policy #4: Canby shall consider agricultural operations which contribute to the local economy as part of the economic base of the community and shall seek to maintain these as viable economic operations.

ANALYSIS

1. The proposed development is industrial, as the current zoning of the subject property allow. The site is serviced by infrastructure that was specifically designed and constructed with commercial and industrial uses in mind.

2. The proposed development is industrial in nature. The subdivision of this property is appropriate and encourages further commercial and industrial development.

4. The proposed subdivision is industrial in nature and zoning. The current use of the site is non-agricultural. The project will have no direct adverse impacts on agricultural operations.

viii. HOUSING

GOAL: *TO PROVIDE FOR THE HOUSING NEEDS OF THE CITIZENS OF CANBY.*

- Policy #2: Canby shall encourage a gradual increase in housing density as a response to the increase in housing costs and the need for more rental housing.
- Policy #3: Canby shall coordinate the location of higher density housing with the ability of the city to provide utilities, public facilities, and a functional transportation network.
- Policy #4: Canby shall encourage the development of housing for low income persons and the integration of that housing into a variety of residential areas within the city.
- Policy #5: Canby shall provide opportunities for mobile home developments in all residential zones, subject to appropriate design standards.

ANALYSIS

2. The proposed subdivision, and the associated proposed development, will not affect housing density.
3. The proposed subdivision does not include higher density housing. Future development of the properties will not include higher density housing.
4. The proposed subdivision does not include housing for low income persons. Future development of the property will not include housing for low income persons.
5. The proposed development is not a mobile home development. Future development of the properties will not include mobile/manufactured home development.

ix. ENERGY CONSERVATION

GOAL: *TO CONSERVE ENERGY AND ENCOURAGE THE USE OF RENEWABLE RESOURCES IN PLACE OF NON-RENEWABLE RESOURCES.*

- Policy #2: Canby shall encourage development projects which take advantage of wind and solar orientation and utilization.
- Policy #4: Canby shall attempt to reduce wasteful patterns of energy consumption in transportation systems.

ANALYSIS

2. The application is for the subdivision of an industrial parcel. The future development will allow for opportunities to incorporate wind or solar orientation considerations in the siting and development of the properties.

4. The City has adopted a Transportation Systems Plan. Transportation patterns of all developments are reviewed through the Transportation Systems Plan. The proposed subdivision of the subject property complies with the Transportation Systems Plan.

C. Conclusion Regarding Consistency with the Policies of the Canby Comprehensive Plan and Compliance with Other Applicable City Ordinances:

Review of the above analysis will show that the proposed subdivision, with the recommended conditions of approval, is consistent with the policies of the Comprehensive Plan provided that questions regarding public safety, traffic impact, and development density are resolved in favor of the proposal. Development of each of the lots will need to comply with all applicable provisions of the City of Canby Land Development and Planning Ordinance, Building Codes, and other County and State Codes and Regulations.

D. Conformance with Applicable Requirements of the Land Development and Planning Ordinance

16.64.010 Streets.

Right-of-way dedications and road improvements are required by Clackamas County for S.E. Township Road.

The design of the half-street will be in compliance with the County standards. The road will be constructed to the County's standards for arterioles that specify a paved width of fifty (50) feet, with a six (6) foot sidewalk, six (6) foot bike lane, utilities behind the sidewalk, and street trees.

16.64.030 Easements.

Easements for utility construction, sewer and maintenance will need to be provided. Six foot utility easements will be required to be located along all interior lot lines. A special easement for the sewer that will service parcels A-D shall be provided if that sewer line will be located outside of the standard utility easements.

The sidewalks will be located against the curb. The sidewalks will be "constructed" around obstacles (such as mailboxes, newspaper boxes and fire hydrants) that are located against the curb. In addition, the sidewalk will be kept clear of obstacles to pedestrians.

16.64.040 Lots.

The lots will range in size from approximately 4 acres to 0.5 acres. All lots will meet the minimum required area of 5,000 square feet. The .039 acre parcel G will be combined with parcel A.

16.64.070 Improvements.

Provision of an 8" sewer line, with 6" sewer laterals, are required as a part of the subdivision. Road improvements to Township Road are required as a part of the development of parcels C and D, individually.

A bond will be required for any improvements in the subdivision that are not completed prior to the signing of the final plat. Such agreement of assurance shall be in conformance with Paragraph (O) of Section 16.64.070 of the Land Development and Planning Ordinance. A pre-construction conference with the developer, the City, and the utility providers is necessary prior to any construction of the improvements.

E. Design and Lot Arrangement - The Overall design shall be functional in terms of sites, utility easements and access, without hindering adjacent development.

The layout and provision of services to the proposed subdivision has been described by staff in detail in the preceding sections (B & D). The design and arrangement of the lots and streets are functional.

IV. CONCLUSION

In general, the proposed subdivision is consistent with the Comprehensive Plan, all applicable requirements of the Land Development and Planning Ordinance, provided that questions regarding public safety, traffic impact, and development density are resolved in favor of the proposal, and the overall design and arrangement of lots is functional and will not unduly hinder use or development of adjacent properties. Conditions are proposed herein to provide the necessary changes and details required to meet the City's standards for subdivisions.

V. RECOMMENDATION

Based on the application, site plan, the facts, findings and conclusions presented in this report, and without benefit of public testimony, staff recommends that should the Planning Commission approve, with conditions, SUB 97-01, that the following conditions apply:

For the Final Plat:

1. Utility easements shall be provided as follows:
 - the interior subdivision lot lines shall be six (6) foot (excepting the lot line between parcels A and G which shall have no easement);
 - the exterior subdivision lot lines, and street frontages shall be twelve (12) foot.

2. An easement for the sewer line connection from S.E. 3rd Avenue shall be provided and approved by the Public Works Supervisor, if the sewer line is located outside of the standard utility easements conditioned above (#1).
3. The final plat shall reference this land use application - City of Canby, File No. SUB 97-01, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.
4. The final plat mylars must contain, in the form specified, all information necessary to satisfy all matters of concern to the County Surveyor, or his authorized Deputy, including, but not necessarily limited to, various matters related to land surveying, land title, plat security, and plat recordation.
5. The subdivision development fee, as provided in the Land Development and Planning Ordinance Section 16.68.040(G), shall be paid.
6. Parcels A and G shall be shown combined (as one lot).

