

A G E N D A
CANBY PLANNING COMMISSION
REGULAR MEETING
City Council Chambers
Monday, May 12, 1997
7:30 p.m.

I. ROLL CALL

II. MINUTES
April 28, 1997

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. PLANNING COMMISSION DISCUSSION OF PLANNING ISSUES
Harry Lee Kwai - Downtown Revitalization

V. FINDINGS
CUP 97-02 - Canby School District

VI. PUBLIC HEARINGS

MLP 97-03, an application by John Stout (applicant/owner) for approval to partition a .48 acre parcel into two lots, a 9,210 square foot lot with 80 feet of frontage on Maple Street, and the second lot, a 9,450 square foot lot which will access Maple Street via a 20 foot wide flag driveway. The site is located on the east side of N. Maple Street, north of N.E. 10th Avenue [Tax Lot 2100 of Tax Map 3-1E-33AA].

VII. COMMUNICATIONS

VIII. NEW BUSINESS
JV Northwest - Sign

IX. DIRECTOR'S REPORT

X. ADJOURNMENT

The City of Canby Planning Commission welcomes your interest in these agenda items. Please feel free to come and go as you please.

Dan Ewert, Chair
Terry Prince

Keith Stewart, Vice-Chair
John Dillon

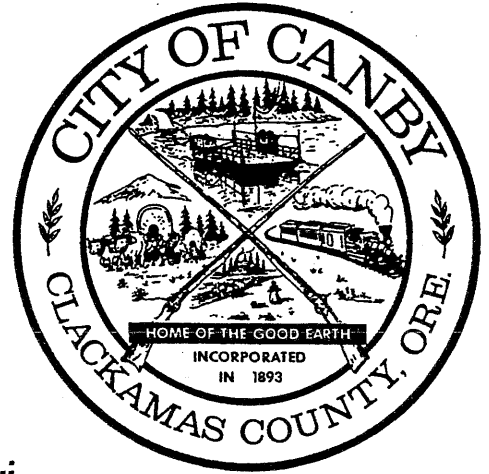
Vern Keller
Mark O'Shea

~MEMORANDUM~

Date: May 1, 1997
To: Larry Vasquez, Assistant Planner
From: Bob Godon, Building Official *BB*
RE: Modular classroom inspections at Knight School, CUP 97-02

The three classrooms at Knight school were issued building permits for their foundations. These foundations were installed to meet the building code requirements and are considered, in terms of the building code to be permanent, not needing any further inspection. The permits and inspection approval dates are building permit no. 4193, 9-24-91; building permit no. 4335, 9-11-92; and building permit no. 4605, 11-19-93.

- STAFF REPORT -

**APPLICANT:**

John Stout
1877 N. Holly
Canby, OR 97013

FILE NO.:

MLP 97-03

OWNER:

John Stout
1877 N. Holly
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lots 2100 of Tax Map 3-1E-33AA

DATE OF REPORT:

May 2, 1997

LOCATION:

N. Maple Street
east side of N. Maple Street,
between N.E. 10th and N.E. 14th

DATE OF HEARING:

May 12, 1997

COMP. PLAN DESIGNATION:

Low Density Residential

ZONING DESIGNATION:

R-1 (Low Density Residential)

I. APPLICANT'S REQUEST:

The applicant is requesting approval to partition a 0.48 acre lot into two parcels. The two new parcels will have areas of approximately 9,210 square feet, and 9,450 square feet. An existing single family home will be retained and located on Lot #1 of the partition.

II. APPLICABLE CRITERIA:

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

- A. Conformance with the text and the applicable maps of the Comprehensive Plan;
- B. Conformance with all other requirements of the Land Development and Planning Ordinance;
- C. The overall design and arrangement of parcels 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 the adjacent properties;
- D. 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.
- E. In no case shall the use of a private road be approved for the partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to City standards is not necessary to insure safe and efficient access to the parcels.

III. OTHER APPLICABLE CRITERIA

- A. 16.16.030 Development Standards in R-1 Areas
- B. 16.56 General Provisions (for land divisions)
- C. 16.60 Major or Minor Partitions
- D. 16.64 Subdivisions - Design Standards

IV. FINDINGS:

A. Location and Background

The subject property is identified on the Clackamas County Assessor's Map as Tax Lot 2100 of Tax Map 3-1E-33AA. The property is on the east side of N. Maple Street, north of N.E. 10th Street and is adjacent to Maple Street Park, which borders the property along the north and east property lines.

A survey of the site reveals there is an existing vacant single family home, identified as 1202 N. Maple Street, in the area of proposed Lot 1. The property contains several large mature fir trees. The applicant intends to provide an access strip beginning in the northwest corner of the property and traveling east to the flag lot. In providing this access strip, the applicant intends to remove two large pine trees, trim another fir tree, and retain all other trees that do not fall within the path of the drive or the proposed new single family building envelope on Lot 2.

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.

Policy #3: Canby shall review the contents of the comprehensive plan every two years and shall update the plan as necessary based upon that review.

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 public hearing of all applications.
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 60th day is June 17, 1997
3. The review of the contents of the Comprehensive Plan is not germane to this application.

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 #2: Canby shall provide the opportunity for amendments to the urban growth boundary (subject to the requirements of statewide planning goal 14) where warranted by unforeseen changes in circumstances.

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 property is entirely within both the Urban Growth Boundary and the City limits.
2. No changes to the Urban Growth Boundary are proposed with this application.
3. All necessary urban services are, or will be available for the partition (see discussion under Public Services Element).

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. There is one existing vacant single family home on the property. The subject property and the surrounding properties are zoned Low Density Residential (R-1). The Comprehensive Plan designates the properties to the north and west as Low Density Residential and the properties to the east and south are designated Public.
2. The partition of the property will create one additional single family and will permit more "in-fill" development, which will, in a small way, help increase the housing density of 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, R-1, Low Density Residential, is consistent with the Land Use Map designation for the property (Low Density Residential). The minimum lot size for parcels in the R-1 zone, is 7,000 square feet. The new lots will meet the minimum lot size.

6. The subject property is not located within the any of the specified Areas of Special Concern as determined by the Canby Comprehensive Plan.

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 #10: 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 has Class II soils. The land use designation of the property is residential and the property is currently within the City limits with all necessary infrastructure readily available.

1-R-B. The subject property, while currently underutilized, is considered to be urbanized.

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 any known pollution problems. Any construction activity resulting from this partition 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. The minor land partition will not, in and of itself, generate any pollution in any form.

4-R. Insubstantial noise will be expected as a result of residential activity. The minor land partition will not, in and of itself, generate any noise.

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 partition itself will not affect the scenic or aesthetic quality of the City. The subsequent development will require the removal of 2-4 mature fir trees in order to provide an access drive from N. Maple Street to the main body of Lot 2, and a sidewalk along N. Maple. The removal of the trees will impact the aesthetic quality of the property. To mitigate the loss of any mature trees, the applicant intends to retain as many trees as possible and to replace any trees scheduled for removal with new trees as recommended by the Planning Commission.

8-R. The subject property is not considered to be open space at this time. The property is considered to be an oversized urban residential lot.

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

10R. 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 Canderly sandy loam and Latourell loam soils, which are deep, somewhat excessively 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**

- **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 #9: Canby shall support efforts to improve and expand nearby air transport facilities.
- Policy #10: Canby shall work to expand mass transit opportunities on both a regional and an intra-city basis.
- 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 road improvements are required as part of the partition. The applicant proposes to provide an access drive that will be located along the northern property line of the two lots and will connect with N. Maple Street to the main body of Lot 2, a distance of 114 feet. The drive will be 20' wide as it travels from N. Maple, and will narrow to 12' in the area where a large fir tree exists, (see Exhibit 3, location #11), approximately 48' east of N. Maple Street.

Maple Street is designated as a collector street in the Transportation System Plan and, as such, the property will need to dedicate 5' of frontage on Maple to provide for the collector status right-of-way.

2. No street construction or improvement is required.

3. The nearest major intersection to the subject property is the intersection of N. Maple Street and N.E. 10th Avenue. At this time, that intersection is not considered to be a "problem intersection". The proposed partition will not significantly impact this intersection.

4. The property has existing curb along the frontage with N. Maple as do the adjacent properties' along this portion of N. Maple Street. The Planning Commission has made it a practice to require sidewalks for any development where none are existing.

In this situation, the placement of a 5' wide sidewalk will require the removal of two mature trees along Maple Street as these trees are within 3 - 5 feet east of the existing curb. The removal of these trees are in addition to two large firs proposed for removal to provide for the 20' wide access drive. It is staff's understanding, that it is up to discretion of the Planning Commission as to the need for the sidewalk requirement.

Normally, sidewalks are not required until construction has been significantly completed. Therefore, if the Planning Commission desires a sidewalk, the construction of the sidewalk along N. Maple Street should be tied to the occupancy of Parcel 2.

5. The subject property is not involved in any possible overpass or underpass of Highway 99-E and the railroad.

6. The applicant proposes to develop an access drive along the northern property that will provide access off the east of N. Maple Street, a distance of 114 feet. Lot 2 will access from this drive only.

The access drive is proposed to be a 20' wide paved surface and will narrow to 12' in width near the area of the drive where a large fir tree is located, approximately 48' east from N. Maple Street (See Exhibit 3, location #11). The narrowed drive meets the safety requirements of the Fire District which has specified a minimum emergency drive window clearance of 12' width and 13' height. The proposed drive and tree trimming will allow the applicant to meet this requirement.

According to Section 16.64.040(1)(2) of the Land Development and Planning Ordinance, an access drive 20 feet in width is required for strips that exceed 100 feet. The access drive shall be hard surfaced and continuous from N. Maple Street to the main body of Lot 2. The provisions for providing an access strip, shall ensure that safe and convenient access will be available for the general public. Emergency vehicle turnarounds shall also be provided that are acceptable to the Fire District.

7. North Maple Street is identified in the Transportation System plan to be a bike route with posted signs.

8. The existing use and the proposed use of the property have no specific use for the rail facilities that exist in Canby.

9. The proposed partition 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 partition. No future transit stops have been proposed. The City has adopted a Transportation Systems Plan study which included mass transit considerations. Any future development of the property will be reviewed in light of the Transportation Systems Plan.

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 #4: Canby shall strive to keep the internal organization of city government current with changing circumstances in the community.
- 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 Police Department. The department has indicated that adequate facilities and/or services are available. The Canby Utility Board, Public Works Department, Wastewater Department, Fire District, NW Natural Gas, and Canby Telephone Association have not responded to the "Request for Comments". There has been no recent indication, unofficial or otherwise, of potential inadequacy of facilities or services from these providers. Sewer, electric, water, and telephone facilities are available on N. Maple Street.
2. Needed 'public improvements' include an approach for the access drive and sidewalk along N. Maple Street. This will occur prior to occupancy of any development on Lot 2.
3. A capital improvement program is not a part of this application.
4. The City's internal organization is not germane to this application.
5. The City has adopted a Parks Master Plan in which appropriate sites or areas for recreation facilities are identified. The Maple Street park is adjacent to the property and serves the citizens in the area.

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 #3: Canby shall encourage economic programs and projects which will lead to an increase in local employment opportunities.

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 not industrial in nature, nor does the current zoning of the subject property allow industrial development.
2. The proposed development is not commercial in nature, nor does the current zoning of the subject property allow commercial development.
3. Development of this site with homes, will provide residences for Canby business owners and employees, and also will provide a few employment opportunities and expand the market for Canby businesses.
4. The proposed partition will not affect the agricultural operations that contribute to the local economy.

viii. **HOUSING**

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

Policy #1: Canby shall adopt and implement an urban growth boundary which will adequately provide space for new housing starts to support an increase in population to a total of 20,000 persons.

- 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

1. The location and size of the Urban Growth Boundary is not a part of the proposed application. When the Urban Growth Boundary was designated and calculations to determine the amount of land needed for residential growth in 1984, as a part of the acknowledged 1984 Comprehensive Plan, the subject property was designated for residential development.
2. The proposed partition will retain the existing vacant home on Lot 1 and provide a new lot, approximately 9,450 square feet in size. Any development will increase housing density.
3. The proposed development does not include higher density housing.
4. The proposed development does not include housing for low income persons. Future development of the property may include housing for low income persons.
5. The proposed development is not a mobile home development. Future development of the property may include mobile/manufactured homes.

ix. ENERGY CONSERVATION

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

- Policy #1: Canby shall encourage energy conservation and efficiency measures in construction practices.
- Policy #2: Canby shall encourage development projects which take advantage of wind and solar orientation and utilization.
- Policy #3: Canby shall strive to increase consumer protection in the area of solar design and construction.
- Policy #4: Canby shall attempt to reduce wasteful patterns of energy consumption in transportation systems.
- Policy #5: Canby shall continue to promote energy efficiency and the use of renewable resources.

ANALYSIS

1. Energy conservation and efficiency as a part of construction practices has been incorporated into the building permit review process and the Uniform Building Code.
2. The orientation of the subject property in this proposal partially meets the basic solar access standards for new residential developments.
3. The project will not hinder any residential access to solar energy.
4. The City has adopted a Transportation Master Plan. City standards, and transportation patterns of all developments will be reviewed through the Transportation Master Plan.
5. Energy conservation and efficiency as a part of construction practices has been incorporated into the building permit review process and the Uniform Building Code.

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

Review of the above analysis will show that the proposed partition, with the recommended conditions of approval, is consistent with the policies of the Comprehensive Plan. Development 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.

C. Evaluation Regarding Minor Land Partition Approval Criteria

A. Conformance with the text and the applicable maps of the Comprehensive Plan.

The proposed partition is in conformance with the text and the applicable maps of the Comprehensive Plan.

B. Conformance with all other requirements of the Land Development and Planning Ordinance.

The partition, in all other respects, is in conformance with all other requirements of the Land Development and Planning Ordinance.

C. The overall design and arrangement of parcels 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 the adjacent properties.

The size and orientation of the proposed parcels is such that future development of Lot 1 and Lot 2 are both possible and feasible. The existing vacant home will remain on Lot 1 and maintains the proper setback requirements. Utility easements will be required along N. Maple Street and along common property lines.

The access drive is proposed to be a 20' wide paved surface and will narrow to 12' in width near the area of the drive where the large fir tree is located, approximately 48' east from N. Maple Street. The narrowed drive meets the requirements of the Fire District which has specified a minimum emergency drive window clearance of 12' width and 13' height. The proposed drive and tree trimming will allow the applicant to meet this safety requirement.

Given the provision for providing an access strip for Lot 2, both parcels will have access to N. Maple Street.

D. 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.

As best as staff has been able to determine, 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. No indication of difficulties have been mentioned, officially or otherwise, with regards to these public facilities and services providing service to any development.

It is up to the Planning Commission's discretion as to the need for the sidewalk requirement with respect to retaining the mature fir trees that are on the property's frontage on N. Maple Street.

- E. **In no case shall the use of a private road be approved for the partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to City standards is not necessary to insure safe and efficient access to the parcels.**

No new private roads are proposed as a part of this application.

V. CONCLUSION

1. Staff concludes that the partition request, with appropriate conditions, is considered to be in conformance with the Comprehensive Plan and the Municipal Code.
2. Staff concludes that, **upon Planning Commission determination that the proposed access drive provides adequate service to the property**, the overall design of the proposed partition will be compatible with the area and will provide adequate building area for the provision of public facilities and services for the lots.
3. Staff concludes that, **upon Planning Commission determination on the need for the sidewalk and retention of mature trees**, and with the appropriate conditions, the overall design and arrangement of the proposed parcels are functional and will adequately provide building sites, utility easements, and access facilities which are necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
4. Staff concludes that all necessary public services will become available through the development of the property, to adequately meet the needs of the proposed land division.

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 that should the Planning Commission approve MLP 97-03, the following conditions should apply:

For the Final Plat

1. A final partition plat modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application -- City of Canby, Planning Department, File No. MLP 97-03.
2. The final partition plat shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. The final partition plat shall identify the newly created parcels as Lot 1 and Lot 2, as depicted on the on site plan. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department.
3. A new deed and legal description for the new parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
4. All monumentation and recording fees shall be borne by the applicant.
5. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles, and sidewalks shall be provided as follows:
 - 6 feet in width along all common lot lines,
 - 10 feet in width along all exterior lot lines, except
 - 12 feet in width along street frontages and along access drive
6. A five foot right-of-way dedication along the frontage of Lots 1 and Lot 2 on N. Maple Street shall be provided.

Prior to Construction

6. The construction plans shall include the access drive, storm water, sewer, water, electric, telephone, gas, street lights, and mail boxes.

Prior to Occupancy of Lot 2

8. A sidewalk, five (5) feet in width, shall be constructed along the full N. Maple Street frontage of both Lots 1 and 2.

9. An access strip 20 feet in width shall be hard surface and be constructed from N. Maple Street along the northern property line and will narrow to 12 feet in the area of the large fir tree, approximately 48' east of Maple Street, to the main body of Lot 2.
10. An emergency vehicle turnaround shall also be provided on Lot 2 that is acceptable to the fire district.

Notes

11. The two large fir trees at the northwest corner of the property, one Maple tree and one plum tree will be removed to provide for an access strip drive. The large fir tree located approximately 48' east of N. Maple Street will be trimmed to allow sufficient height for emergency vehicle access.
12. Placement of the sidewalk on N. Maple will require the removal of the two large fir trees along the street frontage.
13. The apple tree in the middle of Lot 2 will be removed to allow for a new single family home.
14. Two trees (3" in caliper) will be planted as replacement for the removed mature fir trees. Trees selected for planting will be approved by Planning Department.
12. The final plat must be recorded with Clackamas County within one (1) year of the approval of the preliminary plat approval in accordance to Section 16.60.060. The mylar for the final plat must be signed by the City prior to the recording of the plat.

