

- STAFF REPORT -

APPLICANT:

Mike and Nancy Jones
654 N.W. 3rd Avenue
Canby, OR 97013

FILE NO.:

VAR 96-01

OWNER:

Same

STAFF:

James S. Wheeler
Planning Director

LEGAL DESCRIPTION:

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

DATE OF REPORT:

October 4, 1996

LOCATION:

North side of NW 3rd Avenue between
N. Cedar and N. Douglas Streets
(654 NW 3rd Avenue)

DATE OF HEARING:

October 14, 1996

COMP. PLAN DESIGNATION:

High Density Residential

ZONING DESIGNATION:

R-2 (High Density Residential)

I. APPLICANT'S REQUEST:

The applicant is requesting a variance of the minimum lot area required for two units to be reduced from 7,500 square feet to 5,750 square feet.

II. APPLICABLE CRITERIA:

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

16.88.150.D Standards and Criteria.

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

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

III. OTHER APPLICABLE CRITERIA:

- A. 16.04.440 Nonconforming structure, lot or use definition.
- B. 16.20.030 Development Standards in R-2 Areas

IV. BACKGROUND:

The existing home and "carriage house" were constructed in 1910. Approximately 25 years ago (1971), the "carriage house" was converted to a dwelling unit. The applicant maintains that the use of the "carriage house" is a nonconforming use. However, in accordance with Section 16.04.440, the definition of a nonconforming use is "a . . . use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply." The "carriage house" was converted without a building permit. The City has records of building permits being issued for new construction, additions, remodels, etc. extending back to 1957. Therefore, staff maintains that the "carriage house" was converted illegally, and is not a

nonconforming use. Additionally, any building permit application is subject to the zoning ordinance provisions in place at the time that the building permit is submitted, regardless of when the work was completed. For the record, Ordinance 452 (the City's first zoning ordinance, adopted 7/15/63) was in effect at the time of the conversion, and required that a lot be a minimum of 7,000 square feet for two units to exist on the lot. Therefore, it would not have conformed to the zoning provisions at the time that it was converted.

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

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

The extraordinary circumstances that apply to this property and do not apply generally to other properties in the City and within the same zone, is that the City was unaware of a long standing, illegal use, of a building. Staff concedes that, while "control" of the circumstances may be debatable, the applicant/owner was not cognizant of the violation. Therefore, staff tentatively believes that this criteria has been met.

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

The applicant argues that the use is nonconforming, however, as stated in the Background section above, staff strongly believes that the use is illegal, not nonconforming. The applicant makes a second point regarding this criteria which states that if the "carriage house" had been attached to the existing house, no variance would have been necessary. Staff believes that this is true. Because the "carriage house" is not wired for a standard kitchen stove, if the structure were a part of the house, it would not be considered to be a separate dwelling unit according to the "Dwelling Unit" definition (16.04.200). However, a building permit would still have been required for the conversion. Further, the "carriage house" is separate, and as it is currently being used, is considered to be a dwelling unit, regardless of the type of kitchen facility that it has. A similar structure and use can be constructed, attached to the existing house, and be both legal and conforming.

Because a use similar to the one being conducted in the "carriage house" can occur, attached to the existing house, and be both legal and in conformance with the zoning ordinance, a variance is not necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the City and within the same zone. Staff believes that this criteria has not been met.

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

The applicant states that The City's Comprehensive Plan implies approval of the use of the property as it has occurred over the past 25 years. However, the Comprehensive Plan states (page 53) that the R-2 zone conforms with the category of High Density Residential

land use designation. The R-2 zone states that a minimum of 7,500 square feet of land is needed to accommodate 2 dwelling units. However, given that argument, staff concurs with the applicant that there is a general desire to increase density, especially when such an increase will not present a significant adverse impact to surrounding properties or to public infrastructure and services. No such adverse impacts by the conversion of the "carriage house" into a dwelling unit have been brought to the attention of staff. Therefore, staff believes that this criteria has been met.

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

No complaints about the use of the "carriage house" has been brought to the City's attention over the past 25 years of its use as a dwelling unit. Staff believes that this record is sufficient to show that a granting of the use, and continuance of the use of the "carriage house" as a dwelling unit, will not be materially detrimental to other property within the same vicinity. Staff believes that this criteria has been met.

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

The variance requested is the minimum variance which will alleviate the hardship, only if the "carriage house" is to be continued to be used as a dwelling unit. The hardship can be alleviated without a variance by an addition to the existing house that could be used in the same fashion as the "carriage house." Therefore, staff tentatively believes that this criteria has not been met.

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

As best as staff can determine, the applicant/owner has not been acting in deliberate violation of these or other City regulations. Additionally, staff tentatively believes that the original conversion of the "carriage house" into a dwelling unit was not done in deliberate violation of these or other City regulations.

VI. CONCLUSION

Staff concludes that the variance requested for the minimum lot size necessary for two dwelling units to be reduced from 7,500 square feet to 5,750 square feet does not meet criteria B and E. Staff concludes that the other criteria for the granting of a variance have been met. Staff concludes that the requested variance should be denied in that the variance is not necessary for the owner to have substantially the same property rights as owners of other property similarly zoned and located, and that a variance is not required to remedy the hardship.

VII. RECOMMENDATION:

Based upon the findings and conclusions in this report, the information submitted by the applicant, and without benefit of public hearing, staff recommends denial of VAR 96-01.

If the Planning Commission finds and decides that the variance should be granted, staff recommends that the following condition apply:

1. Within 180 days from the final date of approval, the "carriage house" shall be brought up to current Uniform Building Codes.
2. The "carriage house" will be connected to utility services in a manner approved by the utility providers, specifically, water, sewer, and electric. Documentation of approved connections shall be provided to the Planning Office prior to 180 days from the final date of approval. (Final date of approval is the 15th day after the date of the mailing of the final order.)