Prior to the signing of the Final Plat:

7. Dedication of right-of-way property necessary for the improvement of S.E. Township Road shall be recorded prior to the signing of the final plat.
8. An 8" sewer line and laterals shall be constructed to service parcels A through D, in accordance with City standards. The design and construction of the sewer line and laterals shall be approved by the Public Works Department.
9. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.

Notes:

10. The final plat must be submitted to the City within one (1) year of the approval of the preliminary plat approval according to Section 16.68.020.
11. The approval will be null and void if the final plat is not submitted to the County within six (6) months after signing of the plant by the chairman of the Planning Commission (Section 16.68.070).

In conjunction with further development:

12. Any development of the properties must be preceded by Site and Design Review approval.
13. A traffic study shall be required with the application for development of parcels C and D.

14. The half-street improvement to S.E. Township Road will be required with the development of parcels C and D. The improvements will be required to meet the City's and Clackamas County's specifications and standards.
15. Shared access is recommended for parcels C and D.
16. A Street Construction and Encroachment Permit will be required for either parcels C or D prior to development of either parcel.

Exhibits:

1. Application
2. Tentative Plat
3. Vicinity Map
4. Responses to Request for Comments

SUBDIVISION APPLICATION

Fee: \$900 + \$30/lot

OWNER

APPLICANT

Name Christian/Anderson Prop. LLC

Name Dan Anderson

Address 641 N. Baker Dr.

Address 641 N. Baker Dr.

City Canby State OR Zip 97013

City Canby State OR Zip 97013

SIGNATURE

Phone: 263-6006

[Handwritten signature]

DESCRIPTION OF PROPERTY:

Tax Map 3s, 1e, 34c Tax Lot(s) 1800, 1802 Lot Size Appx. 13 acres (Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name Lot Block

PROPERTY OWNERSHIP LIST

Attach a list of the names and addresses of the owners of properties located within 200 feet of the subject property...

USE

Existing Row Crop Farming Proposed Zoned M-1, Divide smaller to sell

Existing Structures None

PROJECT DESCRIPTION

We propose to divide the appx. 13 acres to smaller parcels to make the property more attractive to smaller businesses.

ZONING M-1 COMPREHENSIVE PLAN DESIGNATION

PREVIOUS ACTION (if any)

File No. SUB 97-01 Receipt No. 2245 Received by Date Received 12-9-96

* If the applicant is not the property owner, he must attach documentary evidence of his act as agent in making application.

EXHIBIT 1 2 pages

December 6, 1996

City Of Canby
Planning Dept. Staff & Planning Commission

Dan Anderson
On behalf of Land Owners Clayton & Janice Christian/Anderson Properties LLC

Re: Subdivision Proposal, map 3S,1E,34C,TL 1800, Logging Road Industrial Park

Staff & Commission:

The purpose of this proposal is to divide a 13 acre (appx) parcel of land into 5 smaller parcels with anticipation attracting smaller businesses to the city. In so doing, it will also clean up current tax lots which have been broken up by the recent addition of S.E 3rd Ave. and S. Redwood Street.

The proposed division is as follows:

Parcel A: The Northern most 4 acres of subject property adjacent to S.E. 3rd Ave. and S. Redwood St. This parcel shall also include Parcel G to the north which is part of Tax Lot 1802.

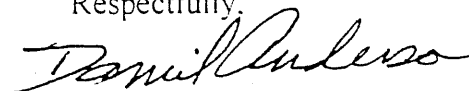
Parcel B: The center 4.5 acres (appx.) of subject property. Also includes a 50' wide deeded drive to the east of Parcel A and creates access on S. Redwood St.

Parcel C & D: Equal 2 acre parcels at the southern end of subject property. These parcels are adjacent to Township Rd. where access is created.

Parcel F: Appx. 1/2 acre lot to the northeast of S. Redwood Street.

In summary, we feel that subdividing this property into smaller parcels will be more attractive to smaller business who do not need lots of land. This parcel of land has been on the market for years as one piece and we have learned it is too small or the wrong shape for larger businesses or too large for smaller ones.

Respectfully,



Daniel Anderson

S.E 3rd Ave.

Parcel G
.039 ac.
Part of TL 1800

Parcel F
Appx.
.5 ac.

S. Redwood St.

Parcel A
Appx. 4 ac.

Parcel B
Appx.
4.41 ac.

Parcel C
2 ac.

Parcel D
2 ac.

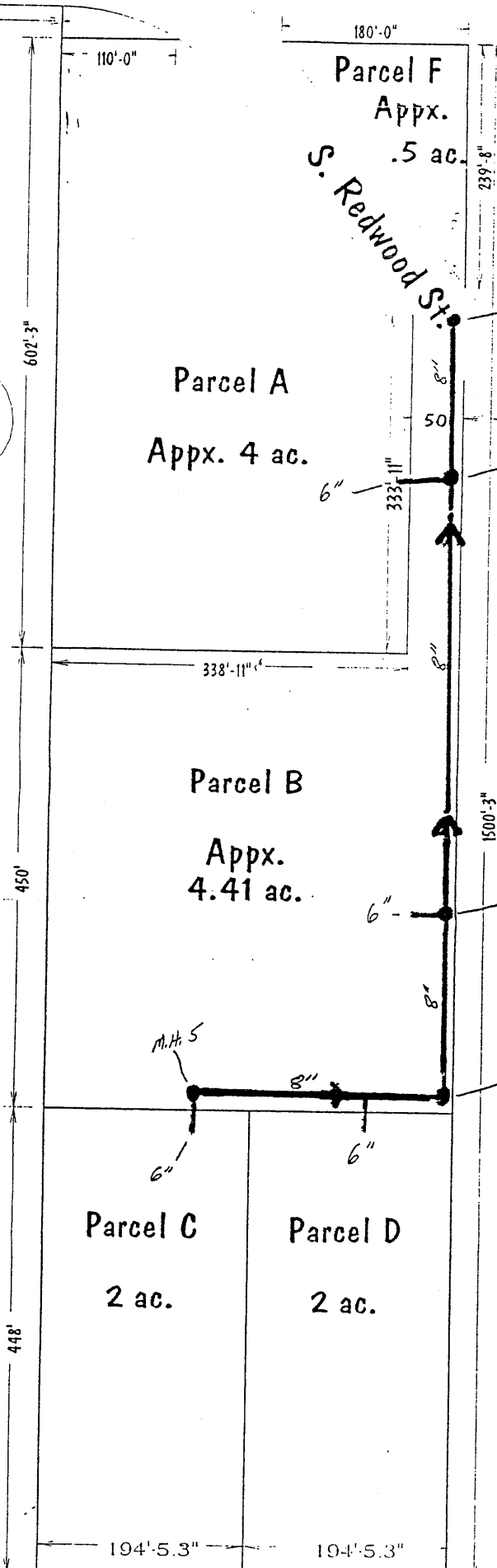
NOTE:
The land is
basically level
however, natural
runoff is from
south to north.