Exhibits:

1. Minor Land Partition Application and Project Summary
2. Minor Land Partition Plat
3. Map of Existing Tree Locations
4. Vicinity Map
5. Request for Comments Responses

MINOR LAND PARTITION APPLICATION

Fee: \$900

OWNER

APPLICANT

Name John Stout
Address 1877 N. Holly
City Canby State OR Zip 97013
Signature: [Handwritten Signature]

Name John Stout
Address 1877 N. Holly
City Canby State OR Zip 97013
Phone: (503) 266-7333

DESCRIPTION OF PROPERTY:

Tax Map 3S-1E-33AA Tax Lot(s) 2100 Lot Size 0.48 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 two (2) 8-1/2 x 11 sheets of labels, just as you would address an envelope.

USE

Existing 1 Existing Residence Proposed Minor Partition creating 2 lots

Existing Structures

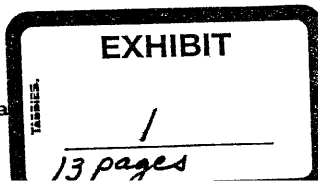
PROJECT DESCRIPTION

Minor Partition application creating 2 lots from the existing 0.48 acre parcel. One lot will front on Maple Street and the other will access Maple Street via a fourteen (14) foot wide flag drive.

ZONING R-1 COMPREHENSIVE PLAN DESIGNATION Low Density Residential
PREVIOUS ACTION (if any) None

File No. MLP 97-03
Receipt No. 2438
Received by [Handwritten Name]
Date Received 4.9.97 (4.15.97)
Completeness Date
Pre-Ap Meeting
Hearing Date

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



MAPLE STREET
PARTITION APPLICATION NARRATIVE

Submitted:
APRIL 9, 1997

7

MAPLE STREET
PARTITION APPLICATION NARRATIVE

APPLICANT: Mr. John Stout
1877 N. Holly Street
Canby, OR 97013

APPLICANT'S
REPRESENTATIVE: Kenneth Sandblast
Compass Corporation
6564 SE Lake Road
Milwaukie, OR 97222

LOCATION: The subject property is located on east side
of Maple Street in the City of Canby
between NE 10th and NE 14th Avenues.
Maple Street Park lies on the east side of the
subject property

LEGAL
DESCRIPTION: Assessor's Map 3S-1E-33AA, Tax Lot 2100

SITE AREA: 0.48 Acres

ZONING: R-1

COMP. PLAN
DESIGNATION: Low Density Residential

APPROVAL
CRITERIA: City of Canby Comprehensive Plan
Title 16 Division III - Zoning
Title 16 Division IV - Land Division

APPLICANT'S
REQUESTED
APPROVAL: Preliminary Minor Partition Plat creating two
(2) legal lots.

This application has been prepared on behalf of Mr. John Stout, the applicant and owner of the subject site. This report will address the applicable standards and review criteria of the City of Canby Comprehensive Plan and Land Development & Planning Ordinance.

TABLE OF CONTENTS

	<u>Pages</u>
Project Summary	1
City of Canby Comprehensive Plan Applicable Policies and Findings	2-3
City of Canby Land Development and Planning Ordinance Applicable Chapters and Findings	4-8
Supplemental Maps, Illustrations and Exhibits	<u>Size</u>
Site Vicinity Map	8.5" x 11"
Clackamas County Tax Assessor Map of Site	8.5" x 11"
Exhibit A - Preliminary Partition Plat of Subject Site	11" x 17"

PROJECT SUMMARY

This land use application involves the partitioning of an existing 0.48 acre parcel into two legal lots of record. The subject site is currently zoned as "R-1" by the City of Canby and is located on Maple Street adjacent to the Maple Street Park.

This minor partition application will create one lot of approximately 9,210 square feet with over eighty (80) feet of frontage on Maple Street. The second lot will be approximately 9,450 square feet and will access Maple Street via a twenty (20) foot wide flag drive. Both of the proposed lots meet the requirements for lot designs in the City of Canby's R-1 zone including exceeding the minimum 7,000 square foot lot size. The existing detached, single-family home located on the subject site will remain on Lot #1 of the partition. Existing utilities located within the forty (40) foot wide Maple Street right-of-way are available to serve both of the lots being created.

FINDINGS

CITY OF CANBY COMPREHENSIVE PLAN

The subject property is presently designated as R-1, Low Density Residential, on the City of Canby Comprehensive Plan. As proposed, this two (2) lot partition application satisfies the following applicable Plan policies:

LAND USE ELEMENT

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

PROPOSED FINDING:

In satisfaction of the applicable provisions of this policy, this minor partition application will increase the intensity and density of the development within the existing City of Canby Urban Growth Boundary through creation of two (2) single family residential lots where only one exists presently.

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

PROPOSED FINDING:

The existing residence located on the subject site uses the community's public facilities and services. The burden placed on the community's public facilities and services by this minor partition application will be those created by adding only one (1) additional residence more than is currently on the subject site. This one (1) additional residence will not overburden the community's public facilities or services, thereby satisfying the applicable provisions of this policy.

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

PROPOSED FINDING:

In satisfaction of the applicable provisions of this policy, the subject site is designated on the land use map as "R-1", a low density residential zone with minimum lot size of 7,000 square feet, and this minor partition application proposes to create two (2) lots exceeding 7,000 square feet.

ENVIRONMENTAL CONCERNS ELEMENT

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

PROPOSED FINDING:

This minor partition application will meet the provisions of this policy through connecting the residences to the sanitary sewer system and will not utilize sub-surface sewage disposal systems.

HOUSING ELEMENT

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.

PROPOSED FINDING:

The City of Canby will satisfy the provisions of this policy through approval of this minor partition application creating one (1) additional residential lot, which is a gradual increase in housing density.

CITY OF CANBY
LAND DEVELOPMENT AND PLANNING ORDINANCE

The subject property is presently designated as R-1, Low Density Residential, on the City of Canby Comprehensive Plan. As proposed, this two (2) lot partition application satisfies the following applicable sections of the Canby Land Development and Planning Ordinances:

DIVISION III - ZONING

CHAPTER 16.08 - General Provisions

Section 16.08.060 Area of flag lots.

The area of a "panhandle" shaped or flag lot shall be considered to be the rear or buildable portion of the lot and shall not include the driveway or access strip.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the area of the flag driveway is not include in the area total for Lot #2.

CHAPTER 16.16 - R-1 Low Density Residential Zone

Section 16.16.010 Uses permitted outright.

Uses permitted outright in the R-1 zone shall be as follows:

- A. Single-family dwelling; one single-family dwelling per lot;*
- B. Agriculture,...*

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, this minor partition application creates two (2) lots for single family dwellings.

16.16.030 Development Standards.

The following subsections indicate the required development standards of the R-1 zone:

A. Minimum lot area: seven thousand feet per single-family dwelling. Preexisting, legally created lots of record, shall be considered to be legally buildable and separately saleable, provided they contain at least five thousand square feet; and further provided, that any structures on such lots meet the required setbacks from the lot lines which will result when these lots of record are separated. Lot width requirements shall be reduced to a minimum of fifty feet, and side yard setbacks reduced to a minimum of five feet for such lots.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, this minor partition application will create two lots which both exceed 7,000 square feet. There are no preexisting legally created

lots of record involved in this application other than the subject site itself.

B. Minimum width and frontage: sixty feet, except that the Planning Commission may approve lots having less frontage subject to special conditions to assure adequate access; corner lots: sixty-five feet.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the two lots created by this minor partition exceed the minimum width of sixty (60) feet and Lot #1 exceeds the sixty (60) foot frontage requirement as well. Lot #2 is the flag drive lot and is subject to the provisions of Section 16.060.040(I), which are addressed herein below.

C. Minimum yard requirements:

- 1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides;*
- 2. Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots, fifteen feet single story or twenty feet two-story;*
- 3. Interior yard: One side seven feet, other side(s) ten feet. Interior yards may be reduced to three feet for detached accessory structures not exceeding one hundred twenty square feet and not placed on a permanent foundation, and erected sixty feet or more from any street other than an alley.*

D. Maximum building height:

- 1. Principal building: thirty-five feet or two and one-half stories, whichever is less;*
- 2. Accessory building: twenty-two feet or one story, whichever is less.*

E. Maximum lot coverage:

- 1. Principal building: no limit;*
- 2. Accessory building: no more than the area covered by the main building, unless lot area exceeds twelve thousand square feet in which case no limit is specified.*

F. Other regulations:

- 1. Vision clearance distance shall be ten feet from any alley and thirty feet from any other street.*
- 2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet.*
- 3. Required yards on southern and western exposures may be reduced by not more than five feet for eaves or canopies to provide shade.*

PROPOSED FINDING:

There are no buildings proposed through this minor partition application. However, the existing detached single family home located on Lot #1 of this partition satisfies the setback requirements of this section and a detached single family home can be sited on Lot #2 of this partition that satisfies the setback requirements.

DIVISION IV - LAND DIVISION REGULATION

CHAPTER 16.56 - General Provisions

Section 16.56.030 Conformance.

A. Comprehensive Plan. A subdivision or partition shall conform to the Comprehensive Plan. A determination of such conformity shall be based upon consideration of all applicable portions of the Comprehensive Plan and shall not be based solely upon a review of the land use map.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the policies of the Comprehensive Plan applicable to this two minor partition application are addressed by this narrative herein above

B. Land Development and Planning Ordinance. A land division shall be subject to all applicable requirements of other sections of this title. Where an applicant seeks the approval of any division which requires a change in zoning, the applicant may be required to complete the rezoning process prior to submittal of an application for property division.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the requirements of other sections of this title applicable to this two lot minor partition application are addressed herein by this narrative. There is no change in zoning approval being requested through this minor partition application.

C. Health, Safety, and Sanitation. A subdivision or partition shall conform to all applicable State, County and City regulations regarding health, safety and sanitation. The County will not issue any permits for on-site sewage disposal systems for any lot or parcel created in violation of these regulations, nor for the remainder of the parent parcel from which lots or parcels have been illegally created, unless and until such violation has been rectified and all legal requirements met.

PROPOSED FINDING:

This two lot minor partition application will not involve on-site sewage disposal systems for either lot thereby satisfying the applicable provisions of this section. Any construction that occurs on the subject site will conform to governmental regulations regarding health, safety and sanitation.

D. Building. Structures and buildings in any property division shall conform with applicable codes and regulations regarding building. The City Building Official shall not allow the issuance of a building permit on any lot or parcel created, subdivided or partitioned in violation of these requirements. No building permit shall be issued for the remainder of the parent parcel, from which any lots or parcels have been created in violation of this title, unless and until such violation has been rectified and all legal requirements met.

PROPOSED FINDING:

Although no buildings or structures are being proposed through this two lot minor partition application, any future buildings on Lot #2 will conform with all applicable codes and regulation regarding building.

E. Streets and Roads. A property division shall conform to all applicable city ordinances or policies pertaining to streets, roads, or access.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the flag lot access ordinances involved in this two lot minor partition application are addressed herein above. There are no new public streets or roads proposed through this.

CHAPTER 16.60 - Major or Minor Partitions

Section 16.60.010 Filing Procedures.

PROPOSED FINDING:

The applicable provisions of this section are satisfied by the application submittal package provided with this application.

Section 16.60.030 Minor partitions.

Application for a minor partition shall be evaluated based upon the following standards and criteria:

- A. Conformance with the text and applicable maps of the Comprehensive Plan;*
- B. Conformance with all other applicable requirements of the Land Development and Planning Ordinance;*

PROPOSED FINDING:

In satisfaction of the provisions of these sections, this Comprehensive Plan Policies and Planning Ordinance Sections applicable to this two lot minor partition application are addressed herein by this application narrative and proposed findings.

C. The overall design and arrangement of parcels 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;

D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to City standards is not necessary to insure safe and efficient access to the parcels;

E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. (Ord. 740 § 10.4.30 (B)(1), 1984)

PROPOSED FINDING:

In satisfaction of the applicable provisions of these sections, the preliminary plat proposed through this two lot partition application is designed so as to retain the existing residence located on the subject site and allow for functional and adequate access to one additional building site via a flag lot configuration. This partition does not involve private roads and required public facilities and services are presently available in the Maple Street right-of-way to provide both the existing house and a future single family detached home with adequate levels of services without overburdening the various systems.

CHAPTER 16.64 - Subdivisions Design Standards

The two lots created by this minor partition application satisfy the applicable provisions of this chapter. The following sub-section of Chapter 16.64 is directly applicable to this application:

Section 16.64.040(I) Flag Lots or Panhandle-shaped Lots.

The Commission may allow the creation of flag lots provided that the following standards are met:

1. Not more than one flag lot shall be created to the rear of any conventional lot and having frontage on the same street unless it is found that access will be adequate and that multiple flag lots are the only reasonable method to allow for development of the site.

PROPOSED FINDING:

This minor partition application satisfies the applicable provisions of this section by proposing only one flag lot to the rear of the conventional lot. Both Lot #1 and Lot #2 will access onto the same street, namely Maple Street.

2. The access strip is to be a minimum of twenty feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot. Except, however, that the width requirement may be reduced to twelve feet, for accessing a single flag lot, where the total length of the access strip does not exceed one hundred feet. Access strips not less than ten feet in width may be permitted where two such drives abut and are provided with reciprocal easements for use. For drives accessing more than two flag lots, the access strip shall be a minimum of twenty feet with reciprocal access and maintenance agreements for all lots.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the access strip for Lot #2 of this minor partition is a twenty (20) feet in width and Lot #2 is the only lot accessing the flag drive. The total length of the access strip exceeds one hundred (100) feet, totaling approximately 114 feet, due to the location and setback requirements for the existing residence located on Lot #1 which will be retained.

3. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.

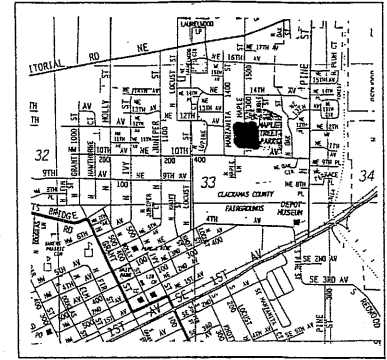
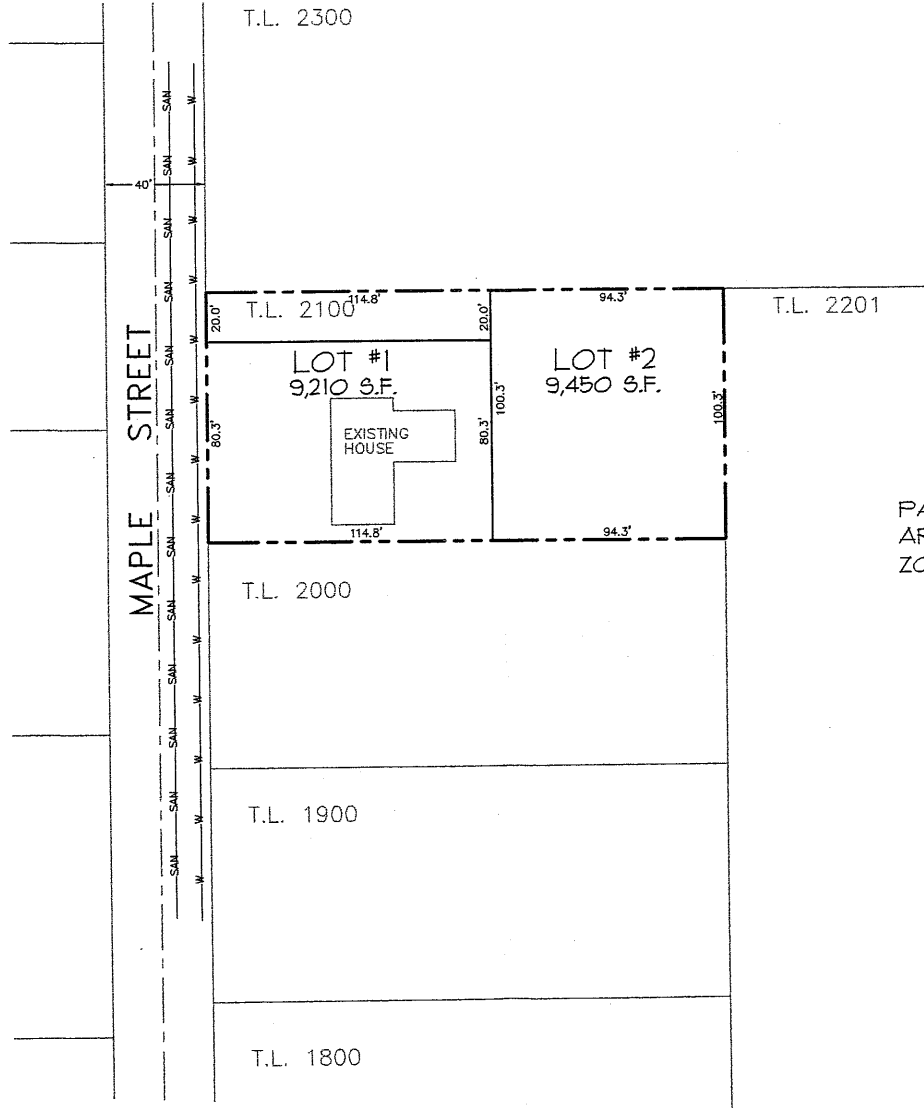
PROPOSED FINDING:

The existing residence located on the subject site will exceed a building setback of five (5) feet from the access strip serving Lot #2.

4. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the access strip. The Commission may establish special setback requirements at the time of approving the creation of flag lots.

PROPOSED FINDING:

In satisfaction of the applicable provisions of this section, the flag lot being created by this minor partition application has a lot depth of over ninety four (94) feet, which is more than adequate to facilitate siting a building on Lot #2 which will provide sufficient area for traffic to access and turn around.



SITE VICINITY

PARCEL: T35-RIE-33AA TL 2100
 AREA: 0.48 Acres
 ZONING: R-1

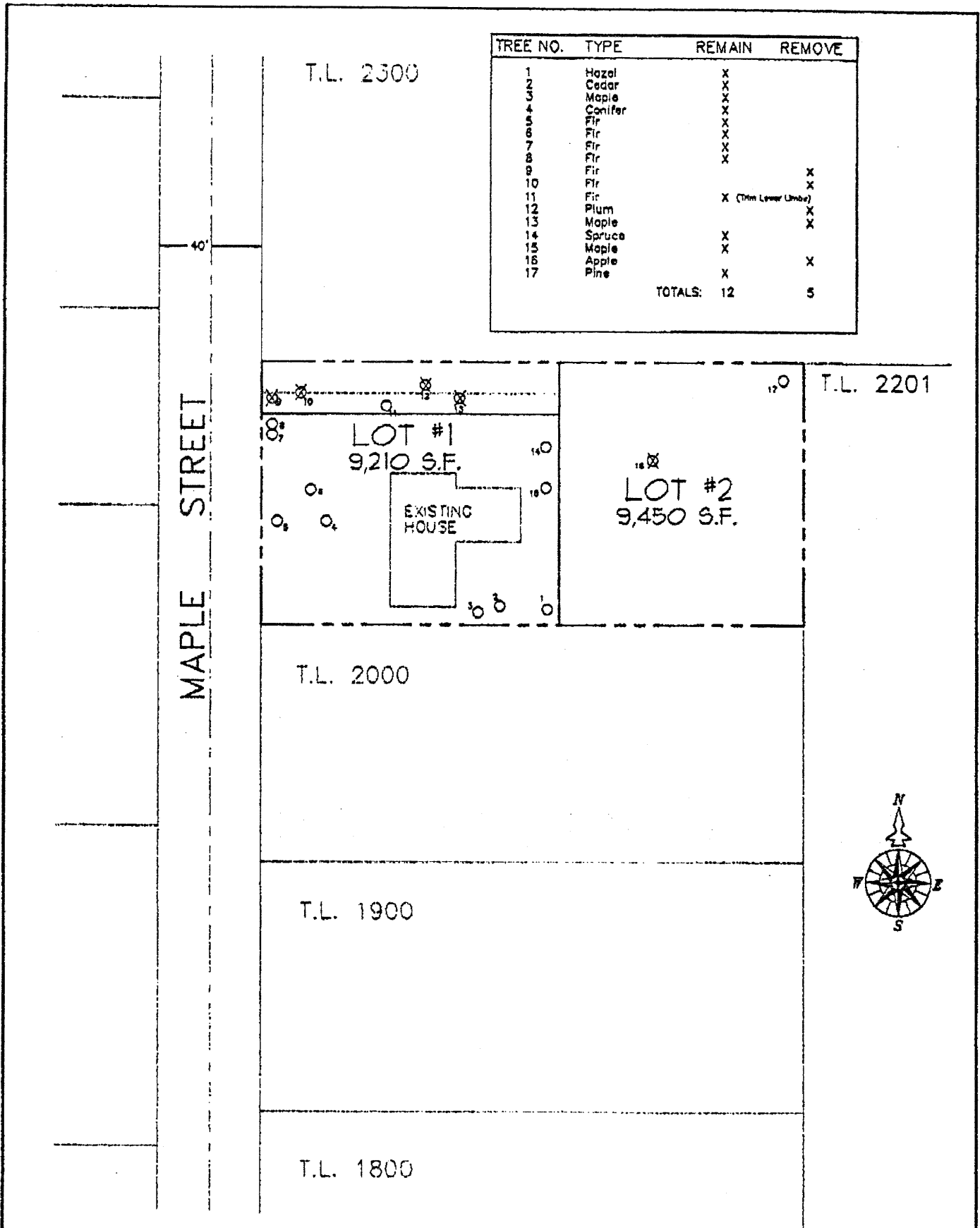
DATE	NO.	REVISION	DRAWN KLS	DESIGNED KLS	CHECKED	SCALE 1" = 50'	DATE APR. 1997
4/15/97	1	WIDEN FLAG DRIVE WIDTH FROM 14' TO 20'				PLAN 96-3877	DWG



COMPASS CORPORATION
 ENGINEERING SURVEYING PLANNING
 2324 S.E. LAKE ROAD
 MILWAUKEE, OREGON 97232
 (503) 483-4085 PHONE
 (503) 483-4086 FAX

MR. JOHN STOUT
 1877 N. Holly Street
 Canby, OR 97013

**MAPLE STREET MINOR PARTITION
 PRELIMINARY PLAT**



TREE NO.	TYPE	REMAIN	REMOVE
1	Hazel	X	
2	Cedar	X	
3	Maple	X	
4	Conifer	X	
5	Fir	X	
6	Fir	X	
7	Fir	X	
8	Fir	X	
9	Fir		X
10	Fir		X
11	Plum	X (Thin Lower Limbs)	
12	Maple		X
13	Maple		X
14	Spruce	X	
15	Maple	X	
16	Apple		X
17	Pine	X	
TOTALS:		12	5

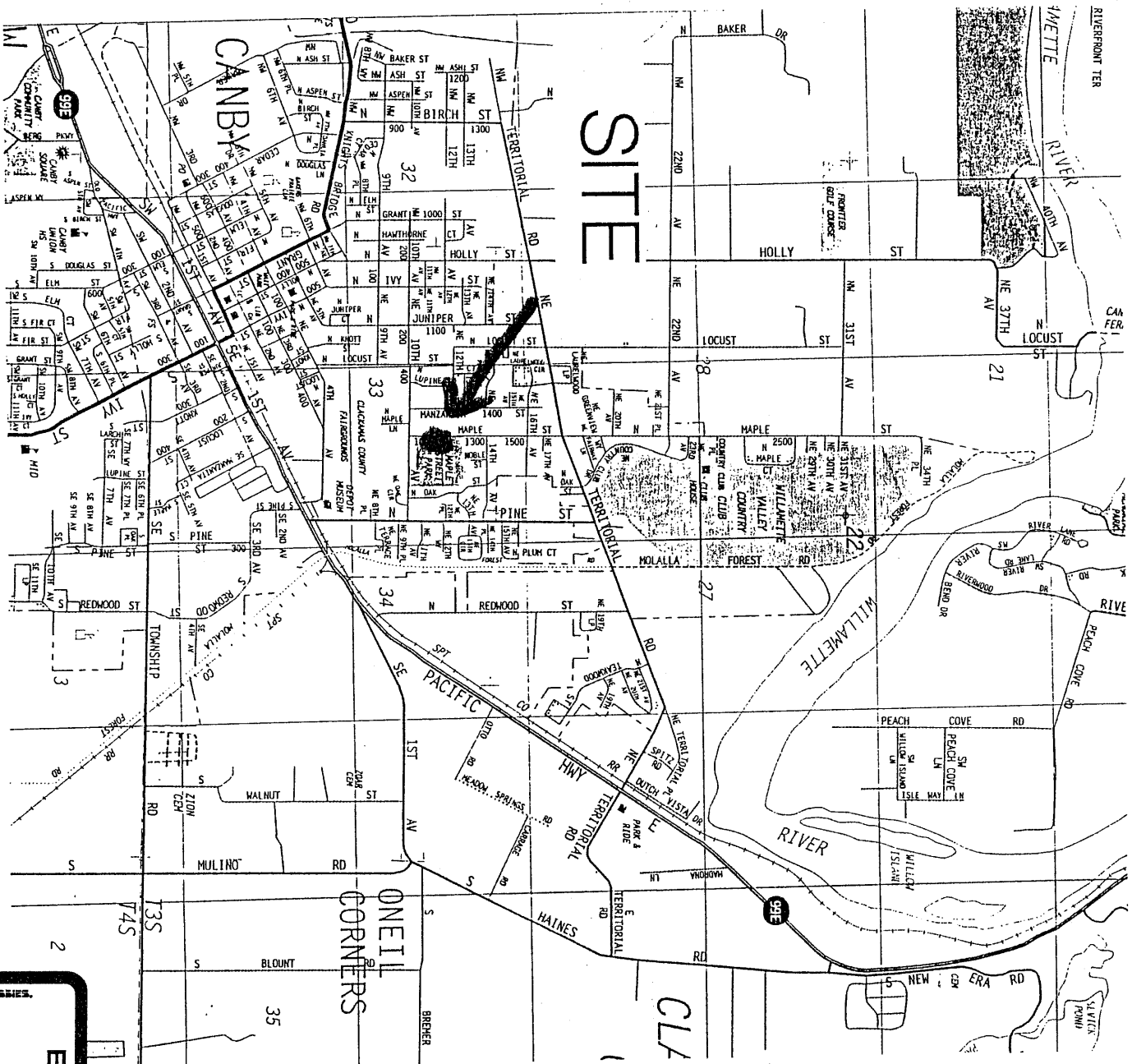


COMPASS CORPORATION
 ENGINEERING * SURVEYING * PLANNING
 6564 S.E. Lake Rd. (503) 653-9093 tel.
 Milwaukie, Oregon 97222 (503) 653-9095 fax.

EXHIBIT A EXISTING ON-SITE TREE LOC.

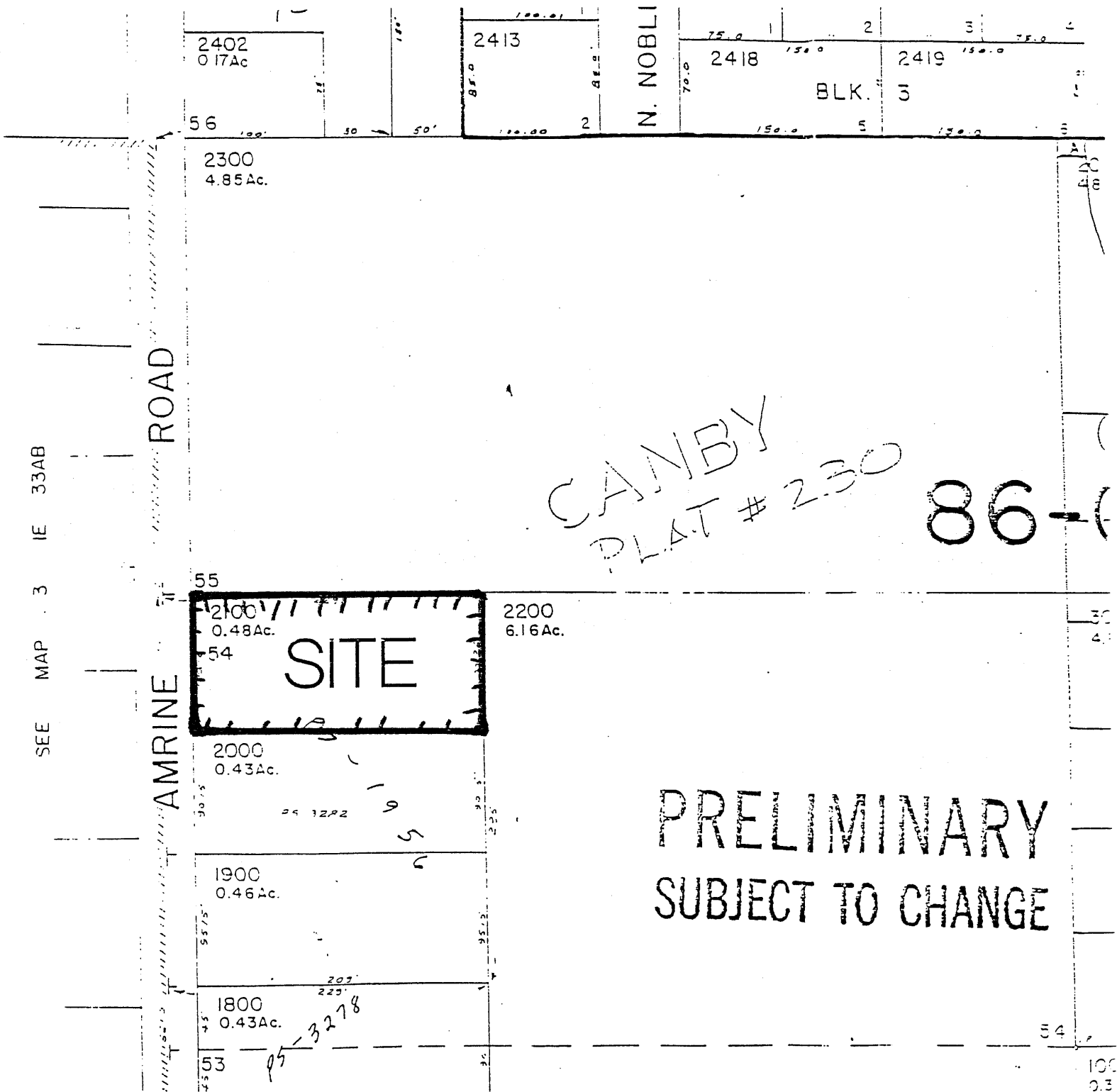
EXHIBIT
 3

SITE VICINITY MAP



TABLER
EXHIBIT
4

ASSESSOR MAP OF SUBJECT SITE



PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: April 21, 1997

TO: FIRE, POLICE, CUB, TELEPHONE, NW NATURAL GAS, MIKE JORDAN,
JOHN KELLEY, ROY, STEVE

The City has received MLP 97-03, an application by John Stout (applicant/owner) for approval to partition a .48 acre parcel into two lots, a 9,210 square foot lot with 80 feet of frontage on Maple Street, and the second lot, a 9,450 square foot lot which will access Maple Street via a 20 foot wide flag driveway. The site is located on the east side of N. Maple Street, north of N.E. 10th Avenue [Tax Lot 2100 of Tax Map 3-1E-33AA].

We would appreciate your reviewing the enclosed application and returning your comments by **April 28, 1997 PLEASE**. The Planning Commission plans to consider this application on **May 12, 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:

*IT WILL BE IMPORTANT THAT LOT #2'S
HOUSE NUMBERS CAN BE SEEN ON
MAPLE BY POLICE JN*

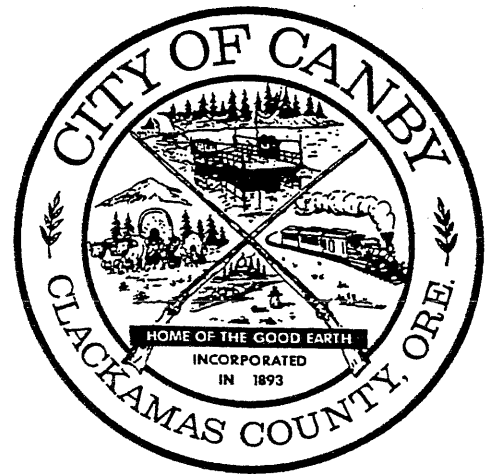
Please check one box:

- 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 Hagan* Date: *4/21/97*
Agency: *Police* Title: *Chief*

EXHIBIT

5



- STAFF REPORT -

APPLICANT:

JV Northwest Inc.
28120 SW Boberg Road
Wilsonville, OR 97070

FILE NO.:

DR 96-05/SN 97-01
(JV Northwest Inc.)

OWNER:

Douglas D. Hanson
431 S. Redwood Street
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lot 1803 of Tax Map 3-1E-34C

DATE OF REPORT:

May 2, 1997

LOCATION:

On the northeast corner of S. Redwood
Street and S.E. 4th Avenue

DATE OF HEARING:

May 12, 1997

COMP. PLAN DESIGNATION:

Light Industrial

ZONING DESIGNATION:

M-1 (Light Industrial)

I. APPLICANT'S REQUEST:

The applicant is requesting site and design approval to provide signage for its 46,875 square foot manufacturing building, storage yard, and associated parking area. The request for approval is in fulfillment of the conditions of approval with land use application DR 96-05/CUP 96-01.

II. APPLICABLE REGULATIONS

- City of Canby General Ordinances:

16.32	M-1 - Light Industrial Zone
16.42	Signs
16.49	Site and Design Review

III. MAJOR APPROVAL CRITERIA

16.49.040 Site and Design Review Criteria and standards.

1. The Planning Commission, sitting as the Design Review Board, shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:
 - A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved, and
 - B. The proposed design of the development is compatible with the design of other developments in the same general vicinity, and
 - C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
 - D. The Board shall, in making its determination of compliance with subsections (B) and (C) above, use the following matrix to determine "compatibility". An application is considered to be "compatible", in regards to subsections (B) and (C) above if a minimum of 65% of the total possible number of points (not including bonuses) are accumulated for the whole development.
 - E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development.
2. The Design Review Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing.

3. The Design Review Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.
4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.

IV. FINDINGS:

A. Background and Relationships:

JVNW has received Site and Design Review and Conditional Use Permit approval (DR 96-05/CUP 96-01) in July 1997. The conditions of approval specify that,

14. Prior to the placement of any signage that requires a sign permit, approval from the Planning Commission shall be received. This condition shall expire twenty-four (24) months after the final occupancy of the building. The Planning Commission's review of the signage shall be in accordance with 16.49.040 and shall be conducted through a limited land use process.