Exhibits:

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

VARIANCE APPLICATION

Fee: \$900

OWNER

APPLICANT

Name Mike and Nancy Jones
Address 654 N. W. Third Street
City Canby State OR Zip 97013
SIGNATURE [Signature]

Name Mike and Nancy Jones
Address 654 N.W. Third Street
City Canby State OR Zip 97013
Phone: 263-6992

DESCRIPTION OF PROPERTY:

Tax Map 31E33CC Tax Lot(s) 700 Lot Size 5,750 sq. ft.
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name L.A. Seeley DLC No. 57 Lot 4 Block 18

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. SEE Attachment I.

USE

Existing Residential (R-2)
Proposed Residential (R-2)

Existing Structures Single Family dwelling, detached apartment

PROJECT DESCRIPTION

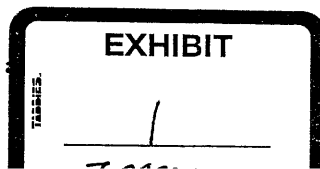
No project is proposed, nor new development contemplated by this application.
The applicants/property owners are requesting the City's approval of a variance
to make a long-term non-conforming use and structure a conforming use and
structure. The non-conformance has existed for approximately 25 years, but
has only recently been realized to be non-conforming. The applicants have been
advised to seek a variance to correct the non-conformance.

ZONING R-2 COMPREHENSIVE PLAN DESIGNATION HDR

PREVIOUS ACTION (if any) _____

File No. VAR 96-01
Receipt No. 2092
Received by [Signature]
Date Received 5.6.96
Completeness Date _____
Pre-Ap Meeting _____
Hearing Date 10-14-96

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



VARIANCE APPLICATION

ATTACHMENT II.

PROJECT DESCRIPTION - NARRATIVE

I. APPLICANT'S REQUEST:

The applicant is requesting the approval of a Variance to continue to use the detached carriage house on their property located at 654 N.W. Third as a dwelling unit (apartment).

II. DESCRIPTION OF THE PROJECT:

No project or development of any kind is proposed in this application. The applicants are seeking only the City's approval, to be made a matter of record, which allows the continued use of a detached carriage house located in the rear yard of their property, as a dwelling unit (apartment). The detached structure was modified for use as an apartment approximately 25 years ago, according to adjacent neighbors. The use existed in 1990, when the applicants purchased the property. It has only recently come to the attention of the applicants that there is no record of City approval for this existing use, and that such approval would require the granting of a variance.

VARIANCE APPLICATION

ATTACHMENT III.

STATEMENT ADDRESSING VARIANCE STANDARDS AND APPROVAL CRITERIA

I. STANDARDS AND CRITERIA

Section 16.88.150 (D) of the Canby Land Use and Development Ordinance provides: "A variance may be granted only upon determination that **ALL** of the following conditions will be met:

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

II. DISCUSSION

The single family dwelling located at 654 N.W. Third was built in 1910. The detached carriage house was converted to living space approximately 25 years ago by a previous owner, Kathryn Yoder, now deceased. Mrs. Yoder had the detached carriage house converted to living space for an elderly relative who required assisted care. The conversion of the carriage house was Mrs. Yoder's solution to provide the relative with privacy, and the necessary care at the same

time. It has not been determined what specific ordinance requirements the City had at the time of the conversion, or if Mrs. Yoder received any form of approval or permission from the City to convert the structure to a dwelling unit. According to the Planning Department, no permits for construction, plumbing, electrical, etc. are on file with the City.

Each successive owner of the property has used the converted carriage house for a guest house and/or a rental unit. The detached apartment has access from a city alley. It is connected to all utilities through the meters and/or connections of the primary residence. The kitchen facilities consist of a sink, refrigerator and microwave oven.

The applicants purchased the property in July, 1990. The "guest house" has been rented continually since the time of purchase, by the applicants. Only recently, while preparing to sell the property, it has come to the attention of the applicants that the rental unit apparently does not have any City approval of record. However, there have been no complaints from adjacent neighbors/property owners regarding the use of the detached structure as a separate dwelling unit.

Therefore, given these unusual and long-standing circumstances particular to this property, circumstances over which the applicants had no control, and of which the applicants had no knowledge of the need for City approval, condition no. 1 has been met. This nonconforming use has been on-going for decades, and should be "grandfathered".

In a majority of cases, a nonconforming use is protected under the "grandfather clause", unless such nonconforming use has been discontinued for a given period of time, such as twelve consecutive months. Further, the subject property is zoned R-2, High Density Residential. This zoning provides for multi-family dwellings, such as duplexes, triplexes and apartments, provided that a common wall exists between the dwelling units. If the subject carriage house had been attached to the applicants' residence, the existing use as a dwelling unit would not be an issue. However, the carriage house is detached, no common wall exists, thus a variance is needed. However, the right to continue to use the property as it has been used for so many years, and to be permitted to have a secondary dwelling unit on a common parcel of property is a right that every property owner within the same zone possesses, provided there are no variations from the City's ordinance requirements. However, with this application, condition no. 2 can be met, with approval of the requested variance.

The City's Comprehensive Plan addresses policies and goals for future growth and development. It also contemplates the impact of new growth and development on the City's infrastructure, and on the City's ability to continue to adequately and efficiently provide services such as Police and fire protection. The purpose of the Comprehensive Plan is to guide such development, and to ensure that property will be developed for "its highest and best use", according to its zoning designation. In fact, Policy No. 5, entitled, "CANBY SHALL UTILIZE THE LAND USE MAP AS THE BASIS OF ZONING AND OTHER PLANNING OR PUBLIC FACILITY DECISIONS" states under "High Density Residential" that this zone is "Generally distinguished by multiple family or other residential uses ... intended to provide for the widest

variety of housing opportunities." Because the variance requested does not propose or contemplate new development, and because the non-conforming "guest house" has been such for more than twenty years, it can be assumed that the City's approval of this application will have no impact on infrastructure or city services. Therefore, the intent or purpose of the Comprehensive Plan is not a factor in this case, except as provided in Policy No. 5. Further, for the same reasons, material detriment to the City's land development and planning ordinance cannot be readily established. Therefore, condition no. 3 has been met.

The applicants will submit into the record, with the consent of the hearing body, a petition signed by many, if not all of their surrounding neighbors, supporting approval of the variance. Given the support of other property owners within the vicinity, it would not seem that the requested variance could be considered "materially detrimental" to these other properties, satisfying condition no. 4.