All measurements are
approximate and will
be determined by a
surveyor.

Tentative Plat
Subdivision
Proposal

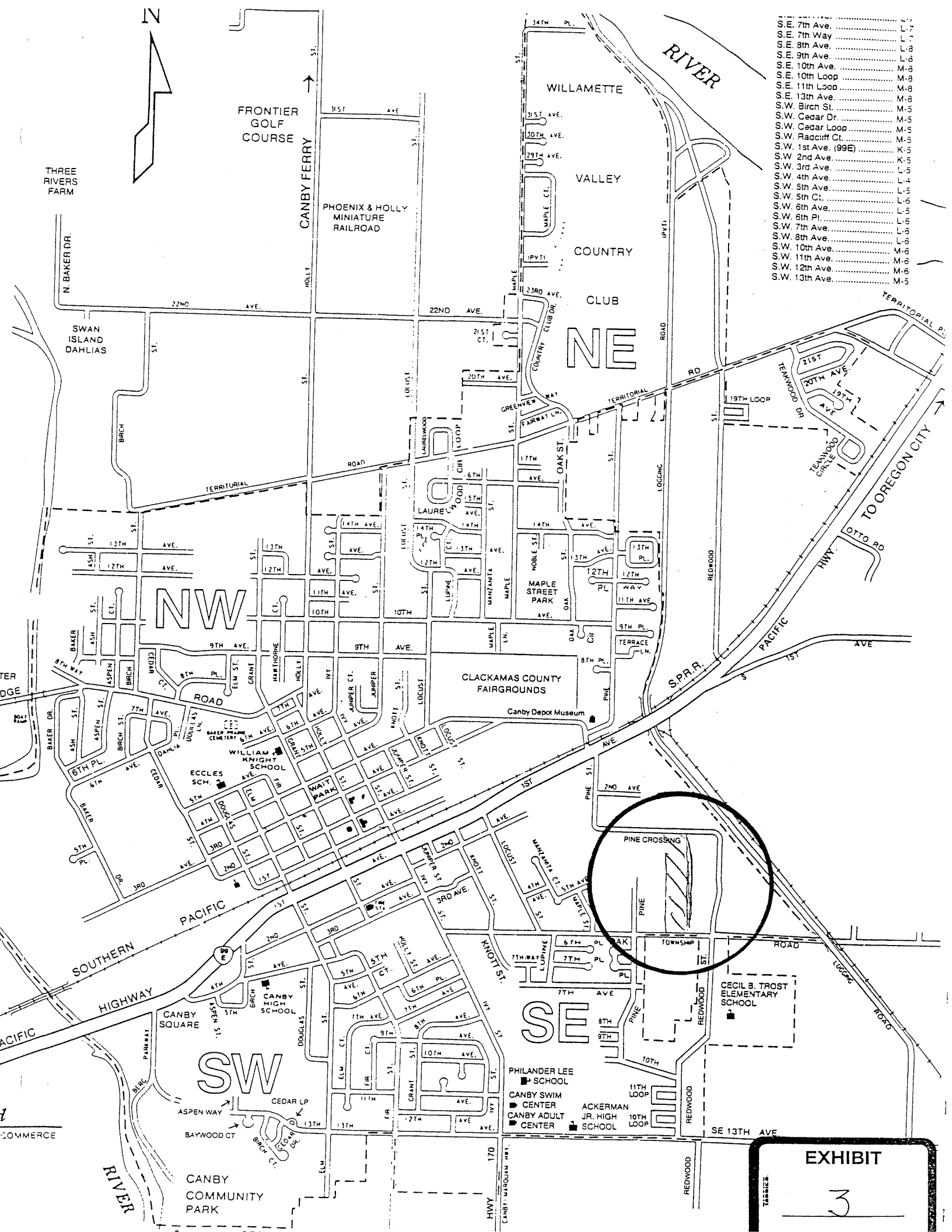
Map:
3S, 1E, 34C, TL 1802

Scale: 1" = 100'



EXHIBIT

2



S.E. 7th Ave.	L-7
S.E. 7th Way	L-7
S.E. 8th Ave.	L-8
S.E. 9th Ave.	L-8
S.E. 10th Ave.	M-8
S.E. 10th Loop	M-8
S.E. 11th Ave.	M-8
S.E. 13th Ave.	M-8
S.W. Birch St.	M-5
S.W. Cedar Dr.	M-5
S.W. Cedar Loop	M-5
S.W. Radcliff Ct.	M-5
S.W. 1st Ave. (99E)	K-5
S.W. 2nd Ave.	K-5
S.W. 3rd Ave.	L-5
S.W. 4th Ave.	L-4
S.W. 5th Ave.	L-5
S.W. 5th Ct.	L-5
S.W. 6th Ave.	L-5
S.W. 6th Pl.	L-6
S.W. 7th Ave.	L-6
S.W. 8th Ave.	L-6
S.W. 10th Ave.	M-6
S.W. 11th Ave.	M-6
S.W. 12th Ave.	M-6
S.W. 13th Ave.	M-5



CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
DIRECTOR

MEMORANDUM

TO: City of Canby, Planning
FROM: Clackamas County Construction and Development *WJZ*
DATE: December 16, 1996
RE: SUB 97-01 Anderson
3-1E-34C-TL 1800 and 1802

This office has the following comments pertaining to this proposal:

1. Clackamas County has designated Township Road a Minor Arterial. Access is typically restricted to Minor Arterioles, right-of-way is 70 feet, and the constructed width is 50 feet curb to curb. The County has a specific structural standard for arterioles. Arterioles are designed with 2 twelve foot travel lanes, a 14 foot center lane, 6 foot bike lanes, and 6 foot sidewalks.

Since there are existing frontage improvements east and west of this proposal the applicant shall design and construct frontage improvements to align with existing improvements. They shall consist of a 1/2 street improvement, standard curb, 6 foot bike lane, storm sewer, pavement tapers and 6 foot sidewalk. The sidewalk width shall be unobstructed. It appears as if one utility pole or more will have to be relocated. If these requirements conflict with the City's requirements the City and County will have to reach an agreement as to what the standard shall be. In any case the County has jurisdiction over Township Road and a Street Construction and Encroachment Permit shall be obtained from the County before recording of the plat and prior to commencement of site work. The applicant shall pay an inspection fee based on 4% of the estimated cost of the required construction and provide a performance guarantee.