The applicant has submitted a Comprehensive Exterior Signage Packet consisting of a total of 15 signs. Of the signs contained in the packet, site and design approval is only needed for 4 of the signs. These signs are monuments signs and wall mounted signs that are identified as Sign Locations #1, #2, #3, and #4 in the applicant's report (pages 2-4 of Exhibit 2). The other signs detailed in the packet are directional, nameplate, and manufacturing bay door signs that do not require site and design review approval.

According to the applicant, the signage elements have been specifically designed to be compatible with the colors and materials used in the building design and convey a high quality state-of-the-art manufacturing facility.

B. Evaluation Regarding Site and Design Review Approval Criteria

5. Architecture (Signs)

The proposed signs with this application are identified on the site location map found on page 1 of Exhibit 2. The signs provide for a total sign area of 355 square feet which is 59% of the total allowed (600 s.f.) for the 46,875 square foot building. Listed below are the details of the signs.

- Wall Mounted Sign, Location #1

This sign consists of a wall mounted sign that will be located on the north wall of the building. The sign measures 10' x 17.5' in area and will be made of Off White grade foam "Gator Foam" that will match the color of the buildings skylight material. It will be located 6' from the top of the 55' tall building on the north facing wall in close proximity to the northwest corner (pg. 2 of Exhibit 2). With its high placement on the building's wall, it is intended to be viewed from the north and northwest as incoming customer traffic travels from S.E. 3rd and Redwood Street.

The sign will be lit by controlled surface mounted down lighting that will spotlight the letters. The lit fixture will be painted to match the accent color of the building's siding.

- Wall Mounted Sign, Location #2

This wall mounted sign is similar in design, color, and materials to Sign Location #1, but is smaller in scale with a sign area of approximately 120 square feet (15' x 8'). The sign will be located on the west facing wall of the northwest corner of the building (pg. 3 of Exhibit 2). The sign will be visible to traffic coming from the west and southwest.

Lighting for the sign will be provided by controlled surface mounted down lighting fixture similar to Sign Location #1.

- Monument Signs, Locations #3 and #4

These signs are located in the southwest corner of the property at the intersection of S.E. 4th and S. Redwood Street, and along S.E. 4th Avenue on the east side of the landscape strip of JVNW's east parking lot area (pg. 1 of Exhibit 2).

Each sign will have text that specifies the JVNW name, address, and provide directional information for delivery and shipping traffic. The signs are two-sided, each measure 6' X 5' in size, and will consist of a aluminum and acrylic monument structures with concrete pad bases.

Sign colors will compliment the building accent door color of Russet (deep reddish/brown) with push through acrylic and white lettering. Sign Location #3 will face north and south at the intersection of S.E. Redwood and S.E. 4th Avenue, and Sign Location #4 will face west and east on S.E. 4th Avenue.

Although the signs are non-lighted the lettering will be of reflective white vinyl material which will be clearly illuminated by automobile and truck headlights.

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

Review of the above analysis will show that the proposed partition, with the recommended conditions of approval, is consistent with the policies of the Comprehensive Plan. Development 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. Evaluation Regarding Site and Design Review Approval Criteria

7. Compatibility Matrix

Of the six main areas of critique (parking, traffic, tree retention, signs, building appearance, types of landscaping, etc.) signs is the only area that applies at this time as DR 95-06 approval required further Planning Commission review for signs to be located at the site.

The proposed application receives, in staff's determination, a total of 5 points out of a total possible of 6 points (83.3%). The minimum percentage required to be considered "compatible" is 65%, therefore, this proposal is considered to be complete. Following is staff's determination of the point totals.

Parking			
Screening of loading facilities from public ROW [not screened /partially screened / full screening]	0	1	2
Landscaping (breaking up of expanse of asphalt)	0	1	
Parking lot lighting [no / yes]	0	1	
Location (behind the building is best)[front / side / behind]	0	1	2
Number of parking spaces (% of min.) [x>120% / 100%-120% / x=100%]	0	1	2

Signs			
Dimensional size of sign (% of maximum permitted) [x>75% / 50% - 75% / x<50%]	0	1	2
Similarity of sign color to building color [no / some / yes]	0	1	2
Pole sign [yes / no]	0	1	
Location of sign [x>25' from driveway entrance / within 25' of entrance]	0	1	

Traffic			
Distance of access to intersection [x<70' / 70'-100' / x>100']	0	1	2
Access drive width (% of minimum) [x<120% or x>150% / 120%-150%]	0	1	
Pedestrian access from public sidewalk to bldg. [1 entrance connected / all entrances connected]	0		2
Pedestrian access from parking lot to building [No walkways / Walkway next to bldg / No more than one undesignated crossing of access drive and no need to traverse length of access drive]	0	1	2

Building Appearance			
Style (architecture) [not similar - similar to surrounding]	0	1	2
Color (subdued and similar is better) [neither/similar or subdued/similar & subdued]	0	1	2
Material [concrete or wood or brick is better]	0	1	
Size (smaller is better) [over 20,000 s.f. / under 20,000 s.f.]	0	1	

Tree Retention				
For trees outside of the building foot- print and parking/access areas (3 or more trees) [No arborist report / follows <50% of arborist recommendation / follows 50%-75% of arborist rec. / follows 75% of arborist rec.]	0	1	2	3
Replacement of trees removed that were recommended for retention [x<50% / x>50%]	0	1		

Types of Landscaping			
# of non-required trees [x<1 per 500 sf of landscaping / 1 or more per 500 sf of landscaping]	0	1	
Amount of Grass [<25% / 25% - 50% / x>50%]	0	1	2
Location of shrubs [foreground / background]	0	1	
Automatic Irrigation) [no / yes]	0		4

CRITERIA	PTS. GIVEN/ PTS. POSSIBLE	NOTES
Signs		
Dimensional size of sign	1/2	
Similarity of sign color to building	2/2	
Pole sign	1/1	
Location of sign	1/1	
Total	5/6	

V. CONCLUSION

The staff hereby concludes that, with appropriate conditions, the proposed development as described in the application, site plan, and this report:

1. is in conformance with the standards of this and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved, and
2. is compatible with the design of other developments in the same general vicinity, and
3. is compatible with the proposed development and appropriate to the design character of other structures in the same vicinity, in regards to the location, design, size, color and materials of the exterior of all structures and signs, and
4. is considered to be "compatible", in regards to subsections (B) and (C) above, because 83.3% of the total possible number of points (not including bonuses) are accumulated for the whole development, and
5. all required public facilities and services are available, or will become available through the development , to adequately meet the needs of the proposed development, and
6. will have a negligible effect on the availability and cost of needed housing.

Further, staff concludes that, the conditions listed are the minimum necessary to achieve the purposes of the Site and Design Review Ordinance, and do not unduly increase the cost of housing.

VI. RECOMMENDATION:

Based upon the application, elevations, the site plan received by the City, the facts, findings and conclusions of this report, and without the benefit of a public hearing, staff recommends that should the Planning Commission approve DR 96-05/SN 97-05, the following conditions apply:

Notes:

1. Prior to the placement of any signage that requires a sign permit, all signs shall meet the development standards for vision clearance for the M-1.

Exhibits:

1. Application and Statement
2. Exterior Sign Packet (modified to include only signs needing site and design approval)
3. Site Location Map

SITE AND DESIGN REVIEW
CONDITIONAL USE APPLICATION FOR SIGNS

Fee: ~~\$200~~ \$100.-

OWNER

APPLICANT

Name Douglas D. Hanson
Address 431 S Redwood St
City Canby State OR Zip 97013
SIGNATURE see attached letter

Name JV Northwest
Address 28120 SW Boberg Road
City Wilsonville State OR Zip 97070
Phone: 682-2596

DESCRIPTION OF PROPERTY:

Tax Map 3 1E 34C Tax Lot(s) 1803 Lot Size 9.94 ac
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name Logging Road Industrial Park Lot 1 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 Vacant
Proposed Light Industrial / Manufacture Stainless Steel Tanks

Existing Structures NO

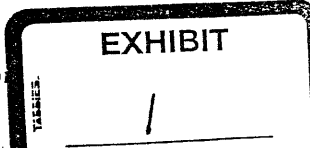
PROJECT DESCRIPTION

see attached specifications titled -
JV NORTHWEST, INC. EXTERIOR SIGNAGE. dated March 29, 1997.
Also see attached letter dated March 25, 1997.

ZONING M-1 COMPREHENSIVE PLAN DESIGNATION Same
PREVIOUS ACTION (if any) _____

File No. DR96-05/SN97-05 (SIGN)
Receipt No. 2420
Received by DH.
Date Received 3-26-97
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.



Austin & Associates
Design Consultants

1235 NE 195 • Portland Oregon 97230 • 503-666-5817

March 25, 1997

Mr. Lawrence Vasquez
Assistant City Planner
City of Canby
182 N. Holly
Canby, OR 97013

Subject: JV NORTHWEST, INC.
Design Review for Signs

Dear Larry:

Per our recent meeting I have prepared the following narrative to accompany the Design Review Application for Signs for the subject project.

The applicant is requesting approval of a Comprehensive Exterior Signage Package which has been specifically designed for their new manufacturing facility which is located on the northeast corner of South Redwood Street and Southeast 4th Avenue (Tax Lot 1803 of Tax Map 3-1E-34C) in the City of Canby, Oregon.

The signage elements have been designed to be compatible with the colors and materials used on the building and to convey to their business clients, as well as to the surrounding community, that this is a high quality state-of-the-art manufacturing facility.

I hope this is helpful in preparing your staff report. However, if you require additional information, or if you have any questions please call.

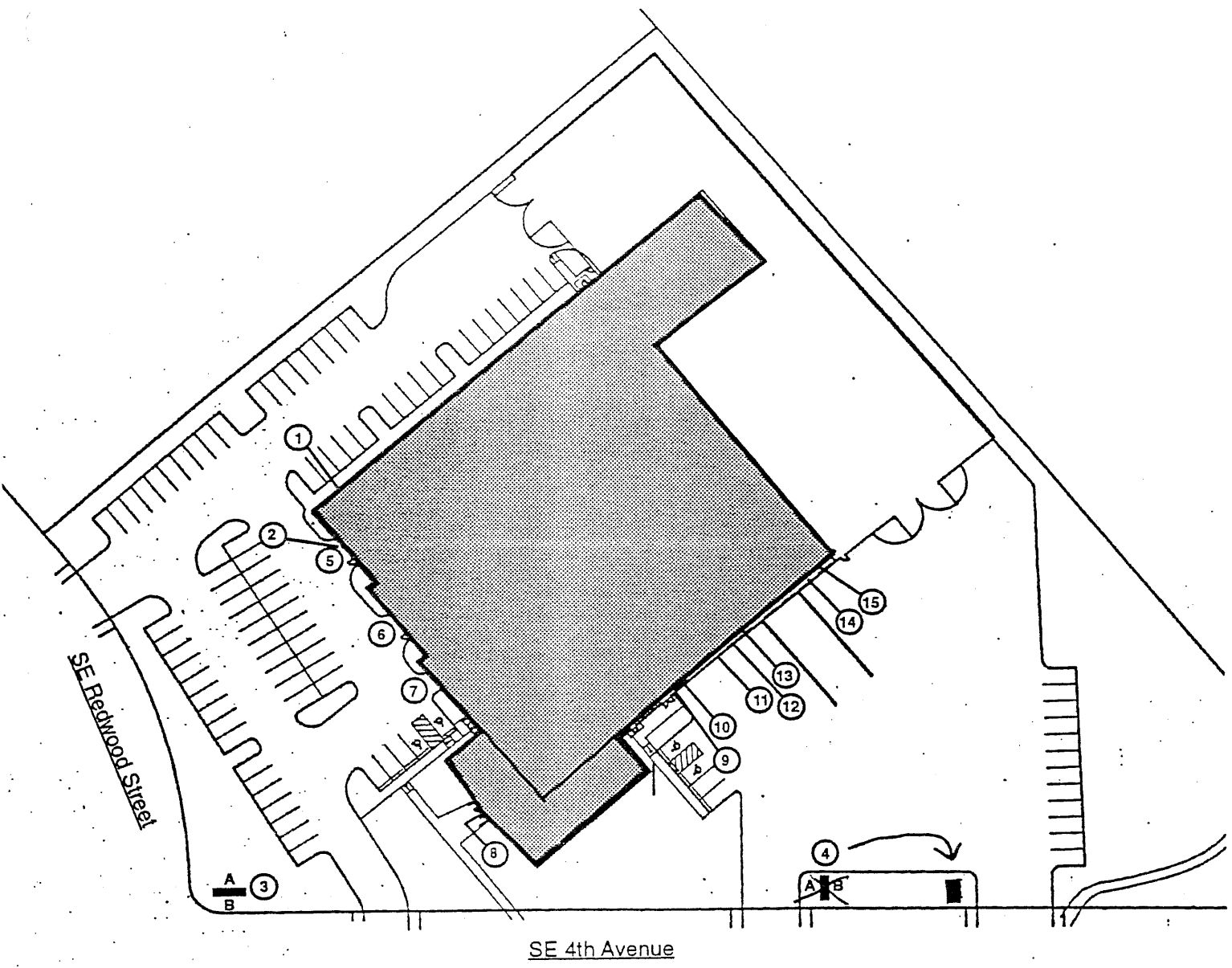
Sincerely,



Dennis C. Austin

DCA/ha

Copy: Jeri Riha, JVNW



SIGN LOCATION PLAN
 North ↑

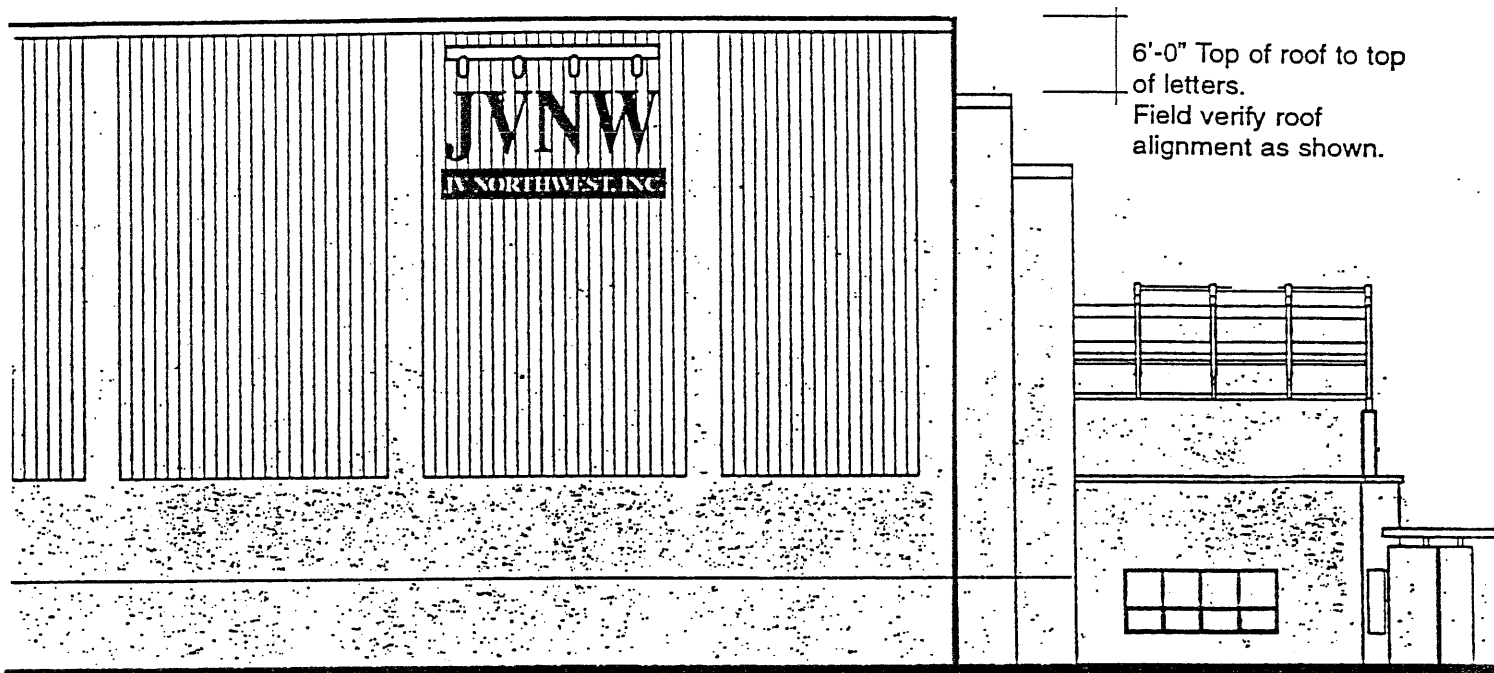
REVISED April 8, 1997
 March 20, 1997

JV NORTHWEST, INC.
 Exterior Signage

1

Austin & Asso
 Design
 1235 NE 195 • Portland Oregon 97230

EXHIBIT
 2



Sign Location 1
North Elevation

Fabricate letters and sign plaque from 2" thick high density exterior grade foam "Gator Foam".
Paint letters and plaque Off White with semi gloss finish. Off White color to match color of existing skylight material used on building.

Plaque size: 17'-6" x 3'-0" verify length, plaque to align with length of lettering above as shown.
Lettering on plaque to be Black vinyl.