The requested variance, to allow a use which has existed on the property for approximately twenty-five years to continue, without modification or any other change in the circumstances which exist today, would logically be the minimum variance needed to alleviate the hardship, and would satisfy condition no. 5.

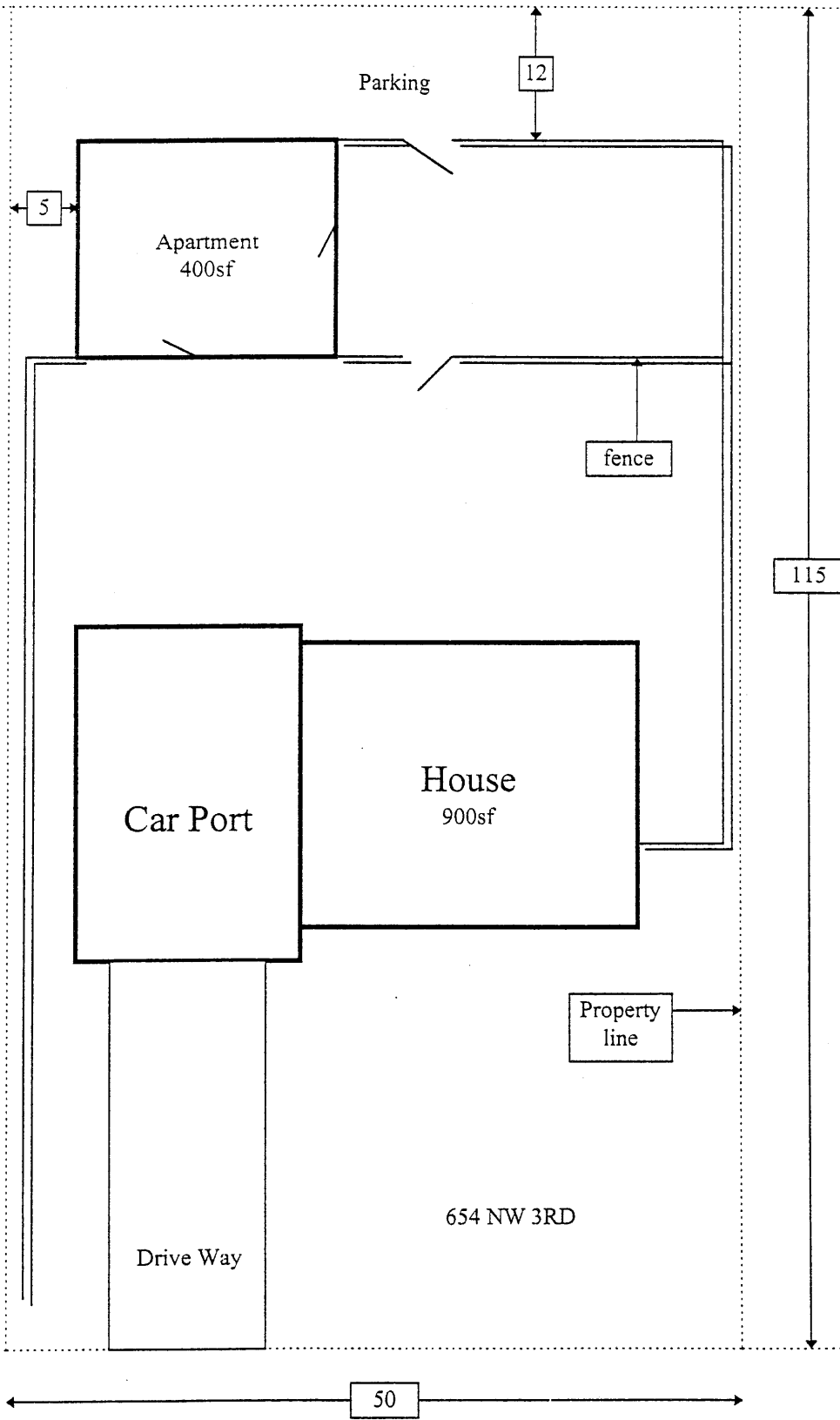
Condition no. 6 has been discussed previously, and it has been established that the conditions which exist on the property have existed for approximately twenty-five years, and therefore could not have been caused by deliberate acts on the part of the applicants to violate any City regulations, ordinances or codes.

III. CONCLUSION

The request for a variance to correct a long-term violation of the City's land development ordinance, which violation has only recently "come to light" would change nothing as it presently exists on the applicant's property. The applicants are preparing to sell the subject property, and desire to receive the City's approval of an existing condition that has caused no problems, and was not realized to be a violation of a City ordinance. The applicants are aware that the City may impose conditions to its approval of this request, and are prepared to comply with such reasonable conditions.