The applicant shall dedicate right-of-way along Township Road to permit construction of the required frontage improvements, to implement the County's standard for arterial streets, and to align with other right-of-way along Township.

2. Parcels C and D shall share one ingress / egress location to Township Road. An appropriate reciprocal and perpetual easement must be recorded on the final plat and the easement shall include a road maintenance agreement. A commercial entry shall be constructed with a concrete apron. The entry must have a slight platform not to exceed plus or minus 3% to insure maximum sight distance.

3. Parcel E was not shown on the site plan. It is not known where Parcel E is and if it will access Township Road or not.

4. Storm water originating on and passing through the site must be detained before it drains to the County road system. If drywells are permitted they shall not be constructed in the County right-of-way, there must be a contingency plan in the event of failure, the soil and water table must be conducive to the construction of drywells, and they must be engineered. The applicant shall obtain approval of a preliminary surface water management plan from the City of Canby for on-site drainage before recording of the plat and before this office approves a Street Construction and Encroachment Permit for entrance onto Township and approval of frontage improvements. These plans must include detention, erosion control and provisions for water quality.

5. Surface water from the site and from Township Road shall be directed to an existing storm sewer system capable of accommodating the additional contribution. Drywells will not be approved by Clackamas County for drainage from Township Road unless drywells can also function on the site. They will have to be located outside of the County right-of-way in a public easement and be maintained by the City.

6. Parcels A, B, F, and G appear to access Redwood St. which already has frontage improvements and is under the jurisdiction of the City of Canby. Therefore, we have no comment pertaining to these parcels.

7. Signing, fencing, and landscape materials cannot obscure sight distance to Township Road from the ingress/egress location. Satisfactory sight distance at the driveway entry shall be maintained.

7. This office and/or the County Traffic Engineer must be notified when specific development proposals are being considered for each parcel to determine if a Traffic Study will be required to assess the impacts at the intersection of Redwood and Township Road.

Joseph Marek, Traffic Engineer

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 10, 1996

TO: FIRE, POLICE, CUB, TOM PIERSON, NW NATURAL GAS,
CLACKAMAS CO. TRANS, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

The City has received SUB 97-01 an application by Dan Anderson [applicant] and Christian /Anderson Prop. LLC [owner] for approval to develop a 5-lot subdivision on approximately 13 acres. The site is located at the transition of S.E. 3rd Avenue and S. Redwood Street, south of S. Redwood Street and north of S.E. Township Road (Tax Lots 1800 and 1802 of Tax Map 3-1E-34C).

We would appreciate your reviewing the enclosed application and returning your comments by December 18, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

Please check one box:

- 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: Tom Pierson Date: 12-16-96
Agency: OPA - NWUT Title: ENG. DEPT

PLEASE RETURN ATTACHMENTS!!!

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

(503) 266-4021

DATE: December 10, 1996

TO: FIRE, POLICE, CUB, TOM PIERSON, NW NATURAL GAS,
CLACKAMAS CO. TRANS, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

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Comments or Proposed Conditions:

Please check one box:

- 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: *Ken Marshall*

Date: 12-11-96

Agency: Canby F.D.

Title: Fire Marshal

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

(503) 266-4021

DATE: December 10, 1996

TO: FIRE, POLICE, CUB, TOM PIERSON, NW NATURAL GAS,
CLACKAMAS CO. TRANS, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

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Comments or Proposed Conditions:

Please check one box:

- 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: Jerry Fisher Date: 12/10/96
Agency: Canby Police Dept Title: Police Chief

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: December 10, 1996

TO: FIRE, POLICE, CUB, TOM PIERSON, NW NATURAL GAS,
CLACKAMAS CO. TRANS, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

The City has received SUB 97-01 an application by Dan Anderson [applicant] and Christian /Anderson Prop. LLC [owner] for approval to develop a 5-lot subdivision on approximately 13 acres. The site is located at the transition of S.E. 3rd Avenue and S. Redwood Street, south of S. Redwood Street and north of S.E. Township Road (Tax Lots 1800 and 1802 of Tax Map 3-1E-34C).

We would appreciate your reviewing the enclosed application and returning your comments by December 18, 1996 PLEASE. The Planning Commission plans to consider this application on January 6, 1997. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

SEWER IS AVAILABLE IN S.E. 3rd & S. Redwood. TO SERVE
PARCEL A-B-C-D ON APPLICATION, I PROPOSE THE SEWER BEING
AVAILABLE IN S.E. 3rd, THAT ALL LOTS COULD BE SERVED AS
DRAWN ON SUB PLAN.
WITH YOUR APPROVAL, THIS WILL ELIMINATE AGRICULTURE LAND
STORM WATER RUNOFF INTO S. Redwood.

Please check one box:

- 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: Ray L. Hunter Date: 12-11-96
Agency: City of Canby Title: Public Works Supervisor

-MEMORANDUM-

TO: *Planning Commission*

FROM: *James S. Wheeler, Planning Director* JSW

DATE: *December 27, 1996*

RE: *INT 96-01, Appeal of Staff Interpretation
regarding setback restrictions - SUPPLEMENTAL INFORMATION*

Pahlisch Duncan Homes, developer of the Tofte Farms Phase I subdivision (SUB 96-01), is appealing a staff interpretation regarding setback restrictions. The Planning Commission, at the November 25, 1996 meeting, upheld the current interpretation regarding setbacks. At the December 9, 1996 meeting, the Planning Commission, upon request by Pahlisch Duncan Homes, allowed for a rehearing to permit the applicant to present information before the Planning Commission (the applicant did not receive notice of the first hearing - 11/25/96).

Attached is the supplemental information submitted by the applicant, and a copy of the original staff report. Staff's position remains the same - no change in the current interpretation is recommended, and the maximum change staff would consider to be workable is permitting fireplaces in the setbacks. Encroachment on utility easements is still a matter of concern to the utility providers.