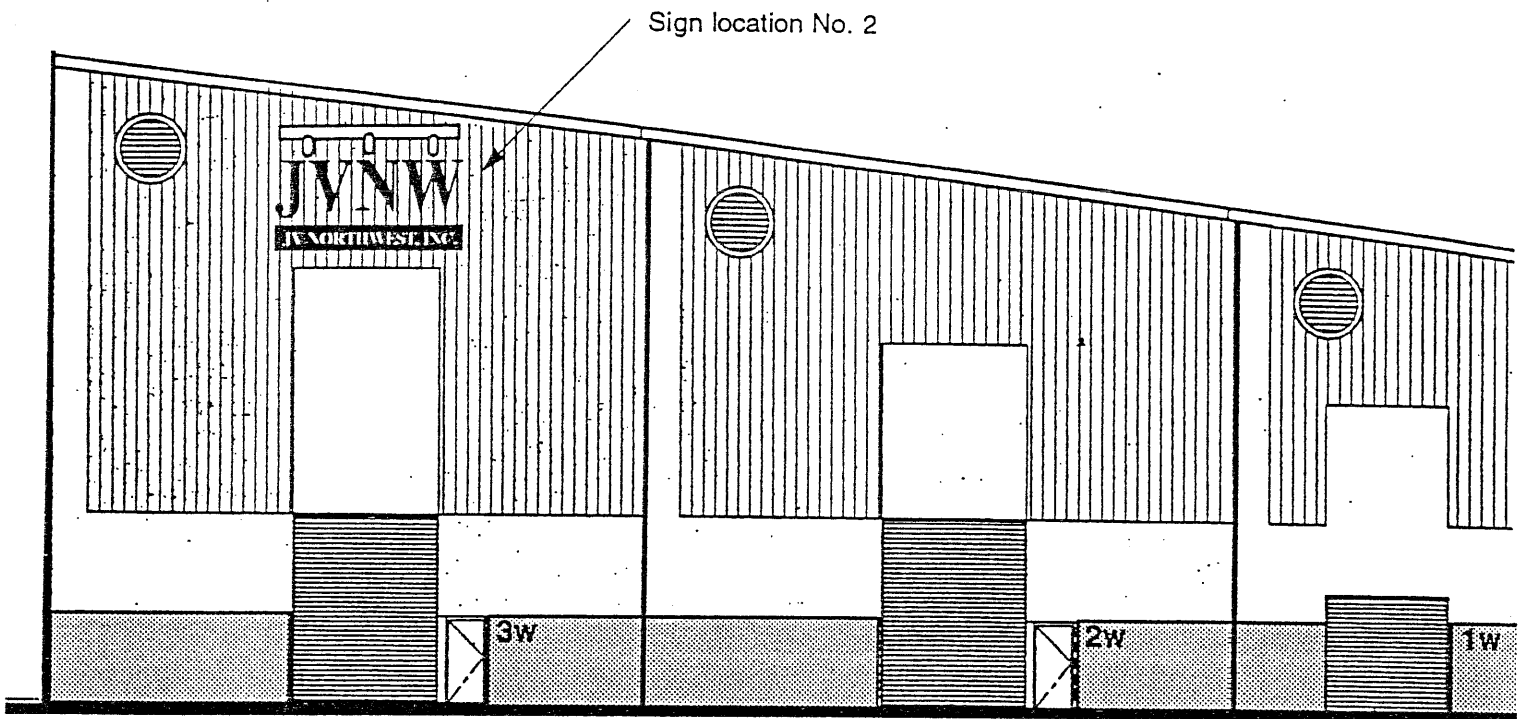
Letter size: "JVNW" = 5'-6" (J = 6'-2").
Lettering on plaque = 15".

Lighting: Provide down lighting to spotlight letters and plaque. Paint all exposed raceway's, conduit and light fixtures to match dark color of building siding.

REVISED April 8, 1997
March 20, 1997

JV NORTHWEST, INC.
Exterior Signage

2



Sign Location 2
West Elevation

Fabricate letters and sign plaque from 2" thick high density exterior grade foam "Gator Foam".
Paint letters and plaque Off White with semi gloss finish. Off White color to match color of existing skylight material used on building.

Plaque size: 15'-0" x 2'-6" verify length, plaque to align with length of lettering above as shown.
Lettering on plaque to be Black vinyl.

Letter size: "JVNW" = 4'-0" (J = 4'-10").
Lettering on plaque = 12".

Lighting: Provide down lighting to spotlight letters and plaque. Paint all exposed raceway's, conduit and light fixtures to match dark color of building siding.

Sign Location 5,6 & 7
West Elevation

Door number = 24".
South, West Letter = 15".
Fabricate from heavy gauge aluminum sheet.
Paint to match exterior door Russet color with semi gloss finish.

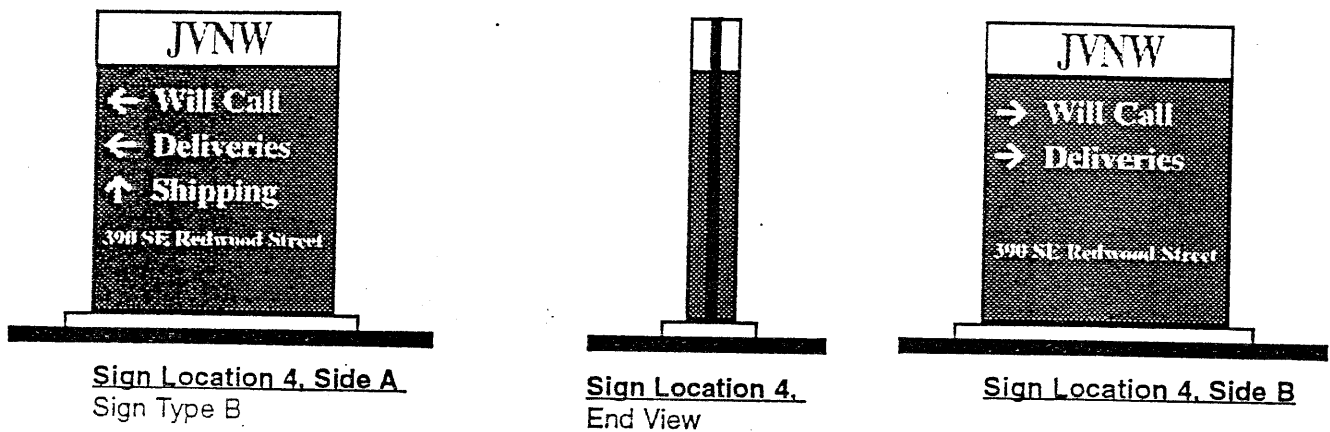
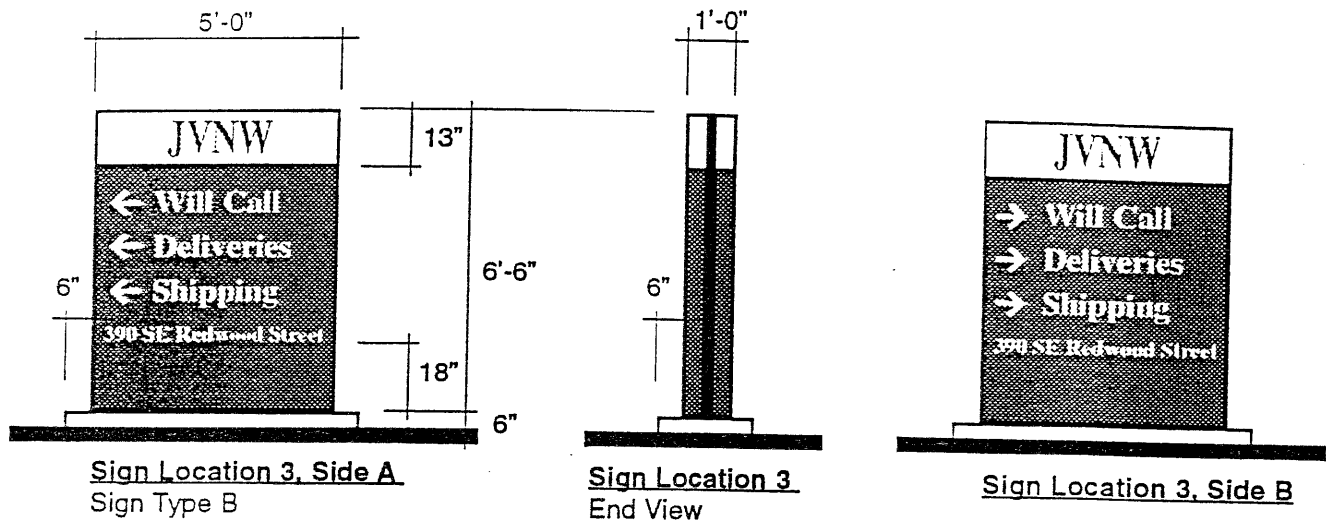
REVISED: April 8, 1997
March 20, 1997

JV NORTHWEST, INC.
Exterior Signage

3

Austin & Associates
Design Consultants

1235 NE 195 • Portland Oregon 97230 • 503-666-5617



Fabricate sign cabinet from heavy gauge aluminum sheet. Corners to be welded, filled and ground smooth to produce seamless appearance. Paint to match exterior door Russet color with semi gloss finish.

Fabricate top accent strip from heavy gauge stainless steel with polished finish and seamless appearance.

Provide continuous 2" x 1 1/2" deep reveal in both ends of sign cabinet, paint bottom of reveal semi gloss Black.

Lettering: "JVNW" = 8" (J = 9") Deep Etch letters into stainless steel as shown. Fill with paint to match Russet color with semi gloss finish.

Directional information and arrows = 5" reflective White vinyl.

Street address = 3" reflective White vinyl.

Provide concrete mowing pad as shown.

REVISED April 8, 1997
March 20, 1997

JV NORTHWEST, INC.
Exterior Signage

4

MEMORANDUM

To: Honorable Mayor and City Council

From: Mike Jordan, City Administrator

Date: April 29, 1997

Prepared by: Jim Wheeler, Planning Director *JW*

Issue: Voter Approved Annexation

Synopsis: The City Council requested staff to bring back information regarding the current annexation process and other voter-approved annexation ordinances.

Recommendation: No recommendation at this time, this is an informational packet.

Background: 1) **Legislative Bills under review.**

There are two Senate Bills currently under review by the legislature. Senate Bill 1137 will prohibit cities from enforcing charter provisions or ordinances that require elections for annexations. Senate Bill 947 will abolish the Portland Boundary Commission, and allow Metro to have authority over all annexations within Metro's jurisdiction, which does not include Canby. Both Senate Bills have a decent chance at being passed.

2) **Current Annexation Process - Non-voter approved process inside Boundary Commission jurisdiction.**

There are, currently, only two local government boundary commissions - one for Lane County, and one for Washington, Clackamas, and Multnomah Counties combined. All municipalities and districts in other Counties handle annexations through different enabling legislation (ORS 222) than we do (ORS 199).

Annexations into the City of Canby are handled by the Portland Metropolitan Area Local Government Boundary Commission. There are a variety of types of annexation applications that can be filed with the Boundary Commission. The types of applications are as follows:

1. Resolution of the City Council.
2. Petition of owners of more than 50% of the land area.
3. Petition of more than 10% of the registered voters.
4. Resolution of the Boundary Commission.
5. Double Majority (a petition of both the land owners and registered voters, and a resolution of the City Council).
6. Islanded property (City Resolution).
7. Health Hazard (sewer/water extension).

The process that is almost exclusively used for annexations in the City of Canby is the "Double-Majority" application (type 5). This type of application also involves a public hearing process in the City.

Only types 1, 5, and 6 (maybe 7) involve the City directly. Application types 1 and 6 are initiated by the City. The islanded property annexation (type 6) is one where the property is completely surrounded by land that is in the City of Canby, and the City initiates annexation of that land. The City can initiate the annexation without the consent of the property owners. This is different than the type 1 application in that the decision to approve a type 1 application can be remonstrated to a vote of the electorate, whereas the type 6 application cannot.

Any Boundary Commission decision to approve types 1 through 4 applications for annexation, can be remonstrated to a vote of the City's electorate by either 10% or 100 registered voters in the area to be annexed (whichever is less) or by a resolution of the City Council. A Boundary Commission decision to approve any type 5 through 7 application for annexation cannot be remonstrated to a vote of the City's electorate. Again, types 5 and 6 directly involve the City, and type 7 is a Health Hazard.

A denial of an annexation application by the Boundary Commission decision cannot be remonstrated to a vote of the City's electorate, it can only be appealed to the Circuit Court.

This is the scenario if SB 1137 (voter annexation preemption) passes and SB 947 (Boundary Commission abolished) fails, or if both Senate Bills fail and the City does not require voter approved annexations.

3) Voter approved process - Inside Boundary Commission jurisdiction.

King City (southwest of Tigard and northwest of Tualatin) is the only municipality under the jurisdiction of a local boundary commission that has a "voter approval" requirement for annexation. King City does not have an ordinance, but they do have a charter provision that requires "that actions which extend the City's boundaries be submitted to the City's electors." This works by having an election regarding annexations that directly involve the City (types 1, 5, and 6) **prior** to the recommendation or resolution of the City Council to the Boundary Commission. If the vote is "no", then no application would be sent to the Boundary Commission. If an application is sent directly to the Boundary Commission (types 2, 3, and 4), then the City Council would remonstrate against a decision for approval by the Boundary Commission and call for an election. A Health Hazard annexation (type 7) would not be subject to a vote of the electorate.

This is the scenario if both Senate Bills fail, and the City decides to require voter approved annexations. In order to accomplish this, the City must, by resolution, refer a charter amendment to an election. The process for Canby, under this scenario, will be different than that of King City, because we would have an ordinance as well as the vote of the people. Essentially, using Corvallis' ordinance procedure, any application coming through the City, would be required to have a public hearing to determine if the annexation application meets the criteria for annexation, and then be referred to an election. The

results of the election will then dictate whether or not an application is sent on to the Boundary Commission (an application is sent if the vote is yes). The Boundary Commission is not bound by the results of the election. If the Boundary Commission denies the application, the only appeal is to the Circuit Court. The cost of referring an annexation to an election is approximately \$1000 - \$3500. The cost is dependent on how many other districts and/or municipalities are on the ballot (the more items, the lower the cost). Additionally, if the election is held in either May or November of an even numbered year, there would be no cost for the referral. The cost of the election might be able to be added to the annexation application fee.

It is more likely that, if the City requires voter approved annexations while under the Boundary Commission's jurisdiction, that all future annexation applications would go directly to the Boundary Commission and not come through the City (types 2 and 3, maybe 4). This is likely because it would be a lower cost and take less time. Under this scenario, the City would, by resolution, remonstrate against any Boundary Commission approval of an annexation application and refer the decision to an election of Canby's electorate. The cost of the referral would be borne by the City only (unless it is on a shared ballot, etc.) and not by the applicant. Additionally, the only public hearing that would be held, would be by the Boundary Commission, and none would be held by the City.

One additional potential impact is the loss of some industrial applicants. The time period for review of an annexation that goes through a local election and then onto the Boundary Commission is approximately 10 months, with the shortest time period being a little over 7 months. Some industries, such as Shimadzu, will not be willing to wait for that length of time (Shimadzu's annexation took about 3 months - about as fast as it can occur).

4) Voter approved process - Outside Boundary Commission jurisdiction.

The City of Corvallis has a "voter approval" requirement in their Charter, as well as an ordinance governing the procedure for annexations. In Corvallis, all annexations have to go through the City. Elections for annexations are held twice a year, in May and in November. Corvallis divides the annexation applications into two types, major and minor. A major annexation application must be submitted to the City no later than October 31st for an election in May, and April 30th for an election in November. A minor annexation application must be submitted by November 30th for the May election, and May 31st for an election in November. Public hearings are held prior to the election in order to determine if the application meets the applicable criteria for annexation. **If** the application does meet the applicable criteria for annexation, then the City Council holds an election. If the application does not meet the criteria, there is no election and no annexation. The decision of the electorate is the final say on the approval of an annexation.

Other cities have amended their Charters to include a requirement for voter approval of annexations: McMinnville, Newberg, Philomath. These cities are basing their charter amendments and ordinances generally on the City of Corvallis', which has been in place for over 20 years.

This is the scenario if SB 1137 (voter annexation preemption) fails, SB 947 (Boundary Commission abolished) passes, and Canby requires voter approved annexations.

There is, again, a potential negative impact on attracting industrial applicants due to the elongated annexation review period.

5) **No voter approved process - Outside Boundary Commission jurisdiction.**

If both Senate Bills pass, or SB 1137 (voter annexation preemption) fails and SB 947 (Boundary Commission abolished) passes, and Canby does not require voter approved annexations, then annexations will be processed in accordance with ORS 222. According to ORS 222.111, the City Council is not prohibited against calling for an election for an annexation. Senate Bill 1137 will prohibit the City from enforcing a charter amendment that **requires** an election for all annexations. Regardless if that passes or not, under ORS 222, the City has the **option** to call for an election. A number of sections under ORS 222 permit the City **not** to hold an election, if it so desires.

There are only three type of annexation applications under this scenario: City initiated, owner initiated (two sub-types being double and triple majority), and a health hazard. The annexation process under this scenario is similar to that in (4) above, with or without the election. Without an election, the City Council, if it approves the annexation, must do so by ordinance, which can be referred to the electors. If an election is held and the annexation is approved, the City Council can annex the property either by resolution or by ordinance, neither of which is referable to the electors. Other than the results of an election, the City Council has the final authority regarding annexations in this scenario (one possible exception is an annexation due to health hazards).

If the option of calling for an election remains with the City Council, then the potential negative impact on attracting industrial applicants could be mitigated by not calling for an election for industrial annexation applications, but calling for an election on residential annexation applications.

Options: No options shown at this time, as this is an informational packet.

Attachment: John Kelley's memo, Ordinances from Corvallis, Newberg, McMinnville, Charter Amendment ballot measure from King City.