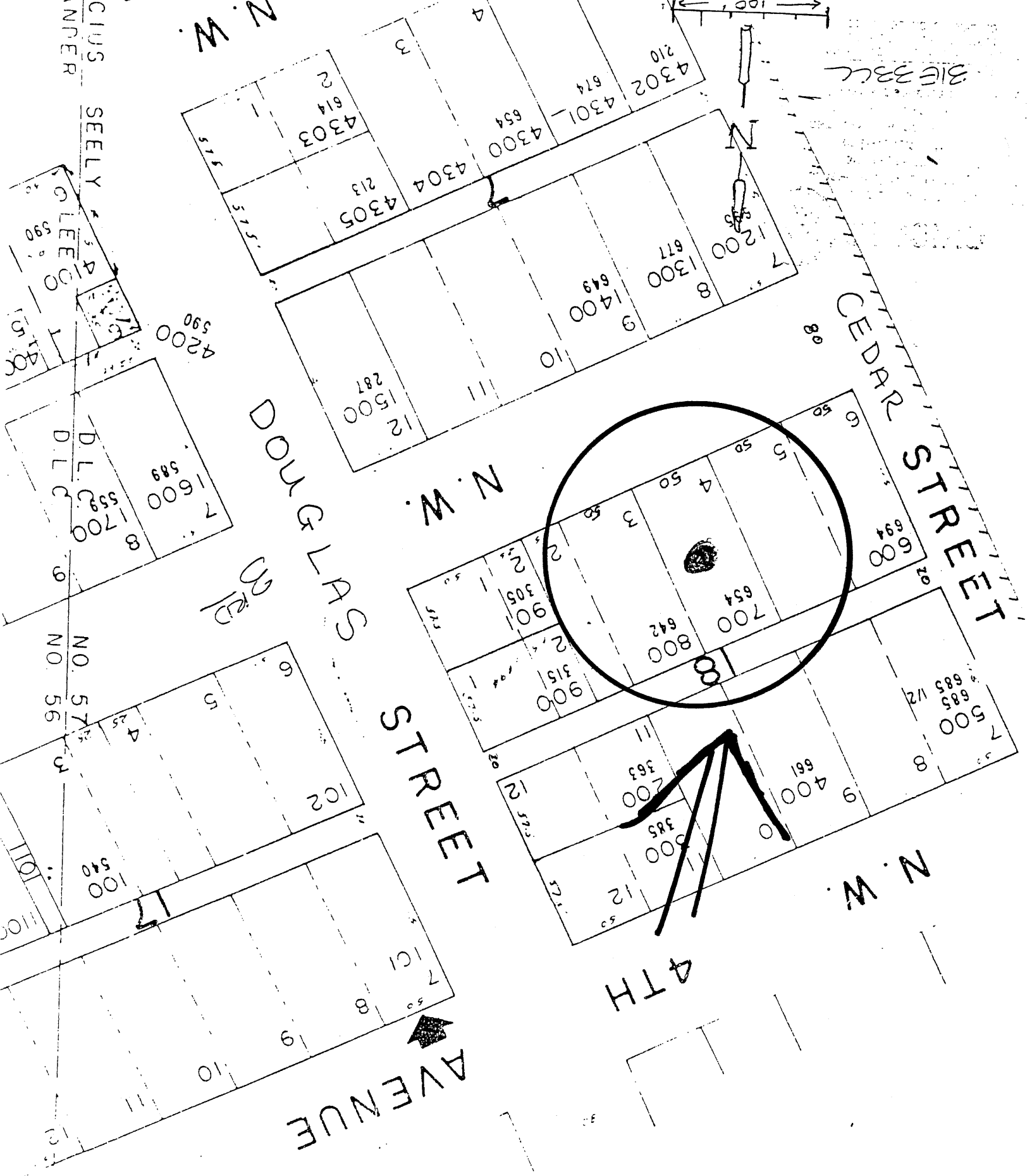
Given the special, long-term, pre-existing circumstances of this proposal, and the belief that it would not have any detrimental impact on the surrounding area or on public facilities and services, it is respectfully requested that the Variance for the converted dwelling unit, located in the rear yard of property commonly known as 654 N.W. Third Street, be approved.

Alley



3rd St.

D.L.C.'S
PHILANDER LEE NO. 568 49
L.A. SEELY NO. 57



31E33C

N. W.

CEDAR STREET

N. W.

DOOLITTLE STREET

STREET

AVENUE

N. W.

4TH

SEELY

DOOLITTLE

D.L.C.

NO. 57

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PLEASE RETURN ATTACHMENTS!!!
CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: September 9, 1996

TO: FIRE, POLICE, SCHOOLS, CUB, TELEPHONE, MIKE JORDAN, JOHN KELLEY, ROY, STEVE

The City has received VAR 96-01, an application by Mike and Nancy Jones [applicant/owner] for approval to convert a detached garage into a dwelling units on a 5,750 square foot lot. The property is located on the north side of N.W. 3rd Avenue, between N. Cedar Street and N. Douglas Street [identified as 654 N.W. 3rd Avenue] (Tax Lot 700 of Tax Map 3-1E-33CC).

We would appreciate your reviewing the enclosed application and returning your comments by **September 27, 1996 PLEASE**. The Planning Commission plans to consider this application on **October 14, 1996**. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

None

Please check one box:

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

Signature: Steve Hanson

Date: 9/10/96

Agency: City of Canby

Title: POTW Supervisor

EXHIBIT

2

3 pages

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REQUEST FOR COMMENTS

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We would appreciate your reviewing the enclosed application and returning your comments by September 27, 1996 PLEASE. The Planning Commission plans to consider this application on October 14, 1996. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

IF The dwelling remains, within the same use it will be acceptable. IF ANY STRUCTURE change is made, then we will need to see a further application, to remain under the grand father clause.

Please check one box:

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

Signature: Roy Kester Date: 9-27-96
Agency: City of Canby Title: Public Works

PLEASE RETURN ATTACHMENTS!!!
CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

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Comments or Proposed Conditions:

Please check one box:

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

Signature: *Gerry Nigam*

Date: *9/26/96*

Agency: *Canby Police Dept.*

Title: *Police Chief.*

VARIANCE APPLICATION

Fee: \$900

OWNER

APPLICANT

Name Mike and Nancy Jones

Name Mike and Nancy Jones

Address 654 N. W. Third Street

Address 654 N.W. Third Street

City Canby State OR Zip 97013

City Canby State OR Zip 97013

SIGNATURE [Signature]

Phone: 263-6992

DESCRIPTION OF PROPERTY:

Tax Map 31E33CC Tax Lot(s) 700 Lot Size 5,750 sq. ft.
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name L.A. Seeley DLC No. 57 Lot 4 Block 18

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. SEE Attachment I.

USE

Existing Residential (R-2)

Proposed Residential (R-2)

Existing Structures Single Family dwelling, detached apartment

PROJECT DESCRIPTION

No project is proposed, nor new development contemplated by this application.
The applicants/property owners are requesting the City's approval of a variance
to make a long-term non-conforming use and structure a conforming use and
structure. The non-conformance has existed for approximately 25 years, but
has only recently been realized to be non-conforming. The applicants have been
advised to seek a variance to correct the non-conformance.