Exhibits:

1. Applicant's supplemental information
2. Original Staff Report



**PAHLISCH
DUNCAN
HOMES**

15100 S.W. Koll Parkway, Suite E
Beaverton, Oregon 97006
TEL 503-643-4400 • FAX 503-520-8694

December 23, 1996

Mr. James Wheeler
Planning Director
City of Canby
182 N. Holly
Canby, OR 97013

Re: Interpretation of Residential Set-back Requirements

Dear Mr. Wheeler:

The information in this letter and enclosed herein is submitted in preparation for the Planning Committee meeting scheduled for January 6, 1997.

We will ask the Planning Committee to make what is considered a minor change in the Staff's Interpretation of certain aspects of the residential side yard set-back requirements.

Exhibit "A" enclosed suggests the specific change we hope for: namely, adding the words "fireplaces, and garden windows (not bay windows)" to Section 16.04:680.

In that the current interpretation of the term "yard" is any space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot, yet items such as eaves, heat pumps, fences and RV covers are allowed in this same space, it would be consistent to allow fireplaces and/or garden windows (not bay windows) in this same space.

We will demonstrate that features such as fireplaces and garden windows add a positive aesthetic value to the visual area around homes.

EXHIBIT

TABBER.

1
13 pages

James Wheeler
December 23, 1996
Page Two

Exhibit "B" herewith is a list of builders who support the inclusion of fireplaces and garden windows within the side set-backs. Time did not allow for the acquisition of all signatures; however, everyone we visited with by phone supported the recommended interpretation.

Exhibit "C" is a sampling of some other municipalities which we believe demonstrates that our request is not unusual, excessive, damaging to communities or inappropriate.

Exhibit "D" are street scene sketches to be presented at the hearing.

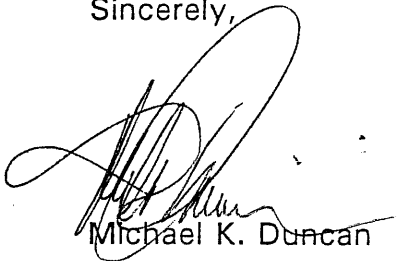
Exhibit "E" are site plans demonstrating the less than 3/4 of one percent impact that approval of the requested change will have on a side set-back.

Our verbal testimony at the January 6th meeting will provide additional detailed information about our request.

With the submission of this additional information, we respectfully request that the Planning Staff provide a positive recommendation for our request to the Planning Committee.

Thank you.

Sincerely,



Michael K. Duncan

MKD:dcs

Enclosures

EXHIBIT "A"

Recommended wording for interpretation of "setbacks" or "yard requirements" (16.16.030.C) Section 16.04.680.

All structural elements of a home are required to meet the setback distances established in the zoning ordinance, with the exception of roof eaves, fireplaces, and garden windows (not bay windows) which are permitted to overhang into the setbacks no more than 2 feet. Further, detached structures (i.e. - pools, heat pumps/air conditioners), and structures such as decks and porches, which are less than 30" high, are permitted with the setbacks. This interpretation is generally derived from the definition of a "yard" (Section 16.04.680) meaning "an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title."

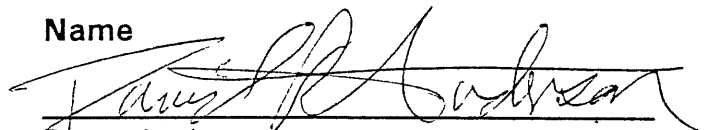
EXHIBIT B

LOCAL BUILDERS & DEVELOPERS

IN SUPPORT OF APPLICATION

Petition in support of applications to the City of Canby Planning Commission to reconsider the "Staff" interpretation of Section 16.04.680 with respect to "yard requirements."

My signature herebelow represents my support for interpreting the above referenced Section to allow both garden windows and fireplaces to extend no more than 2 feet into side yard setback areas:

Name	Date	Phone
 Dave Anderson	12/18/96	266-8866
Aspen Wood Homes Aaron Kraxberger		631-8143
x Beaver Homes Paul Siefert		632-7070
Builders Ind. Group Gene Hedrick/Steve Goëckritz		651-2810
Family Homes Marty Clark		678-1139
x Hans Kautz		657-1767
x Elroy Knutson		657-1767
Kraxberger Construction Rufus Kraxberger		266-3388

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Family Homes Marty Clark		678-1139
- Hans Kautz	12/12/96	657-1767
- Elroy Knutson	12/13/96	657-1767
Kraxberger Construction Rufus Kraxberger		266-3388

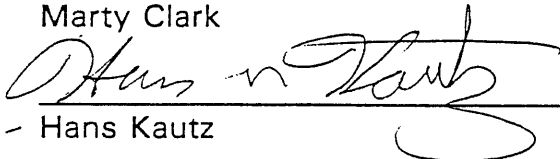
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My signature herebelow represents my support for interpreting the above referenced Section to allow both garden windows and fireplaces to extend no more than 2 feet into side yard setback areas:

Name	Date	Phone
_____ Dave Anderson	_____	_____ 266-8866
_____ <i>Aaron Kraxberger Pres.</i> Aspen Wood Homes Aaron Kraxberger	_____ 12-18-96	_____ 631-8143
_____ Beaver Homes Paul Siefert	_____	_____ 632-7070
_____ Builders Ind. Group Gene Hedrick/Steve Goeckritz	_____	_____ 651-2810
_____ Family Homes Marty Clark	_____	_____ 678-1139
_____ Hans Kautz	_____	_____ 657-1767
_____ Elroy Knutson	_____	_____ 657-1767
_____ Kraxberger Construction Rufus Kraxberger	_____	_____ 266-3388

Petition in support of applications to the City of Canby Planning Commission to reconsider the "Staff" interpretation of Section 16.04.680 with respect to "yard requirements."