Legal Memorandum

To: Jim Wheeler, City Planner

From: John H. Kelley, City Attorney

Re: Voter approved annexations

You requested that I update you and the Mayor and Council regarding two Senate Bills in this legislature that deal with the Council's decision to investigate voter approved annexations for the City of Canby.

Senate Bill 1137, as currently proposed, prohibits Cities from adopting or enforcing charter provisions or ordinances that require submission of proposed annexations to electors of the City. The bill further declares that the City Council will make final decisions on annexations and also requires adoption of approval standards for annexations. The bill is supported by a variety of interests including the State Housing Department; DLCD; the Homebuilders and the Realtors. According to Phil Fell from the LOC, the bill has not been scheduled for hearing yet, but there is lots of support and pressure to pass it, including the support of Governor Kitzhaber. Phil says it is too close to call at this time.

The other bill that has some bearing on this issue, albeit indirectly, is Senate Bill 947. It provides for the abolition of the Portland area Boundary Commission and grants Metro the authority to make boundary changes in the metropolitan area. This bill is sponsored by the Senate Committee on Liveability for Metro. This bill is obviously important to Canby because while we are governed by the Boundary Commission with respect to annexations, we would not be if the power was turned over to Metro. Of course, the issue is moot if Senate Bill 1137 passes. According to a lobbyist for Metro, this bill will more than likely pass. If it passes and Senate Bill 1137 fails, then a lot of the questions concerning procedure for voter approved annexation under the local boundary commission scenario would disappear and we could follow a procedure similar to Corvallis, McMinnville, Newberg or Philomath.

The other issue you requested I advise the Mayor and Council on is the procedure for amending the City Charter. Charter amendments are governed generally by Article XI, Section 2 of the Oregon Constitution and ORS 221.210. Article XI, Section 2 grants the legal voters of every city the power to enact and amend their municipal charter and ORS 221.210 authorizes the city council to refer measures or amendments to the charter to the people as provided in the initiative and referendum

chapters of ORS 250.265 to 250.346. Since the City has its own initiative and referendum procedure under Chapter 1.12, you would look to CMC 1.12.080 and 1.12.090 for applicable charter amendment provisions. I've enclosed copies of those sections for review. Basically, it says the council must pass a resolution to amend the charter and set an election date to follow at a regular or special election date to submit it to the voters. Should the Council decide to propose a charter amendment to approve voter approved annexations, we can discuss the election procedure in detail later.

1.12.080

1.12.080 Charter amendment by council resolution.

An amendment to the charter of the city may be proposed and submitted to the legal voters by resolution of the city council without an initiative petition; and resolution shall be filed with the recorder for submission not later than fifteen days before the election at which it is to be voted upon and no amendment to the charter shall be effective until it is approved by a majority of the votes cast thereon by the legal voters of the city. (Prior code § 1-6.8)

1.12.090 Date of election for amendment by resolution.

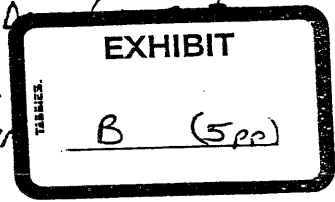
Where an amendment to the charter of the city may be proposed and submitted to the legal voters thereof by resolution of the city council without an initiative petition; the said resolution shall therein state the date of the regular municipal election, or the day of a special election at which the resolution will be submitted to be voted on, and shall call and make provision for the election. (Prior code § 1-6.9)

1.12.100 Ballot title.

When any measure for initiative or referendum legislation shall be filed by the recorder after the number and genuineness of signature thereto, as provided by Section 1.12.060 have been ascertained, or when any resolution of the city council shall be filed with the recorder as provided in Section 1.12.080, the recorder shall forthwith transmit to the attorney of the municipality a copy of such measure, who shall within five days

provide and return to the recorder a ballot title for such measure. The ballot title shall be printed with the number of the measure on the official ballot. In making such ballot title the attorney shall to the best of his ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not create any argument for, or be liable to create prejudice against such measure. Any person who is dissatisfied with the ballot title provided by the attorney for any such measure may within five days after the ballot title is returned to the recorder appeal to the common council asking a different title and giving the reasons therefor, and stating why the title prepared by the said attorney is improper and the common council shall by resolution approve the ballot title prepared by the attorney or shall by resolution prescribe another ballot title therefor and the ballot title so approved or so prescribed by the common council shall be the title placed upon the ballot. Such ballot title shall in no case exceed one hundred words, and shall not resemble insofar as possible any other ballot title filed for any measure. The recorder of the city shall number such measures and ballot title in the most convenient and consecutive manner. The affirmative of the first measure shall be numbered 100 and the negative 101 in numerals, and the succeeding measures shall be numbered 102, 103, 104, 105 and so on. It shall be the duty of the recorder to print the ballot titles and numbers upon the official ballot. Measures referred to the voters by petition shall be designated "referendum order by petition of the people." Measures proposed

City of Convallis
- Land D
Code
- Voter
9/11



CHAPTER 2.6 ANNEXATIONS

Section 2.6.10 - BACKGROUND

The process of annexation of land to the City allows for the orderly expansion of the City and adequate provision for public facilities and services. The City Charter requires that, unless mandated by State law, annexation may only be approved by a majority vote among the electorate.

Section 2.6.20 - PURPOSES

The procedures and standards established in this chapter are required for review of proposed annexations in order to:

- a. Allow for simultaneous review and comparative evaluation of annexation proposals;
- b. Provide adequate public information and sufficient time for public review before an annexation election;
- c. Maximize citizen involvement in the annexation review process;
- d. Establish a system for measuring the physical, environmental, and related social effects of proposed annexations; and
- e. Ensure adequate time for staff review.

Section 2.6.30 - PROCEDURES

Whenever an application for annexation is filed, it shall be reviewed in accordance with the following procedures:

2.6.30.01 - Determination of Annexation Type

The Director shall determine whether an application is for a Major or Minor Annexation as follows:

- a. Major Annexation - An annexation shall be considered major if one or more of the following exist:
 - 1. More than one property is involved;
 - 2. City services do not abut the site;
 - 3. The land is vacant and the request involves more than one district designation; or,
 - 4. The land is developed with more than one type of existing land use and more

However, if the Director determines measuring the physical, environmental and related social effects of the proposal will be similar in difficulty to that of a minor annexation, a major annexation can follow the timeline for minor annexation.

- b. Minor Annexation - Any annexation not meeting the description provided above for a major annexation is considered a minor annexation. In general an annexation is considered minor if measurement of the physical, environmental and related social effects is easier than with a major annexation.

2.6.30.02 - Application Filing Deadlines

Annexation elections are scheduled for May and November. Application deadlines are established to permit public hearings by both the Planning Commission and the City Council in time to meet State requirements for submitting ballot information for these election dates. Application deadlines for major and minor annexations are as follows:

- a. A Major Annexation must be filed with the Community Development Department before 5:00 p.m. on the last working day in October for a ballot election in May and the last working day in April for a ballot election in November. 6th/₅ ?
- b. A Minor Annexation must be filed with the Community Development Department before 5:00 p.m. on the last working day in November for a ballot election in May and the last working day in May for a ballot election in November.

2.6.30.03 - Application Requirements

Applications for annexation shall be made on forms provided by the Director and include the following material:

- a. Written consent to the annexation signed by the requisite number of affected property owners, electors, or both, to dispense with an election within the area to be annexed, as provided by state law.
- b. Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- c. Map of the area to be annexed including adjacent City territory.
- d. Statement of availability, capacity, and status of existing water, sewer, drainage, transportation, park, and school facilities.
- e. Statement of increased demand for such facilities to be generated by the proposed development.
- f. Statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand.

- g. Statement outlining method and source of financing required to provide additional facilities.
- h. General land use plan indicating types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
- i. Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.
- j. Comprehensive narrative of potential negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller subcommunity or neighborhood of which it will become a part; and proposed actions to mitigate such effects.
- k. Narrative demonstrating need for the urban development proposed for the annexation area; need should be demonstrated based upon a factual analysis of the following factors:
 - 1. Availability within the City of undeveloped land designated for proposed urban development.
 - 2. Analysis of immediate, short-term (1 to 5 years) demand for proposed urban development.
 - 3. Probable phasing of proposed urban development consistent with projected demand for period in which the annexation area is expected to be developed.

2.6.30.04 - Acceptance of Application

- a. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings.
- b. After accepting a complete application, the Director shall schedule a public hearing to be held by the Planning Commission. Notice of the hearing shall be provided in accordance with Chapter 2.0 - Public Hearings.

2.6.30.05 - Reserved

2.6.30.06 - Staff Evaluation

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report should include a recommendation whether or not to submit the annexation to the electorate.

2.6.30.07 - Review Criteria

Annexations shall be reviewed to assure consistency with the purposes of this chapter, policies of the Comprehensive Plan, and other applicable policies and standards adopted by the City Council and State of Oregon. In addition, a finding shall be made that the City is capable of providing services to the subject property(ies) commensurate with the needs of existing and any proposed increases.

2.6.30.08 - Action by the Planning Commission

The Planning Commission shall conduct a public hearing in accordance with Chapter 2.0 - Public Hearings to evaluate the proposed annexation and determine the appropriate development district designation upon annexation. The public hearing shall be conducted as follows:

- a. **Major Annexations** - The Planning Commission shall conduct its hearing in the first half of January for applications filed in October and in the first half of July for applications filed in April.
- b. **Minor Annexations** - The Planning Commission shall conduct its public hearing in the second half of January for applications filed in November and in the second half of July for applications filed in May.

Following the close of the public hearing, the Commission shall establish the appropriate development district(s) upon annexation and forward its recommendation concerning the annexation to the City Council. The Planning Commission's recommendation shall include findings that specify how the proposal has or has not complied with the above review criteria. The Planning Commission shall specify such consideration as findings in support of its decision and recommendation.

2.6.30.09 - Effective Date of District Designation

The decision of the Planning Commission regarding establishment of the district designation shall become effective upon expiration of the appeal period unless an appeal has been filed in accordance with Chapter 2.19 - Appeals.

2.6.30.10 - Action by City Council

Upon receipt of the Planning Commission's recommendation the matter shall be set for a public hearing before the City Council in accordance with Chapter 2.0 - Public Hearings. The Council shall review all proposals prior to the City application deadline for submitting measures to the voters in May or November. The Council shall only set for an election annexations consistent with the above review criteria. The City Council shall specify such considerations as findings in support of its decision to schedule an annexation for an election.

Note: The City Council's decision to submit an annexation to the electorate is the last discretionary decision in the process. Certifying the election after votes are counted is not a discretionary decision.

2.6.30.11 - Public Information

Public information identified above in 2.6.30.07 - Review Criteria for each annexation scheduled for an election shall be reviewed by the Council and published in a newspaper of general circulation in the City. The information shall include positive and negative effects contained in the staff report, as well as the findings upon which the City Council based its decision to schedule the annexation for an election. This information shall be published at least 10 days before the election.

Section 2.6.40 - EXCEPTIONS

The City Council may authorize an exception to any of the requirements of this chapter. An exception shall require a favorable vote of six or more Council members and a statement of findings that indicates the basis for the exception. Exceptions may be granted for reasons including, but not limited to: identified health hazards, limited development potential, or administrative error.

10.36 ANNEXATION

10.36.010 Purpose

Because the act of annexation is a commitment to urban development, an annexation has a significant impact upon future land use of the surrounding areas. Annexations should be evaluated for their potential impact upon the City, surrounding area, and other governmental jurisdictions. In order to assure an orderly and efficient transition from rural to urban land uses, the following policies are adopted.

10.36.020 General Provisions

Nothing included in this Code shall be deemed to prevent nor prohibit the annexation of territory to the City of Newberg by any method allowed by the Oregon Revised Statutes. This Code is intended to provide guidance in the processing and evaluation of individual annexation requests. Provisions of this Code are held to be the minimum requirements to fulfill its objectives.

10.36.030 Annexation Policy

- (1) Annexations shall be considered on a case-by-case basis, taking into account such issues as the goal and policy statements found within the Newberg Comprehensive Plan, this Code, long range costs and benefits, statewide planning goals, and other ordinances, policies, or regulations of affected agencies, jurisdictions and special districts.
- (2) It shall be the City's policy to encourage annexation where:
 - (A) The annexation complies with the provisions of the Newberg Comprehensive Plan.
 - (B) The annexation would straighten out boundaries and provide a clear identification of the City.
 - (C) The annexation would benefit the City by addition to its revenues an amount that would at least be equal to the cost of providing services to the area.
 - (D) It would be clearly to the City's advantage to control the growth and development plans for the area.
- (3) It shall be the City's policy to discourage annexation where:
 - (A) The annexation is not consistent with the provisions of the Newberg Comprehensive Plan.
 - (B) The annexation would cause an unreasonable disruption in the current City boundary.
 - (C) The annexation would severely decrease the ability of the City to provide services to an area or to the rest of the City.

- (D) Full urban services cannot be made available within a reasonable time.

10.36.040 Application Requirements

- (1) In order to initiate an annexation to the City of Newberg, the applicant shall submit to the City, together with the required fee, an application for said annexation accompanied by an annexation assessment form which shall include:
 - (A) A map and legal description which correspond to one another. The map and description must be capable of closure and be certified by an engineer or surveyor. If not certified, the map and description must be approved by the Department of Revenue as per ORS 308.225.
 - (B) A written statement which explains how the proposal is consistent with the criteria as identified within this Code.
- (2) If it is determined that there are additional applications or processes which need to be initiated at the same time, those applications may be filed concurrently with the request for annexation and considered by the Planning Commission with final approval by the City Council.

10.36.050 Type III Review Procedure and Criteria

An application for an annexation may be granted through a Type III procedure only if the proposal conforms to the following criteria:

- (1) The application shall comply with applicable state statutes.
- (2) Consistency of the annexation in relation to the Newberg Comprehensive Plan, the annexation policies of this chapter, and other applicable regulations set forth by this Code.
- (3) The availability of basic public services which include but are not limited to sewer, water and electricity to the site in adequate quantities to serve the potential users without adversely affecting the availability of these services to existing users.
- (4) The impact upon public services which include but are not limited to police and fire protection, schools, hospitals and public transportation to the extent that they shall not be unduly compromised.
- (5) The need for housing, employment opportunities, and livability in the City of Newberg and surrounding areas.
- (6) The location of the site as to provide for the efficiency in land use in relation to public facilities and services, transportation, energy conservation, urbanization and social impacts.

10.36.060 Zoning of Annexable Lands

- (1) Upon annexation the annexed area shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg Comprehensive Plan Map designation. The corresponding designations are shown in the table below. The procedures and criteria of 10.20.030 shall not be required.

Comprehensive Plan Classification	Appropriate Zoning Classification
OS	Any Zoning Classification
LDR	R-1
MDR	R-2
HDR	R-3
COM	C-1, C-2, or C-3 as determined by the Director
MIX	C-2, M-1, or M-2 as determined by the Director
IND	M-1, M-2, or M-3
PQ	Any Zoning Classification
P/PP	Any Zoning Classification

- (2) If a zoning classification is requested by the applicant for other than that described in subsection (1) above, the criteria of 10.20.030 shall apply. This application shall be submitted concurrently with the Annexation application.
- (3) In the event that the annexation request is denied, the zone change request shall also be denied.

10.36.070 Annexation of Non-Conforming Uses

When a non-conforming use, as described under Chapter 10.22 is annexed into the City, the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one (1) year to (10) years at the discretion of the City Council.

10.40 ZONING DISTRICTS

10.40.300 R-1 LOW DENSITY RESIDENTIAL DISTRICT

10.40.302 Description and Purpose

The R-1 Low Density Residential District is intended for low density, urban single family residential and planned unit development uses. A stable and healthful environment, together with the full range of urban services, makes this the most important land use of the community. The R-1 district is intended to be consistent with the "Low Density Residential" designation of the Comprehensive Plan.

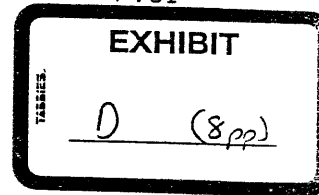
10.40.304 Permitted Buildings and Uses

In the R-1 Low Density Residential District the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this Code:

- Accessory buildings and uses normal and incidental to the uses permitted in 10.40.304 through 10.40.306.
- Agricultural uses, limited to the following:
 - A. Berry and bush crops.
 - B. Flower gardening.
 - C. Orchards, tree crops, the raising and harvesting of.
 - D. Truck gardening, the raising and harvesting of vegetables for home consumption.
- Churches, subject to the following conditions:
 - A. Dedication and improvements of public streets.
 - B. Conveyance or dedication of public utility easements, as determined by the City.
- Churches, when using existing buildings.
- Day nurseries.
- Group care homes.
- Home occupation.
- Manufactured homes on individual lots provided the homes meet the development standards set forth in 10.52.280 through 10.52.287.
- Modular homes.
- Open space.
- Planned unit developments.
- Private and public parks, playgrounds and golf courses.
- Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.
- Single family dwellings.

Post-It Fax Note	7671	Date <u>2/6</u>	# of pages <u>8</u>
To <u>Lucy</u>	From <u>Kate Scula</u>		
City of Corvallis	Co. <u>Planning Dept.</u>		
F	Phone # <u>434-7311</u>		
Fax # <u>266-1574</u>	Fax # <u>472-4104</u>		

McMinnville



ORDINANCE NO. 4636

An ordinance enacting requirements and procedures for annexation of lands to the City of McMinnville and repealing Ordinance No. 4357.