ZONING R-2 COMPREHENSIVE PLAN DESIGNATION HDR

PREVIOUS ACTION (if any) _____

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

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

ATTACHMENT I

PROPERTY OWNERSHIP LIST

VARIANCE APPLICATION OF MIKE AND NANCY JONES

Donald Martenson
Marian Martenson
1935 S Leland Rd
Lavercreek, OR 97004

Carol Weaver
642 NW 3rd Ave
Canby, OR 97013

Viola Mack
621 N Douglas Ln #10
Canby, OR 97013

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

Helen Richmond
677 NW 3rd Ave
Canby, OR 97013

Richard Woodworth
Gwendolyn Woodworth
694 NW 3rd Ave
Canby, OR 97013

Melissa Stamps
695 NW 3rd Ave
Canby, OR 97013

Herman & Freda Bergman
PO Box 411
Canby, OR 97013

Jeffery & Carol Schwalm
890 N Aspen Ct
Canby, OR 97013

Mary Liechty
347 N Cedar St
Canby, OR 97013

Gale & Maren Kay Porter
365 N Cedar St
Canby, OR 97013

Joel & Colleen McCloud
Ryan Boyd
1337 El Prado Ave #202
Torrance, CA 90501

Minnie Coon
287 N Douglas St
Canby, OR 97013

Hazel Kraxberger
305 N Douglas St
Canby, OR 97013

Carrie Wiley
3480 NW Raleigh St
Portland, OR 97210

Harold & Shirley Tietz
363 N Douglas St
Canby, OR 97013

Jose & Maria Arevalo
4500 S Lone Hollow Rd
Woodburn, OR 97071

ATTACHMENT II

STATEMENT DESCRIBING PROPOSED DEVELOPMENT
VARIANCE APPLICATION OF MIKE AND NANCY JONES

VARIANCE APPLICATION

ATTACHMENT II.

PROJECT DESCRIPTION - NARRATIVE

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ATTACHMENT III

STATEMENT ADDRESSING VARIANCE STANDARDS

AND APPROVAL CRITERIA

VARIANCE APPLICATION OF MIKE AND NANCY JONES

VARIANCE APPLICATION

ATTACHMENT III.

STATEMENT ADDRESSING VARIANCE STANDARDS AND APPROVAL CRITERIA

I. STANDARDS AND CRITERIA

Section 16.88.150 (D) of the Canby Land Use and Development Ordinance provides: "A variance may be granted only upon determination that **ALL** of the following conditions will be met:

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II. DISCUSSION

The single family dwelling located at 654 N.W. Third was built in 1910. The detached carriage house was converted to living space approximately 25 years ago by a previous owner, Kathryn Yoder, now deceased. Mrs. Yoder had the detached carriage house converted to living space for an elderly relative who required assisted care. The conversion of the carriage house was Mrs. Yoder's solution to provide the relative with privacy, and the necessary care at the same

time. It has not been determined what specific ordinance requirements the City had at the time of the conversion, or if Mrs. Yoder received any form of approval or permission from the City to convert the structure to a dwelling unit. According to the Planning Department, no permits for construction, plumbing, electrical, etc. are on file with the City.

Each successive owner of the property has used the converted carriage house for a guest house and/or a rental unit. The detached apartment has access from a city alley. It is connected to all utilities through the meters and/or connections of the primary residence. The kitchen facilities consist of a sink, refrigerator and microwave oven.

The applicants purchased the property in July, 1990. The "guest house" has been rented continually since the time of purchase, by the applicants. Only recently, while preparing to sell the property, it has come to the attention of the applicants that the rental unit apparently does not have any City approval of record. However, there have been no complaints from adjacent neighbors/property owners regarding the use of the detached structure as a separate dwelling unit.

Therefore, given these unusual and long-standing circumstances particular to this property, circumstances over which the applicants had no control, and of which the applicants had no knowledge of the need for City approval, condition no. 1 has been met. This nonconforming use has been on-going for decades, and should be "grandfathered".

In a majority of cases, a nonconforming use is protected under the "grandfather clause", unless such nonconforming use has been discontinued for a given period of time, such as twelve consecutive months. Further, the subject property is zoned R-2, High Density Residential. This zoning provides for multi-family dwellings, such as duplexes, triplexes and apartments, provided that a common wall exists between the dwelling units. If the subject carriage house had been attached to the applicants' residence, the existing use as a dwelling unit would not be an issue. However, the carriage house is detached, no common wall exists, thus a variance is needed. However, the right to continue to use the property as it has been used for so many years, and to be permitted to have a secondary dwelling unit on a common parcel of property is a right that every property owner within the same zone possesses, provided there are no variations from the City's ordinance requirements. However, with this application, condition no. 2 can be met, with approval of the requested variance.

The City's Comprehensive Plan addresses policies and goals for future growth and development. It also contemplates the impact of new growth and development on the City's infrastructure, and on the City's ability to continue to adequately and efficiently provide services such as Police and fire protection. The purpose of the Comprehensive Plan is to guide such development, and to ensure that property will be developed for "its highest and best use", according to its zoning designation. In fact, Policy No. 5, entitled, "CANBY SHALL UTILIZE THE LAND USE MAP AS THE BASIS OF ZONING AND OTHER PLANNING OR PUBLIC FACILITY DECISIONS" states under "High Density Residential" that this zone is "Generally distinguished by multiple family or other residential uses ... intended to provide for the widest

variety of housing opportunities." Because the variance requested does not propose or contemplate new development, and because the non-conforming "guest house" has been such for more than twenty years, it can be assumed that the City's approval of this application will have no impact on infrastructure or city services. Therefore, the intent or purpose of the Comprehensive Plan is not a factor in this case, except as provided in Policy No. 5. Further, for the same reasons, material detriment to the City's land development and planning ordinance cannot be readily established. Therefore, condition no. 3 has been met.

The applicants will submit into the record, with the consent of the hearing body, a petition signed by many, if not all of their surrounding neighbors, supporting approval of the variance. Given the support of other property owners within the vicinity, it would not seem that the requested variance could be considered "materially detrimental" to these other properties, satisfying condition no. 4.

The requested variance, to allow a use which has existed on the property for approximately twenty-five years to continue, without modification or any other change in the circumstances which exist today, would logically be the minimum variance needed to alleviate the hardship, and would satisfy condition no. 5.