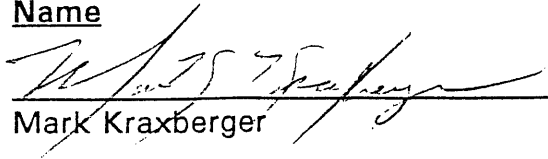
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Aspen Wood Homes Aaron Kraxberger		<u>631-8143</u>
Beaver Homes Paul Siefert		<u>632-7070</u>
Builders Ind. Group Gene Hedrick/Steve Goëckritz		<u>651-2810</u>
Family Homes Marty Clark		<u>678-1139</u>
 - Hans Kautz	<u>12/12/96</u>	<u>657-1767</u>
- Elroy Knutson		<u>657-1767</u>
Kraxberger Construction Rufus Kraxberger		<u>266-3388</u>

Name

Date

Phone


Mark Kraxberger

12-17-96

266-4175

Nelco, Inc.
Gale Nelson

678-1878

Ralph Netter

266-1213

Oregon Development
Tom Kendall

557-1012

Regan Enterprises

694-5454

Wayne Scott

266-3837

Robert Swelland

654-3690

Wes Walters

698-2608

Name

Date

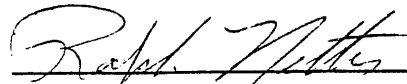
Phone

Mark Kraxberger

266-4175

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Gale Nelson

678-1878



Ralph Netter

12-17-96

266-1213

Oregon Development
Tom Kendall

557-1012

Regan Enterprises

694-5454

Wayne Scott

266-3837

Robert Swelland

654-3690

Wes Walters

698-2608

KAISER:

20' Front

5' Sides

Allows projections, window boxes, fireplaces, nothing more than 24 inches

DALLAS:

20' Front

25' Back

Sides -- one side minimum 5' but must have a total of 13' for both sides

Allows anything cantilevered; they measure from the foundation.

WILSONVILLE:

Each subdivision is given different setback when they are approved. Their policy is to allow up to 30" for eave overhang in the setbacks. They allow two inches for every one foot of side setback.

TUALATIN:

20' Front

15' Back

5' Side for single level and 6' for two story

Allow eaves, fireplaces and window boxes; they measure from the foundation.

WASHINGTON COUNTY:

20' Front

5' Sides

Allow overhangs, and cantilevered fireplaces and garden windows.

EXHIBIT C

SETBACKS

SHERWOOD:

20' Front & Back
5' Sides
Allows 2½' overhang into setbacks

NEWBERG:

20' Front
5' Sides
Nothing allowed in setbacks

THE DALLES:

20' & 15' Front
5' Sides
Allows eaves, cantilevered fireplaces, garden windows in setbacks

MOLALLA:

20' Front
7' Back
6' Sides
Allows eaves, chimneys, similar ornamental; can't be over 2 feet

WOODBURN:

20' Front
24' Back
Allows eaves & cantilevered fireplaces in setbacks

STAYTON:

20' Front
5' Sides
Allows eaves, cantilevered fireplaces, overhangs

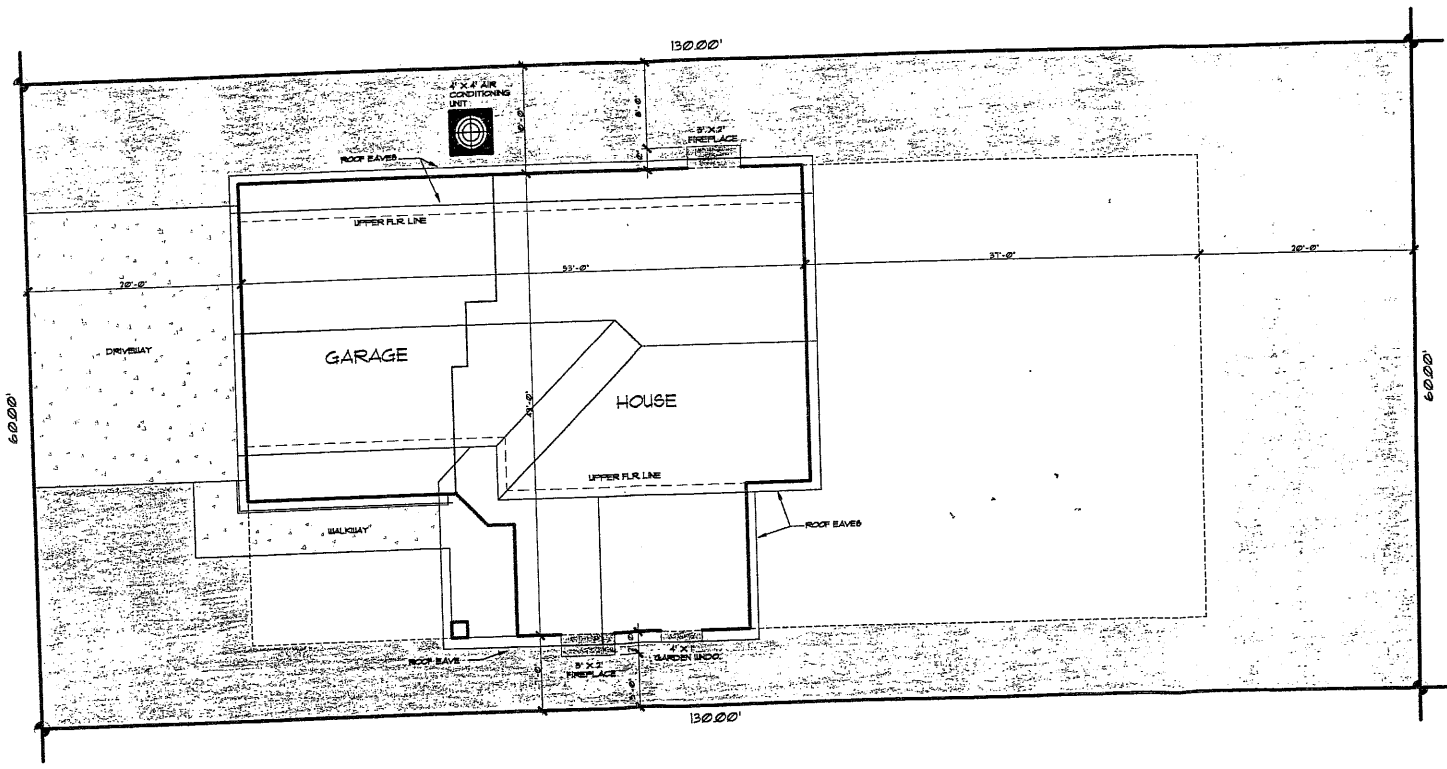
Exhibit E



NORTH

SITE PLAN
SCALE: 3/16" = 1'-0"
LOT 29, TOTE FARM
CITY OF CANBY
CLATSOP COUNTY
STATE OF OREGON

S.E. 14th AVE.