RECITALS:

On May 21, 1996 the citizens of McMinnville passed Measure No. 36-32. This measure directs the City Charter be amended to require that all annexations, except those otherwise mandated by state law, be referred to a vote of the electorate. Consistent with the direction of this measure and the requirements of ORS 222, City staff prepared legislation supplanting the City's existing annexation ordinance with provisions designed to implement the requirements of Measure No. 36-32 for review and adoption by the City Council.

In summary, the proposed annexation ordinance, which replaces Ordinance No. 4357, revises application submittal requirements and fees, and requires voter approval prior to a property's annexation to the City.

At its meeting of September 12, 1996, the McMinnville Planning Commission, after studying the proposed changes to the annexation ordinance, voted to recommend to the City Council that they be approved.

At its meeting of October 8, 1996, the City Council received public testimony and discussed the issues, and at its meeting of November 12, 1996, approved the Planning Commission recommendation; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. Statement of Purpose. The City of McMinnville finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the McMinnville Urban Growth Boundary, and that as such it is an important part of the process of providing timely and orderly urban development. The City also recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services such as sewer, water, and roads. Policies and procedures adopted in this ordinance are intended to carry out the directives of the citizens of McMinnville and the McMinnville Comprehensive Plan, and to insure that annexation of lands to the City is incorporated into the process of providing a timely and orderly conversion of lands to urban uses. The City Charter requires that, unless otherwise mandated by state law, annexation may only be approved by a majority of those voting.

Section 2. Conditions for Annexation. The following conditions must be met prior to or concurrent with City processing of any annexation request:

- (a) The subject site must be located within the McMinnville Urban Growth Boundary.
- (b) The subject site must be contiguous to the existing City limits.

Section 3. Policies. The following policies shall apply to all annexation requests:

- (a) The proposed use for the site complies with the McMinnville Comprehensive Plan, Volume II (Goals and Policies) and with the designation on the McMinnville Comprehensive Plan Map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with Volume II (Goals and Policies).
- (b) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:
 - (1) Municipal sanitary sewer and water service meeting the requirements enumerated in Volume II (Goals and Policies) for provision of these services.
 - (2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the City shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The City shall also consider public costs for improvement and the ability of the City to provide for those costs.
- (c) Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.
- (d) The burden for providing the findings for 3 (a), (b), and (c) is placed upon the applicant.

Section 4. Annexation by Election. All annexation requests approved by the City Council shall be referred to the voters in accordance with the requirements of this ordinance and ORS 222.

- (a) Annexation elections are scheduled for May and November. Applications for annexation shall be filed with the Planning Department before 5 p.m. on the second Thursday of November for a ballot election in May and before 5 p.m. on the second Thursday of May for a ballot election in November.
- (b) Notice of the annexation election shall be published in a newspaper of general circulation in the City not more than 30 days nor less than 20 days prior to the date of the election. Such notice shall take the form of an approximate one-quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.
- (c) The City shall cause the property under consideration to be annexed to be posted with a minimum of one sign not greater than six square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation.

Section 5. Application Requirements. Applications for annexation shall be made on forms provided by the Planning Department and include the following material:

- (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law.
- (b) Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (c) Vicinity map and map of the area to be annexed including adjacent City territory.
- (d) General land use plan indicating types and intensities of proposed development, transportation corridors, watercourses, significant natural features, open space, and adjoining development.
- (e) Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.
- (f) Annexation fees, as set by City Council resolution.

Section 6. Annexation by Consent of All Owners of Land. When all the owners of land in the territory to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the City, the following procedures shall apply:

- (a) The Planning Commission shall hold at least one public hearing on the annexation request.
 - (1) Application for said change must be filed, with payment of the appropriate fee, not less than thirty days prior to the date of the public hearing.
 - (2) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than five days nor more than fifteen days prior to the date of the public hearing.
 - (3) Written notice of a requested change shall be mailed to all owners of the property within three hundred feet of the exterior boundary of the property for which the change has been requested, not less twenty days prior to the date of the hearing.
- (b) Public hearing shall be conducted as per the requirements established in McMinnville Ordinance No. 3682, as amended;
- (c) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
- (d) Within 45 days following the public hearing, unless a continuance is announced, the Commission shall make specific findings of fact. Based on the findings, the Commission shall render a decision which shall recommend either that the application be approved and submitted to the voters at the next available election as per the requirements of Section 4, above, or denied.
 - (1) If the decision of the Commission recommends that the application be granted and set for the election, the Commission shall transmit to the Council a copy of the application, a scale drawing of the site, the minutes of the public hearing, the decision and findings of the Commission, and any other materials deemed necessary for a decision by the Council.
 - (2) If the decision of the Commission recommends that the application be denied, no further proceedings shall be held by either the Commission or Council, unless an appeal of the Commission's decision is filed by the

applicant or by an interested party within fifteen calendar days of the Commission's decision.

- (e) Upon receipt of the decision of the Commission to recommend approval, the Council shall:
 - (1) Based on the material in the record and the findings adopted by the Commission and transmitted to the Council, approve the annexation and set the matter for election; or
 - (2) Call for a public hearing on the proposal subject to the notice requirements stated in Section 17.72.030(a)(2) and (3) of McMinnville Ordinance No. 3380.
- (f) In the event of an appeal of a Planning Commission decision, the Council shall hold a public hearing following the procedures as laid out in Section 17.72.050 of McMinnville Ordinance No. 3380.

Section 7. Annexation by Non-unanimous Triple Majority Consent Petition. When more than half, but not all, of the owners of land in the territory to be annexed who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory, the following procedures shall apply:

- (a) The Planning Commission shall hold at least one public hearing on the annexation request:
 - (1) Application for said change must be filed, with payment of the appropriate fee, not less than thirty days prior to the date of the public hearing.
 - (2) Notice of the public hearing shall be published in a newspaper of general circulation in the City not less than five days nor more than fifteen days prior to the date of the public hearing.
 - (3) Written notice of a requested change shall be mailed to all owners of the property within three hundred feet of the exterior boundary of the property for which the change has been requested, not less twenty days prior to the date of the hearing.
- (b) Public hearing shall be conducted as per the requirements established in McMinnville Ordinance No. 3682, as amended;

- (c) Any public hearing may be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
- (d) Within 45 days following the public hearing, unless a continuance is announced, the Commission shall make specific findings of fact. Based on the findings, the Commission shall render a decision which shall recommend either that the application be approved and set for election, or be denied.
- (e) Upon receipt of the recommendation from the Planning Commission, the Council shall hold a public hearing following the procedure as laid out in ORS 222.120.

Section 8. Findings and Decision. In the event the City Council holds a public hearing on an annexation request:

- (a) The City Council may adopt the Planning Commission findings for approval or denial of the annexation, supplement the record as appropriate in the circumstances, or reject the findings of the Planning Commission and adopt new findings.
- (b) Inasmuch as the decision to annex property consists of a quasi-judicial element (the findings required herein) and a legislative decision based upon the best judgment of the Council, the Council may deny an annexation based upon its legislative perception of the request even though the findings support and would allow annexation. A decision to deny an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative act separate and apart from the quasi-judicial decision.

Section 9. Annexation Declaration. The City Council shall by ordinance declare annexation only after determining that all requirements of the Oregon Revised Statutes have been met, all applicable fees have been paid, and the annexation request has been approved by a majority of those voting.

Section 10. Health Hazard Annexation. The City shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the City to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

Section 11. Island Annexation. The following policies are adopted for island annexations:

- (a) The City shall attempt to not create islands of unincorporated territory within the corporate limits of the City. If such an island is created, the City Council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters. The hearing shall be conducted in accordance with the policies and procedures contained in this ordinance.
- (b) Written notice to property owners will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the City.
- (c) Annexation of an island shall be by ordinance, subject to approval by the voting majority.

Section 12. Submission of Annexation Reports. The City shall report all changes in the boundaries of the City to the County Clerk, County Assessor, and the State of Oregon as required by Oregon Revised Statutes.

Section 13. Comprehensive Plan and Zoning Designations.

- (a) The Comprehensive Plan Map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the McMinnville Comprehensive Plan. A redesignation of the Comprehensive Plan Map may be requested concurrent with annexation under procedures set forth in Ordinance No. 4127. The proposed redesignation shall then be used to determine compliance with the McMinnville Comprehensive Plan.
- (b) An un-zoned area annexed to the City shall be placed in the AH (Agricultural Holding) zone. A county zoned area annexed to the City shall remain in the county zone classification and shall not be allowed any building permits until the zone is changed to a City zone through the procedures set forth in Chapter 17.72 of Ordinance No. 3380. Simultaneous application for annexation and a zone change is allowed provided that the zone change ordinance does not take effect until and unless the property is properly annexed to the City and incorporated within the City limits.

Section 14. Coordination. Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, McMinnville Water and Light Department, McMinnville School District 40, Northwest Natural Gas, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final City action to allow for reviews and recommendations to be incorporated into the City records.

Section 15. An annexation applied for between January 1996 and May 21, 1996, which was approved by the City Council but did not become final before May 21, 1996, shall be allowed to be placed on the next available election ballot thereby exempting it from the requirements of Section 4 (a), above.

Section 16. That Ordinance No. 4357 is hereby repealed in its entirety.

Section 17. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823 entitled, "Initiative and Referendum," for a period of thirty (30) days.

Passed by the Council this 12th day of November 1996 by the following votes:

Ayes: Hughes, Kirchner, Massey, Payne, Windle

Nays: _____

Approved this 12th day of November 1996.

Edward J. Hornley
MAYOR

Attest:

Carol M. Boudet
RECORDER

E (1 pg)

BALLOT
STYLE

2

SPECIAL DISTRICT ELEC

Washington County, State of Oregon, Tuesday, September 21, 1993

Any person who, by use of force or other means, unduly influences an elector to vote in any particular manner or to refrain from voting, is subject, upon conviction, to imprisonment or to a fine, or both.

CITY OF KING CITY

PROPOSED BY INITIATIVE PETITION

MEASURE - 34-1 AMENDS KING CITY CHARTER TO REQUIRE VOTE ON ANNEXATION ACTIONS

QUESTION: Shall the Charter be amended to require that actions which extend the City's boundaries be submitted to the City's electors?

SUMMARY: This measure would require the City Council to:

- Have voter approval before they start an annexation or transfer of territory.
- Object to any annexation or transfer of territory approved by the Boundary Commission and not started by the City Council.
- Hold an election on the proposed action after filing the objection.

Without this measure, the City Council may decide without an election whether to initiate annexation or to object to the Boundary Commission's approval.

VOTE

Yes ▶ 21 946

No ▶ 22 316

PROPOSED BY INITIATIVE PETITION

MEASURE - 34-2 AMENDS KING CITY CHARTER TO REQUIRE VOTE ON ROAD JURISDICTION

QUESTION: Shall the Charter be amended to require that transfer of jurisdiction over a road be submitted to the electors?

SUMMARY: This measure requires the City Council to submit the question of road jurisdiction to the electors. If the City wants to assume jurisdiction over a road, then an election must be held before the City starts the process. If a government entity wants to surrender jurisdiction over a road, then an election must be held before the City can accept jurisdiction.

VOTE

Yes ▶ 23 887

No ▶ 24 374

Post-It® Fax Note 7671		Date 2/27/97	# of pages ▶ 1
To Joyce	From Nickie		
Co/Dept. City of King	Co.		
Phone #	Phone # 648-8670		
Fax # 266-1574	Fax #		

MEMORANDUM

To: Planning Commission
From: Jim Wheeler, Planning Director *JSW*
Date: May 2, 1997
Re: 1997 Ordinance Changes

Between the last meeting and this packet, you have received draft ordinance changes for:

1. Cell Tower Siting Requirements (which has undergone some further revisions already)
2. Application submittal requirements - which also happens to now include the change in the appeal period for subdivisions and partitions (previously sent to you separately).
3. Miscellaneous Items, which include:
 - a. explicitly dealing with arbors (1995 Planning Commission interpretation).
 - b. allowing mechanical (heating/cooling units) within side and rear yard setbacks (side issue from the Tofte Farms setback discussions).
 - c. gas station canopies within Highway 99E street yard setback (previously sent to you separately).
 - d. exemption from site and design review temporary commercial tent/canopies.

I am beginning work on the ordinance amendments that will incorporate Comprehensive Plan standards into subdivision/partition and site and design review approval criteria. There are a few other issues that could/should be discussed.

1. As requested by Pahlisch Duncan Homes, and at least inferred by some Planning Commission and City Council members during the interpretation appeal by Pahlisch Duncan Homes, should we discuss further where setbacks are measured from? In February, the Planning Commission essentially said that no change in the setbacks, or how they are measured should occur. Is this still valid? As a reminder, the issue was dealing with fireplaces (or gas stove inserts) and bay/garden windows.
2. Explicit restrictions on yard debris collection. John Dillon had signed up to work on this one.
3. Hospital & Medical/Dental Clinic as Conditional Uses in residential zones. I had brought this item up, and in February, the Planning Commission indicated that it would not like to pursue this, and would like to remove Hospitals from the current list of conditional uses permitted in residential zones. Please remember that Willamette Falls Hospital and Meridian Park Hospital are located in or very near residential areas. Schools, which have heavy traffic and outdoor activity impact on surrounding areas are uses permitted conditionally in residential zones. Canby Medical Clinic, on S. Elm Street, is a conditional use permit (grandfathered use), and is located in a residential zone. I believe that the idea has merit, so I want to make sure that the Planning Commission does not want to pursue the idea, and further that you want to remove Hospitals from the current list of conditionally permitted uses in the residential zones.

4. Road access width requirements - clarification. Keith Stewart and Dan Ewert had signed up to take this issue. I originally brought it up as a concern, and after reading the ordinance provisions many times over, believe that the recent ordinance change that regulates the number of residential units based on the widths and number of access roads, is not based on the width of the road services the development, but on the development itself. In discussing this issue back in 1996, Willow Creek and Township Village was discussed as examples. Willow Creek would now require two access roads, not one, as originally platted. And Township Village was o.k. (although individual phases might have been completed a bit differently due to the number of access roads at that time). In both cases, the width of either Territorial Road or Township Road was never discussed as being an issue. Under the interpretation that the Planning Commission is currently operating (the road that accesses the development must be at least 28 feet wide), Willow Creek would not be able to develop unless it provided two access roads, **and** widen Territorial Road from Highway 99E to the sight. Again, this was not the discussion at the time that the amendment was being worked on, and further, it is not the strict interpretation of the wording of the ordinance.

I believe that backing away from the current interpretation is appropriate, however, if the Planning Commission wants to continue with it, then it needs to be codified at this time. I wish for this to get further consideration by the Commission.

I will not be at the May 12, 1997 meeting (a budget meeting is scheduled that evening). Please consider these items and either relay decisions to me through Larry, or to me by the June 9, 1997 meeting. I desire to pursue public hearings and adoption by the end of the summer or early fall, at the latest.

PROPOSED 1997 TEXT AMENDMENTS

Application Submittal Requirements

Section 22. Add Section 16.44.120 Application for Special Permits (16.44.090 - 16.44.110) as follows:

An application for a special permit under sections 16.44.090 - 16.44.110 shall be filed with the City Planner on forms prescribed for that purpose. Such applications shall include:

- A. Plot plan, drawn to scale (not less than 1"=40'), indicating:
 1. The location of the unit subject to approval;
 2. Distance of the unit to property lines and existing structures on the lot;
 3. Streets;
 4. Major topographic and landscape features; and,
 5. Proposed utility connections.
- B. Narrative describing the proposal, and length of time the permit is needed.
- C. List of property owners within 100 feet of the subject property, on mailing labels.

Reasoning:

This is the type of information that is needed, but currently not specified, for appropriate processing of a special permit application.

Section 23. Amend Section 16.48.020 Plot plans - information required, to read as follows:

[A. For all proposed commercial, industrial and multiple-family residential development projects (having greater than two dwelling units), three] eight copies of a plot plan, drawn to a clearly legible scale, shall be submitted to the City Planner for review. These plans shall include all of the following which may be applicable to the development:

1. Locations and general designs of all structures, showing exterior doors;
2. Locations, sizes and general designs of all signs;
3. Bicycle paths, bicycle parking areas, sidewalks and other pedestrian ways;
4. Landscaping areas and water systems for landscaped areas;
5. Parking layout, including specially designated areas for economy cars and spaces for the handicapped. The patterns of vehicular traffic shall be shown, including ingress and egress points onto adjacent streets;
6. Locations and types of traffic-control signs;

2. More than six (6) residential units that enter onto any collector or arterial street;
3. Any multiple family dwellings (apartments, condominiums, townhouses, etc.) With more than six (6) units;
4. Industrial or commercial enterprises that will employ twenty (20) or more on any single shift.