Condition no. 6 has been discussed previously, and it has been established that the conditions which exist on the property have existed for approximately twenty-five years, and therefore could not have been caused by deliberate acts on the part of the applicants to violate any City regulations, ordinances or codes.

III. CONCLUSION

The request for a variance to correct a long-term violation of the City's land development ordinance, which violation has only recently "come to light" would change nothing as it presently exists on the applicant's property. The applicants are preparing to sell the subject property, and desire to receive the City's approval of an existing condition that has caused no problems, and was not realized to be a violation of a City ordinance. The applicants are aware that the City may impose conditions to its approval of this request, and are prepared to comply with such reasonable conditions.

Given the special, long-term, pre-existing circumstances of this proposal, and the belief that it would not have any detrimental impact on the surrounding area or on public facilities and services, it is respectfully requested that the Variance for the converted dwelling unit, located in the rear yard of property commonly known as 654 N.W. Third Street, be approved.

ATTACHMENT IV

PROOF OF PROPERTY OWNERSHIP

VARIANCE APPLICATION OF MIKE AND NANCY JONES

AFTER RECORDING MAIL TO:
FLEET MORTGAGE CORP.
125 EAST WELLS STREET
MILWAUKEE, WISCONSIN 53202

[Space Above This Line For Recording Data]

FMC#888414-9

DEED OF TRUST

THIS DEED OF TRUST ("Security Instrument") is made on JUNE 4 19 90 . The grantor is MICHAEL F. JONES AND NANCY A. JONES, HUSBAND AND WIFE ("Borrower"). The trustee is CHICAGO TITLE INSURANCE COMPANY OF OREGON ("Trustee"). The beneficiary is FLEET MORTGAGE CORP. , which is organized and existing under the laws of RHODE ISLAND , and whose address is 125 EAST WELLS STREET, MILWAUKEE, WISCONSIN 53202 ("Lender"). Borrower owes Lender the principal sum of FIFTY-FIVE THOUSAND ONE HUNDRED AND NO/100----- Dollars (U.S. \$ 55,100.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JULY 1, 2020 . This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in CLACKAMAS County, Oregon:

LOT 4, BLOCK 18, CANBY IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON

which has the address of 654 N. W. 3RD STREET CANBY
[Street] [City]
Oregon 97013 ("Property Address");
[Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest; Prepayment and Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") equal to one-twelfth of: (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay the escrow items. Lender may not charge for holding and applying the Funds, analyzing the account or verifying the escrow items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing that interest shall be paid on the Funds. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Security Instrument.

If the amount of the Funds held by Lender, together with the future monthly payments of Funds payable prior to the due dates of the escrow items, shall exceed the amount required to pay the escrow items when due, the excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly payments of Funds. If the amount of the Funds held by Lender is not sufficient to pay the escrow items when due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as required by Lender.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 19 the Property is sold or acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to late charges due under the Note; second, to prepayment charges due under the Note; third, to amounts payable under paragraph 2; fourth, to interest due; and last, to principal due.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Preservation and Maintenance of Property; Leaseholds. Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property; Mortgage Insurance. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the insurance in effect until such time as the requirement for the insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

8. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

10. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

12. Loan Charges. If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 19. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of paragraph 17.

14. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note had no acceleration occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

19. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraphs 13 and 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to other persons prescribed by applicable law. After the time required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

20. Lender in Possession. Upon acceleration under paragraph 19 or abandonment of the Property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Security Instrument.

21. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs.

22. Substitute Trustee. Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

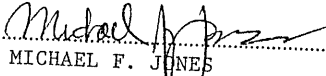
23. Use of Property. The Property is not currently used for agricultural, timber or grazing purposes.

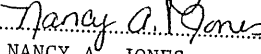
24. Attorneys' Fees. As used in this Security Instrument and in the Note, "attorneys' fees" shall include any attorneys' fees awarded by an appellate court.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es)]

- Adjustable Rate Rider
- Condominium Rider
- 2-4 Family Rider
- Graduated Payment Rider
- Planned Unit Development Rider
- Other(s) [specify]

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.


 MICHAEL F. JONES(Seal).....(Seal)
 -Borrower -Borrower


 NANCY A. JONES(Seal).....(Seal)
 -Borrower -Borrower

STATE OF OREGON,

County ss:

On this _____ day of _____, 19____, personally appeared the above named the foregoing instrument to be _____ voluntary act and deed. _____ and acknowledged

(Official Seal)
My Commission expires:

Before me:

Notary Public for Oregon

REQUEST FOR RECONVEYANCE

To Trustee:
The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by the Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Date:

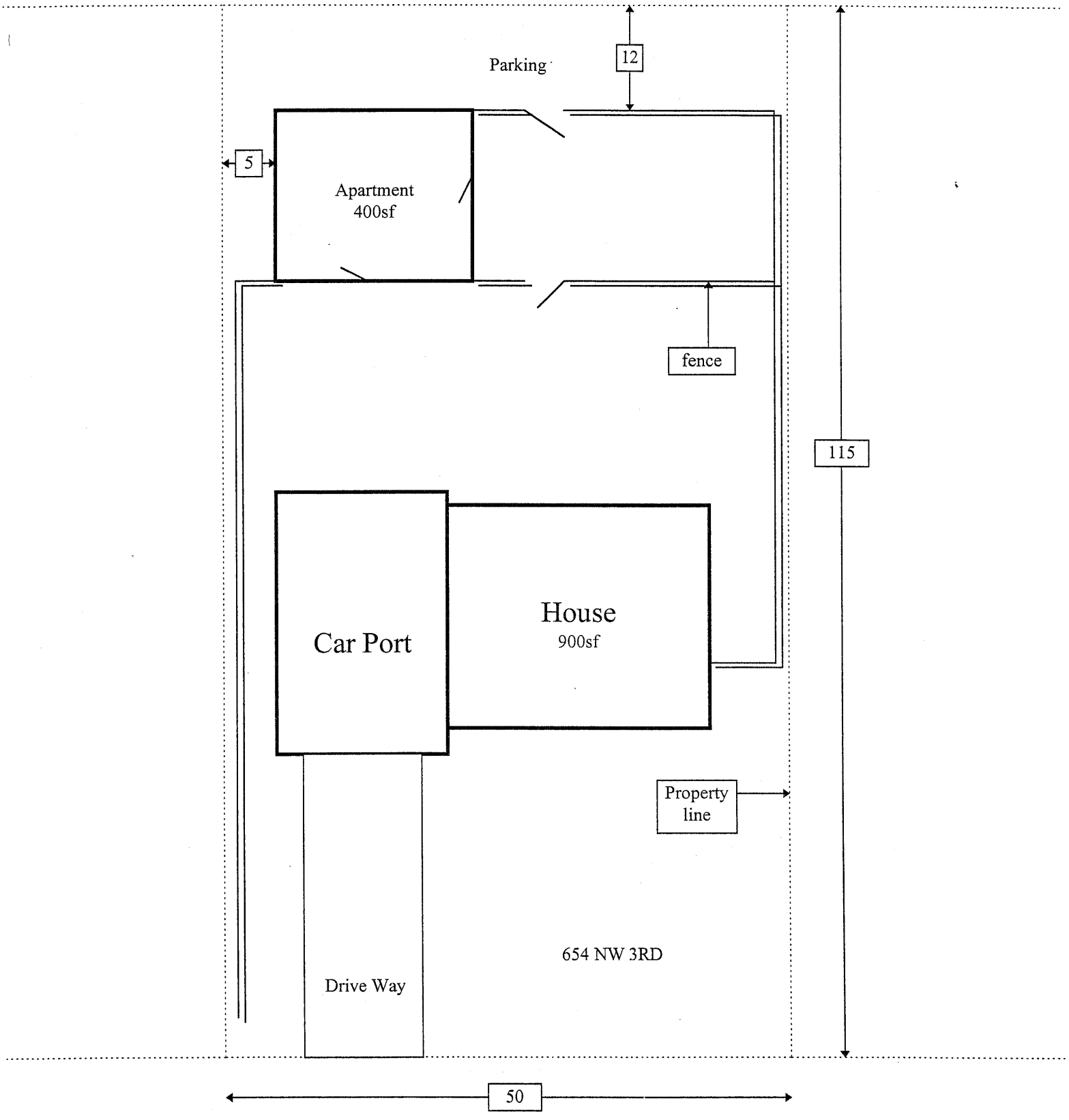


ATTACHMENT V

SITE PLAN

VARIANCE APPLICATION OF MIKE AND NANCY JONES

Alley



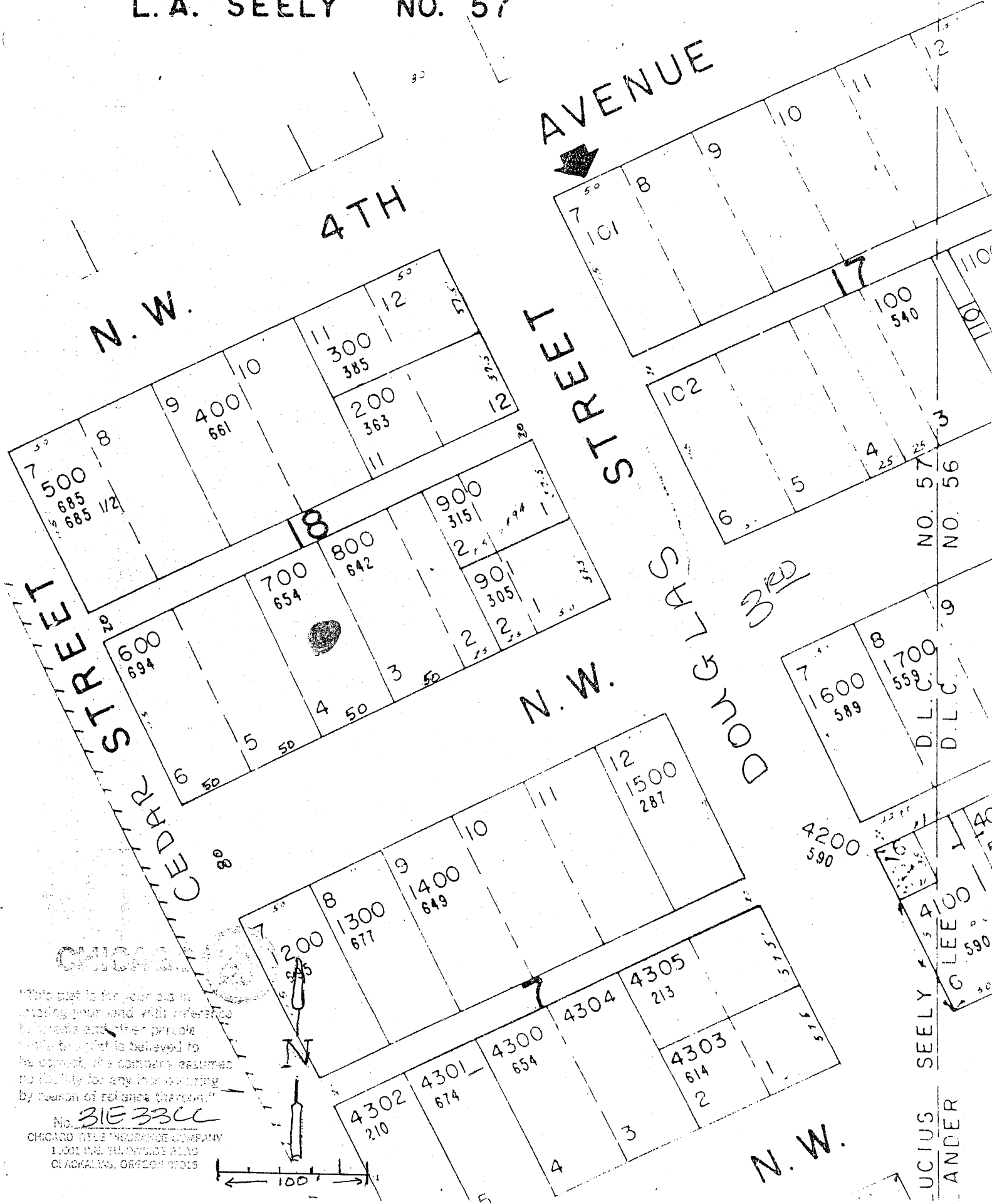
3rd St.