PAHLISCH DUNCAN HOMES
15100 S.W. KOLL PARKWAY
643-4400



-MEMORANDUM-

TO: *Planning Commission*

FROM: *James S. Wheeler, Planning Director* *JSW*

DATE: *November 15, 1995*

RE: *INT 96-01, Appeal of Staff Interpretation regarding setback restrictions*

Pahlisch Duncan Homes, developer of the Toft Farms Phase I subdivision (SUB 96-01), is appealing a staff interpretation regarding setback restrictions. The interpretation that has been in place for at least the past 5 years is that all structural elements of a home are required meet the setback distances established in the zoning ordinance, with the exception of roof eaves, which are permitted to overhang into the setbacks no more than 2 feet. Detached structures (i.e. - pools, heat pumps/air conditioners), and structures such as decks and porches, which are less than 30" high, are permitted within the setbacks.

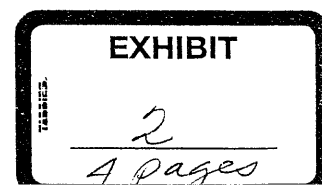
The interpretation is derived by the following: the "setbacks" are specifically called "yard requirements" (16.16.030.C). Section 16.04.680 states that "'Yard' means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title." Based on this definition, a fire place or "garden" window will obstruct the open space above 30" and is therefore not permitted in the minimum yard requirement area. Eaves are specifically permitted, and are therefore "otherwise provided in this title."

The proposed interpretation by Pahlisch Duncan Homes, including "garden" windows, is one that will have a high potential to provide further difficulties in future interpretations. There is little difference between a "garden" window and a small bay window, and then between a small bay window and a larger bay window. Exempting fire places, gas stove inserts, and the like, should not pose any difficulties in future interpretations.

Staff recommends no change in the current interpretation. The reason for the yard setback is to keep an "unobstructed" space around a home. It is staff's opinion that the setback requirements were to maintain visually unobstructed space. Eaves are, practically speaking, horizontal features that do not visually obstruct the open space around the home, and therefore, are exempted from the restriction (up to two feet). Other structural features (fire places, bay windows, cantilevered homes, etc.) however, are vertical features that do visually obstruct the open space around the home, and therefore, should not be exempted from the restriction.

Exhibits:

1. Notice of appeal date before the Planning Commission
2. Letter of Appeal
3. Interpretation Letter



DATE: November 14, 1995

NOTICE OF INTERPRETATION

NOTICE IS HEREBY GIVEN that the City of Canby Planning Commission will discuss an appeal by Pahlisch Duncan Homes of a staff interpretation regarding Section 16.04.680, "Yards", and Section 16.16.030(C), "Yard Requirements", on Monday, November 25, 1996 at 7:30 p.m., in the City Council Chambers, N.W. Second Avenue, Canby. The interpretation being appealed is:

The yard requirements, as found in Section 16.16.030(C), do not permit fire places or other structural features, other than roof eaves, into the yard setbacks.

Please contact Staff Coordinator, James Wheeler, 266-9404, for more information.

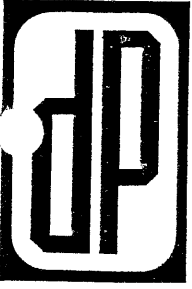
Publish: Canby Herald

Wednesday, November 20, 1996

INT 96-01 INTERPRETATION 16.16.030(C) & 16.04.680

EXHIBIT

1



**PAHLISCH
DUNCAN
HOMES**

15100 S.W. Koll Parkway, Suite E
Beaverton, Oregon 97006
TEL 503-643-4400 • FAX 503-520-8694

November 11, 1996

Mr. Jim Wheeler
Planning Director
City of Canby
182 N. Holly
Canby, OR 97013

Re: Interpretation of Residential Set-back Requirements

Dear Mr. Wheeler:

Please accept this letter as notice of our intent to appeal the staff decision on set-back requirements to the Planning Commission. We will be asking the Planning Commission to allow such things as garden windows and fireplaces to extend into side yard set-backs up to two feet.

Canby currently allows roof over-hangs (eaves) to come into side set-backs.

Section 16.04.680 stating that "'yard' means open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title," seems to have been designed to allow for such homeowner amenities as heat pumps/air conditioners.

Allowing heat pumps extends into the set-back area much farther than garden windows and fireplaces.

We would ask that the Planning Commission consider the homeowners in allowing both garden windows and fireplaces to extend into the side set-back area no more than roof eaves, or approximately 2 feet.

We would hope to be scheduled for the earliest Planning Commission meeting possible.

Thank you for your courtesy!

Sincerely,

A handwritten signature in black ink, appearing to read 'Mike Duncan', written over a horizontal line.

Mike Duncan

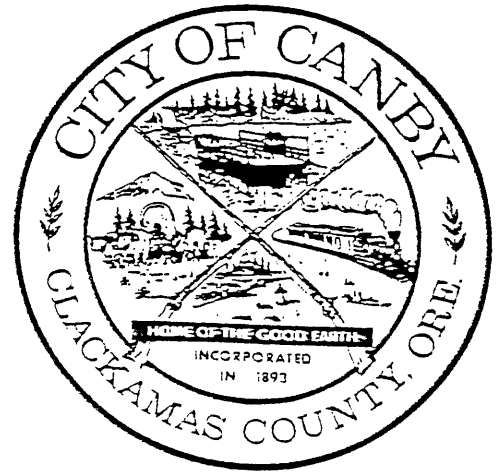
MD:dcs

EXHIBIT

2

November 8, 1996

Mike Duncan
Pahlisch-Duncan Homes
15100 SW Koil Pkwy, Suite E
Beaverton, OR 97006



RE: Interpretation of residential setback requirements

Dear Mr. Duncan:

You have requested an interpretation regarding the placement of fireplaces within the residential building setback requirements. The interpretation that has been in place for at least the past 5 years is that all structural elements of a home are required meet the setback distances established in the zoning ordinance, with the exception of roof eaves, which are permitted to overhang into the setbacks no more than 2 feet. There are some other allowances for detached accessory structures, but that is not pertinent to your inquiry.

The interpretation is derived by the following: the "setbacks" are specifically called "yard requirements" (16.16.030.C). Section 16.04.680 states that "'Yard' means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title. Based on this, a fire place will obstruct the open space above 30" and is therefore not permitted in the minimum yard requirement area. Eaves are specifically permitted, and are therefore "otherwise provided in this title."

This interpretation has been made at the staff level. It may be appealed to the Planning Commission at no cost to the appellant. To appeal a staff interpretation, you will need to submit a letter stating the intent to appeal, the specifics of the appeal (what it is that you are appealing), the reason for the appeal, and what the desired outcome is. Approximately two weeks is needed to place an appeal of a staff interpretation on the Planning Commission's agenda.

Please feel free to contact me at (503) 266-9404 if you have any other questions, or if I can be of further assistance.