D. Site Plan Information. The site plan shall include the following information:

1. Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the plat to the existing street or road pattern.
2. Detailed Site Plan. The site plan and landscape plan shall be drawn at a scale no smaller than 1"=50'.
3. General Information. The following general information shall be shown on the site plan and/or landscape plan:
 - a. Name or title to the development;
 - b. Date, north arrow, and scale of drawing;
 - c. Appropriate identification of the drawing as a site plan and/or landscape plan;
 - d. Property lines in relation to the development;
 - e. Names and addresses of the owner or owners, and development, engineer, architect, or other individual(s) who prepared the site plan and/or landscape plan;
 - f. The location, widths, and names of all existing or planned streets, other public ways and easements within or adjacent to the lot, and other important features;
 - g. Contour lines having the following minimum intervals:
 - i. One-foot contour intervals for areas containing wetlands, or areas located within a 500-year flood plain;
 - ii. Two-foot contour intervals for ground slopes between five and ten percent;
 - iii. Five-foot contour intervals for ground slopes exceeding ten percent;
 - h. Location and direction of all watercourses on and abutting the tract. Approximate location of areas subject to inundation, stormwater overflow or standing water. Base flood data showing elevations of all property subject to inundation in the event of a one-hundred-year flood shall be shown;
 - i. Natural features, such as rock outcroppings, marshes or wetlands, wooded areas, isolated preservable trees (trees with trunks over 6" in diameter - as measured 4 feet above the ground), and significant areas of vegetation;
 - j. A plan for grading in areas that have wetlands, natural drainage areas and areas that are located within a 500-year flood plain;
 - k. Location of all existing structures, and whether or not any of them are to be retained with the development;
 - l. Location of all structures, showing exterior doors;
 - m. Location of all signs;
 - n. Bicycle paths, bicycle parking areas, sidewalks and other pedestrian ways;
 - o. Landscaping areas and water systems for landscaped areas;

B. Site Plan Information. This information is not required as a part of the Conditional Use Permit application, if a Site and Design Review application is being reviewed concurrently with the Conditional Use Permit application. The site plan shall include the following information:

1. Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the plat to the existing street or road pattern.
2. Detailed Site Plan. The site plan and landscape plan shall be drawn at a scale no smaller than 1"=50'.
3. List of property owners within 200 feet of the subject property, on mailing labels.
4. A traffic impact analysis, conducted or reviewed by a traffic engineer contracted by the City and paid for by the applicant (through the City), for any project that results in any one of the following:
 - a. More than one access onto any collector or arterial street (such streets being designated by the City of Canby Transportation Plan);
 - b. More than six (6) residential units that enter onto any collector or arterial street;
 - c. Any multiple family dwellings (apartments, condominiums, townhouses, etc.) With more than six (6) units;
 - d. Industrial or commercial enterprises that will employ twenty (20) or more on any single shift.
5. General Information. The following general information shall be shown on the site plan and/or landscape plan:
 - a. Name or title to the development;
 - b. Date, north arrow, and scale of drawing;
 - c. Appropriate identification of the drawing as a site plan and/or landscape plan;
 - d. Property lines in relation to the development;
 - e. Names and addresses of the owner or owners, and development, engineer, architect, or other individual(s) who prepared the site plan and/or landscape plan;
 - f. The location, widths, and names of all existing or planned streets, other public ways and easements within or adjacent to the lot, and other important features;
 - g. Contour lines having the following minimum intervals:
 - i. One-foot contour intervals for areas containing wetlands, or areas located within a 500-year flood plain;
 - ii. Two-foot contour intervals for ground slopes between five and ten percent;
 - iii. Five-foot contour intervals for ground slopes exceeding ten percent;

Section 26. Amend Section 16.52.040(A) Expansion of nonconforming structure or change of use - application required, to read as follows:

A. A request for an expansion of a nonconforming structure or change of nonconforming use may be initiated by a property owner or the owner's authorized agent by filing an application with the City Planner upon forms prescribed for the purpose. ~~The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development.~~ If the application is for the expansion of a nonconforming structure, or change in use of a nonconforming use, the City Planner will send to the owners of all property within one hundred feet of the subject property a notice of application, informing them that they may request a public hearing before the Planning Commission on the application by filing a written request within ten days. If no such request for hearing is received within the time limits, and if the staff determines that the application is of a minor nature, and will not constitute an expansion or intensification of a nonconforming use, the City Planner may authorize the necessary license or permits for change of use or structural expansion. In making the above determination, the staff shall utilize the criteria set forth in Section 16.52.050.

[Applications shall include:

- 1. Plot plan, drawn to scale (not greater than 1"=40'), indicating:**
 - a. The location of the existing buildings;**
 - b. The location of the proposed expansion;**
 - c. Distance to property lines for existing buildings and the proposed expansion;**
 - d. Existing parking configuration;**
 - e. Streets;**
 - f. Major topographic and landscape features.**
- 2. Nature of the use being proposed (for a change in use permit application).**
- 3. List of property owners within 100 feet of the subject property, on mailing labels.]**

Reasoning:

This is the type of information that is needed, but currently not specified, for appropriate processing of a nonconforming use/structure application.

Section 27. Amend Section 16.54.020 Application and fee, to read as follows:

An application for amendment by a property owner or his authorized agent shall be filed with the City Planner on forms prescribed for the purpose, and shall include the appropriate fee. **[The application shall include the following:**

Section 29. Amend Section 16.60.010 Filing Procedures, to read as follows:

Any application for a land partition[, **on forms prescribed for the purpose,**] shall be **[filed with the City Planner, and]** accompanied by the following:

A. Twenty-five (25) copies of the tentative partition map, drawn to a scale and submitted on paper no less than eight and one-half by eleven inches in size, and showing all of the following information:

1. The date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned;
2. Name and address of the record owner and the person who prepared the tentative map;
3. If the applicant is a corporation, a certificate of good standing from the State Corporation Commission shall be filed. The name of the individual authorized to act as the registered agent of the corporation shall also be provided;
4. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning;
5. For land adjacent to and within the tract to be partitioned, the locations, names and existing **[right-of-way and pavement]** widths of streets; location, width and purpose of other existing easements, and location and size of sewer and water lines and drainage ways and the location of power poles;
6. Outline and location of existing buildings to remain in place and any forested or other significant areas of vegetation;
7. Parcel layout, showing size[, **dimensions,**] and relationship to existing or proposed streets and utility easements;
- [8. Vicinity map of the subject property;]**

B. A written statement describing the proposed development and including supportive documentation regarding the particular design in terms of its conformance with the Comprehensive Plan[approval criteria (16.60.030)] and compatibility with surrounding land use patterns.

[C. List of property owners within 200 feet of the subject property, on mailing labels.

D. A traffic impact analysis, conducted or reviewed by a traffic engineer contracted by the City and paid for by the applicant (through the City), for any project that results in any one of the following:

1. More than one access onto any collector or arterial street (such streets being designated by the City of Canby Transportation Plan);
2. More than six (6) residential units that enter onto any collector or arterial street;
3. Any multiple family dwellings (apartments, condominiums, townhouses, etc.)
With more than six (6) units;
4. Industrial or commercial enterprises that will employ twenty (20) or more on any single shift.]

- c. Appropriate identification of the drawing as a tentative plat;
 - d. Location of the subdivision sufficient to define its boundaries and a legal description of the tract boundaries;
 - e. Names and addresses of the owner or owners, and subdivider, engineer, surveyor, or other individual who prepared the plat;
 - f. If the applicant is a corporation, a certificate of good standing from the State Corporation Commission shall be filed. The name of the individual authorized to act as the registered agent of the corporation shall also be provided.
4. Existing Conditions. The following existing conditions shall be shown on the tentative plat:
- a. The location, **[right-of-way and pavement]** widths, and names of all existing or planned streets, other public ways and easements within or adjacent to the tract; and other important features, such as section lines and corners, City boundary lines and monuments which may have been found;
 - b. Contour lines having the following minimum intervals:
 - i. One-foot contour intervals for ~~ground slopes less than five percent~~**[areas containing wetlands, or areas located within a 500-year flood plain]**;
 - ii. Two-foot contour intervals for ground slopes between five and ten percent;
 - iii. Five-foot contour intervals for ground slopes exceeding ten percent;
 - c. Location and direction of all watercourses on and abutting the tract. Approximate location of areas subject to inundation, stormwater overflow or standing water. Base flood data showing elevations of all property subject to inundation in the event of a one-hundred-year flood shall be shown;
 - d. Natural features, such as rock outcroppings, marshes **[or wetlands]**, wooded areas, isolated preservable trees **[(trees with trunks over 6" in diameter - as measured 4 feet above the ground)]**, and significant areas of vegetation;
 - e. Existing uses of the property, including location of all existing structures to remain on the property after platting;
 - f. The location of at least one temporary benchmark within the plat boundaries or the source of the contour line data shown. (Source and accuracy subject to approval of City Engineer).
5. Proposed Plan of Subdivision. The following additional information shall be included on the tentative plat of a subdivision:
- a. The location, width, names, approximate grades and radii of curves of proposed streets to future streets, as shown on any approved development plan. If no complete development plan is in effect in the area, assurance of adequate traffic circulation shall be provided;
 - b. Easements. Location on the site or abutting property, showing the width and purpose of all existing and proposed easements;

- j. A written statement describing the proposed development and including supportive documentation regarding the relationship of the subdivision to the requirements of the ~~Comprehensive Plan~~**[approval standards and criteria (16.62.020)]** and its general compatibility with surrounding land use patterns.
7. ~~Preliminary~~**[Pre-application]** Review of Tentative Plat. **[Ten (10) copies of the tentative plat, with all required plat information, shall be submitted to the City Planner for a pre-application conference prior to a formal application submittal.]** Upon receipt, the City Planner shall furnish one copy of a tentative plat and supplementary material to the City Engineer and such other agencies as are known to be affected. Other agencies believed to have an interest shall be provided notice of the proposal. **[A pre-application conference shall be scheduled within thirty (30) days of receipt of the preliminary tentative plat and information. The City Engineer and interested/affected agencies shall be invited to the conference, with the applicant, in order]** ~~These officials and agencies shall be given a reasonable time to review the plat and to suggest revisions that appear to be in the public interest.~~

Reasoning:

This is the type of information that is needed, but currently not specified, for appropriate processing of a subdivision application.

Section 31. Amend Section 16.72.030 Form and Content, to read as follows:

- A. Applications shall be submitted to the City Planner on forms prescribed for the purpose.
- B. There shall be included as a part of the application **[all required information for a subdivision (16.62.010), for planned unit development applications involving division of property, or a conditional use permit (16.50.020) for planned unit development applications of a single tract without property divisions]**~~an accurate map, drawn to scale of not less than one hundred feet to the inch, showing the boundaries of the site, the proposed location and horizontal and vertical dimensions of all buildings and structures proposed to be located on the site; proposed locations and dimensions of open space within the site; proposed public dedications, if any, within the site; location, dimensions and design of off-street parking facilities, showing points of ingress to and egress from the site; the location, direction and bearing of any major physiographic feature such as railroads, drainage canals, and existing topographic contours at intervals of not less than five feet, together with proposed grading, drainage and landscaping.~~
- C. The written information shall contain a statement of the general purpose of the project and an explanation of all features pertaining to uses and other pertinent matters not readily identifiable in map form. **[Proposed deed restriction in outline form, if any.]** The adoption of the form specifying the particular nonresidential uses permitted to locate on the site, if any, shall constitute a limitation to those specific uses.

F. A written statement explaining the conditions surrounding the proposal and addressing the required criteria of Section 16.84.040.]

Reasoning:

This is the type of information that is needed, but currently not specified, for appropriate processing of an application for annexation.

Section 33. Delete Section 16.88.070 Amendments to title.

~~Amendments to the text of this title, whether initiated by the Commission, Council, or a private applicant, shall follow the same procedures as a legislative zoning amendment set forth in Division III.~~

Reasoning:

Section 16.88.160 provides the process for applications to the title of the text. The process set up in 16.88.160 is appropriate and in accordance with state rules for ordinance amendments. Referral to Division III, which deals more specifically to zoning map changes and not text changes, confuses the issue of how to handle text changes. Section 16.88.160 is the appropriate process to use.

Section 34. Amend Section 16.88.140(B) Appeal to Council, to read as follows:

B. Appeal to Council. An action or ruling of the Commission authorized by this title may be appealed to the Council within fifteen (15) days after the Commission has rendered its decision by filing written notice with the City Planner, ~~except in the case of action taken on a tentative map or a minor partition or a tentative subdivision plat, for which the appeal period shall be thirty days.~~ If no appeal is taken within the specified period, and if no appeal is initiated by action of the Council, the decision of the Commission shall be final. The written notice of appeal shall clearly state the nature of the decision being appealed and the reasons why the appellant is aggrieved. **[The reasons why the appellant is aggrieved shall be provided in regards to the criteria and standards in 16.88.140(C).]** The appeal period shall ensue from the date that the written notification of the Commission's action has been postmarked. The Council may initiate an appeal on its own motion, following the same limits above.

Reasoning:

This additional statement/requirement provides the appropriate information, and more closely ties the appeal to the criteria which the Council must use to overturn or modify a Planning Commission decision.

Reasoning:

This is the type of information that is needed, but currently not specified, for appropriate processing of a Comprehensive Plan amendment application by a property owner.

PROPOSED 1997 TEXT AMENDMENTS

Miscellaneous Items

Section 1. Amend Section 16.08.110 Fences, to read as follows:

[A.] Fences not more than three and one-half feet in height may be constructed up to property lines in the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six (6) feet in height may be constructed in any interior yard, street yard along the side of a corner lot, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.

[B. Arbors that are added to a fence that is constructed of proper design (height and setbacks) and in accordance with this section (16.08.110), is allowed, given the following considerations:

1. The arbor shall not exceed eight (8) feet in height (including the fence);
2. The arbor, or any part of the arbor, shall not obstruct the view of drivers or pedestrians navigating the streets and/or sidewalks in the area;
3. Vegetation on the arbor shall not be allowed to grow solid at any time, creating a solid barrier that blocks visibility;
4. Vegetation on the arbor shall not, at any point, be allowed to grow over the eight (8) foot height limit;
5. If the vegetation becomes too full or too high, the owner is financially responsible to rectify the situation, and to maintain the vegetation, fence, and arbor;
6. Color, construction, and design must be consistent with other like arbors/fences in the immediate area;
7. The arbor shall not block, or in any way impede any present vistas enjoyed by neighboring homes and/or other points of interest existing at the time of the building of the fence or arbor;
8. The primary purpose of the arbor is to support and sustain foliage/vegetation.

C.] The Planning Commission may require site-blocking or noise mitigating fences for any development it review.

[D.] The Planning Commission may require fences of up to eight feet in height for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

[E.] No fence/wall shall be constructed throughout a subdivision, planned unit development, or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission.

Reasoning:

The Planning Commission made an interpretation in 1995 (INT 95-02) which permitted arbors, as stated in the above proposed amendment. The proposal is to codify the interpretation.

Section 2. Amend Section 16.16.030(F)(2), to read as follows:

- F. 2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet[; **mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements**].

Reasoning:

Traditionally, most mechanical units are less than 30 inches high, and therefore were exempt from the setback requirements. However, the units have gotten a little be taller and, in some cases, are higher than 30 inches. It is generally felt that these units should be permitted in the side yard setback areas. In order to provide clarity in the future, the exemption should be codified explicitly.

Section 3. Amend Section 16.18.030(F)(2), to read as follows:

- F. 2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet[; **mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements**].

Reasoning:

Traditionally, most mechanical units are less than 30 inches high, and therefore were exempt from the setback requirements. However, the units have gotten a little be taller and, in some cases, are higher than 30 inches. It is generally felt that these units should be permitted in the side yard setback areas. In order to provide clarity in the future, the exemption should be codified explicitly.

Section 4. Amend Section 16.20.030(F)(2), to read as follows:

- F. 2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet[; **mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements**].

Reasoning:

Traditionally, most mechanical units are less than 30 inches high, and therefore were exempt from the setback requirements. However, the units have gotten a little be taller and, in some cases, are higher than 30 inches. It is generally felt that these units should be permitted in the side yard setback areas. In order to provide clarity in the future, the exemption should be codified explicitly.

Section 5. Amend Section 16.22.030(F)(3), to read as follows:

- F. 3. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet[; **mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements**].

Reasoning:

Traditionally, most mechanical units are less than 30 inches high, and therefore were exempt from the setback requirements. However, the units have gotten a little be taller and, in some cases, are higher than 30 inches. It is generally felt that these units should be permitted in the side yard setback areas. In order to provide clarity in the future, the exemption should be codified explicitly.

Section 6. Amend Section 16.28.030(C)(1) Development Standards, to read as follows:

- C. Minimum yard requirements:
1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. **Gas station canopies shall be exempted from the twenty foot setback requirements.** Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;

Reasoning:

The Planning Commission has permitted two canopies to be constructed closer than the required street yard setback from Highway 99E, via variances. The essentially reasoning for the granting of the variances, was that existing gas stations with canopies, have the canopies located within the street yard setbacks. With two variances being approved for this reason, it is appropriate to amend the code to permit the canopies within the required setback.

Section 7. Amend Section 16.30.030(C)(1) Development Standards, to read as follows:

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. **Gas station canopies shall be exempted from the twenty foot setback requirements.** Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;

Reasoning:

The Planning Commission has permitted two canopies to be constructed closer than the required street yard setback from Highway 99E, via variances. The essentially reasoning for the granting of the variances, was that existing gas stations with canopies, have the canopies located within the street yard setbacks. With two variances being approved for this reason, it is appropriate to amend the code to permit the canopies within the required setback.

Section 8. Amend Section 16.32.030(C)(1) Development Standards, to read as follows:

C. Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. **Gas station canopies shall be exempted from the twenty foot setback requirements.** Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;

Reasoning:

The Planning Commission has permitted two canopies to be constructed closer than the required street yard setback from Highway 99E, via variances. The essentially reasoning for the granting of the variances, was that existing gas stations with canopies, have the canopies located within the street yard setbacks. With two variances being approved for this reason, it is appropriate to amend the code to permit the canopies within the required setback.

Section 9. Add to Section 16.49.030(2) Site and design review plan approval required, the following:

2. [e. Temporary commercial tent/canopy structures, which meet the Uniform Building or Fire Code, and which will be removed within thirty (30) days of placement.]

Reasoning:

The Planning Commission recently discussed this issue, which resulted in the proposed amendment. The result of this proposal is to permit temporary structures used in “sidewalk sales” and the like, without requiring a formal site and design review.