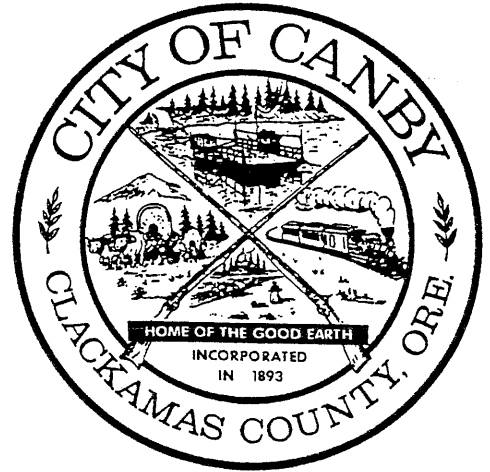
Sincerely,

James S. Wheeler
Planning Director

cc: Mike Jordan, City Administrator
John Kelley, City Attorney

December 19, 1996

Mike & Nancy Jones
654 NW 3rd Ave.
Canby, OR 97013



RE: "Carriage House" compliance with Uniform Building Codes

Dear Mr. & Mrs. Jones:

In your letter to the Planning Commission, dated 11/18/96, you stated that the "carriage house" is current to Uniform Building Codes and the utility services have been approved. You are correct in that the utility services have been approved. However, there has not been a determination that the structure complies with the Uniform Building Codes. The City's Building Official, Bob Godon, has not inspected the structure for code compliance, and has not made a determination. In order for Mr. Godon to inspect the structure, a set of structural plans need to be submitted for his review. A copy of the information that is needed for plan review is enclosed. Additionally, a certificate for occupancy (approval of a final inspection) is needed from Clackamas County for the electrical and plumbing works of the structure.

If you have any other questions, please do not hesitate to call me or Bob Godon, 266-9404.

Sincerely,

James Wheeler
Planning Director

cc: Roger Reif, Bob Godon, Planning Commission

enclosed

MICHAEL & NANCY JONES
654 NW 3RD
CANBY, OREGON 97013

November 18th, 1996

Planning Commission
City of Canby
P.O. Box 930
182 N. Holly
Canby, Oregon 97013

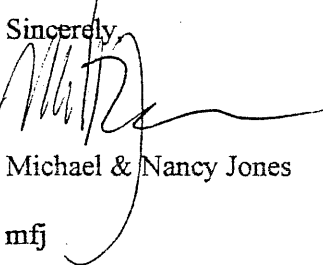
Re: VAR 96-01 Approval.

Dear Planning Commission:

The following conditions ordered by the Planning Commission on VAR 96-01 have been met. The "carriage house" is current to Uniform Building Codes and the utility services have been approved by the water, sewer, and electric providers.

Thank you for the approved variance.

Sincerely,

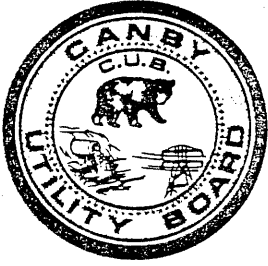


Michael & Nancy Jones

mfj

cc: Roger Reif

encl: Letters of approval



CANBY UTILITY BOARD

154 N.W. FIRST AVENUE - P.O. BOX 1070 - CANBY, OREGON 97013
PHONE (503) 266-1156
FAX (503) 263-8621

IT PAYS TO OWN THE UTILITY THAT SERVES YOU

November 29, 1996

Nancy Jones
654 NW 3rd Avenue
Canby, OR 97013

Dear Mrs. Jones:

I am writing to verify our telephone conversation of the past few weeks. The City of Canby Planning Department has verified that the Planning Commission approved your Variance Request of the City (VAR 96-01), with conditions. One of those conditions is that the "carriage house" be connected to utility services in a manner approved by the utility providers.

The Canby Utility Board is your local electric and water supplier. We have also recognized the existing conditions as stated in the Planning Commissions findings, conclusions and order for VAR 96-01 (Mike and Nancy Jones).

It is my understanding that you are not going to add to, remodel, or rebuild the structure presently located on the property, nor are you going to demolish and reconstruct the two dwellings.

The Canby Utility Board will not require any updated, or additional, electric or water services as long as the current structures are not improved. At such time that you, or future owners, change the existing conditions, additional or upgraded electric and water services will more than likely be required.

Sincerely,
CANBY UTILITY BOARD

Robert E. Rapp
Operations Supervisor

RER/dn

cc: Dirk Borges, CUB General Manager
Biff LeFors, CUB Electric Department Foreman
Joe Gary, CUB Water Department Foreman
Jim Wheeler, City of Canby Planning Director
File (2)

Memo To : Jim Wheeler, City Planner

From : Roy Hester, Public Works Supervisor

Subject : VAR 96-01

Date : November 18, 1996

In regards to VAR-96-01 Planning Commission Condition's. The Public Works Department will not require 2 sewer laterals to one (1) tax lot. The present system as installed, is all that is required . If the lot that is in question divides, then a separate sewer lateral, will need to be provided at that time. The present sewer has functioned with no problems for 25 years and if a problem occurs it will be the owner's responsibility to maintain the system on the owner's Tax Lot.

If you have any question's please contact me.

City of Canby
Public Works Supervisor



Roy Hester

cc.Mike and Nancy Jones
654 NW. 3rd Ave.
Canby Or. 97013



PRESTON GATES & ELLIS
ATTORNEYS

EDWARD J. SULLIVAN

December 27, 1996

Jim Wheeler
Planning Commission
City of Canby
182 N. Holly
P. O. Box 930
Canby, OR 97013

Re: *Faist Property*

Dear Jim:

I understand you and Tom Kendall of Oregon Development have had some discussions about the priority of the Faist property and the City's system of annexation and development. I understand that you suggested to Mr. Kendall that he have me write a letter to you requesting consideration of this property at a higher priority than its current status so that you would consider this request and, if you found it appropriate, pass it on to the City of Canby Planning Commission.

I believe you know the Faist property, but Mr. Kendall tells me that it is described as the westerly 40 acres of the southeast quarter of the northwest quarter of Section 3, T4S, R1E, Willamette Meridian, in Clackamas County, Oregon.

I appreciate your consideration of this request.

Sincerely,

[DICTATED, BUT NOT READ]

Edward J. Sullivan

EJS:srd

cc: Mr. Tom Kendall

J:\EJS\19408-00.04315YL3NF.DOC

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