ATTACHMENT VI

TAX MAP

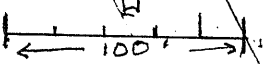
VARIANCE APPLICATION OF MIKE AND NANCY JONES

D.L.C.'S
 PHILANDER LEE NO. 568 49
 L.A. SEELY NO. 57



"This plat is for your use in showing your and with reference to laws and other records with a view to be believed to be correct, the company assumes no liability for any loss or injury by reason of reliance thereon."

No. 31E33CC
 CHICAGO TITLE INSURANCE COMPANY
 1001 N.W. FULLER BOULEVARD
 CHICAGO, ILLINOIS



NO. 57
 NO. 56

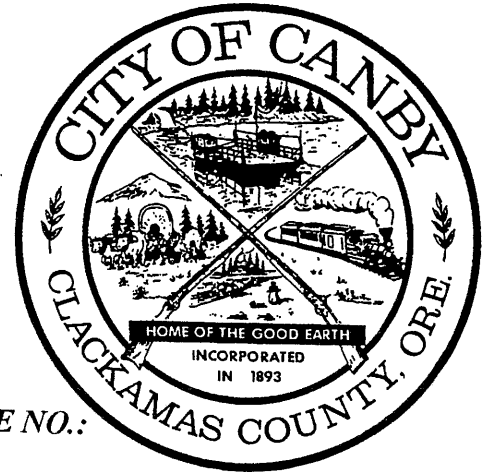
D.L.C.
 D.L.C.

SEELY
 LEE

PHILANDER
 LEE

N.W.

- STAFF REPORT -



APPLICANT:

Wayne Scott
1988 NE 19th Avenue
Canby, OR 97013

FILE NO.:

SUB 96-04
(T & J Meadows)

OWNER:

Sharon Fazio-Behrendt
P.O. Box 5362
Oregon City, OR 97045

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lot 1200 of Tax Map 3-1E-27CB

DATE OF REPORT:

October 4, 1996

LOCATION:

Southeast of the intersection of N.E. Territorial Road and N. Pine Street.

DATE OF HEARING:

October 14, 1996

COMP. PLAN DESIGNATION:

High Density Residential

ZONING DESIGNATION:

R-2 (High Density Residential)

I. APPLICANT'S REQUEST:

The applicant is requesting approval for a six (6) lot subdivision, on a 1.04 acre parcel located on the southeast corner of N.E. Territorial Road and N. Pine Street. The subdivision will include the existing house at 1159 N.E. Territorial Road, two new single family lots, approximately 5,100 square foot lots, and three duplex lots, approximately 7,600 square lots.

II. APPLICABLE CRITERIA:

A. City of Canby Code Section 16.62.020

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

- I. Conformance with the text and applicable maps of the Comprehensive Plan.
- ii. Conformance with other applicable requirements of the land development and planning ordinance.
- iii. The overall design and arrangement of lots shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
- iv. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.

B. Other Applicable Policies and Regulations:

■ City of Canby General Ordinances:

- 16.16 R-1 Low Density Residential Zone
- 16.20 R-2 High Density Residential Zone
- 16.56 Land Division Regulations - General Provisions
- 16.62 Subdivisions - Applications
- 16.64 Design Standards
- 16.66 Subdivisions - Planning Commission Action
- 16.68 Subdivisions - Final Procedures and Recordation

III. FINDINGS:

A. Background and Relationships

The subject property is located the southeast corner of N.E. Territorial Road, and North Pine Street (Tax Lot 1200 of Tax Map 3-1E-27CB). The subject property was annexed in 1983 (ANN 83-01, approved 08/03/83).

The applicant is now requesting approval to subdivide the 1.49 acre into 6 lots. An existing residence will be located on Lot 3, and .45 acres will be dedicated for right-of-way purposes.

B. Comprehensive Plan Consistency Analysis

iii. Land Use Element

■ **GOAL:** ***TO GUIDE THE DEVELOPMENT AND USES OF LAND SO THAT THEY ARE ORDERLY, EFFICIENT, AESTHETICALLY PLEASING AND SUITABLY RELATED TO ONE ANOTHER.***

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

ANALYSIS

1. The parcel is zoned R-2, High Density Residential and is proposed to be developed with multiple family and single family residential structures. The Comprehensive Plan land use designation of the subject parcel is High Density Residential. The property is surrounded by residential properties to the north, Willamette Green condominiums To the east, south and west lies rural residential property and agriculture that is within the Urban Growth Boundary and will eventually be annexed and developed with urban level single family residences.

2. The zoning of the property is R-2, High Density Residential. The Comprehensive Plan land use designation of the property is High Density Residential, R-2. The Comprehensive Plan calculated the needed size of the Urban Growth Boundary by estimating 14.0 units per developable acre of R-2 land. The proposal will result in 9.0 units per developable acre. Use of the 1.04 acre property for multiple family and single family residential development is in accordance with the Comprehensive Plan and will help minimize urban sprawl. In order to maintain the density proposed, development of lots 2, 4, and 5 will be restricted to duplexes.
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-2, High Density Residential, is consistent with the Land Use Map designation for the property (High Density Residential). The minimum lot size for parcels in the R-2 zone is 5000 square feet for the first dwelling unit plus 2,500 square feet for each additional unit. All parcels will meet the minimum lot size.
6. The subject property is located in Area N and identified as one of the "unique" sites or "areas of special concern" in the Comprehensive Plan. The area consists of the wide strip of apartments, condominiums, vacant parcels, and single family residential properties bordering N.E. Territorial Road. The area is planned for medium density and high density residential use. The plan states that street dedications and improvements are needed to accommodate for the high density development.

iv. Environmental Concerns

■ GOALS: TO PROTECT IDENTIFIED NATURAL AND HISTORICAL RESOURCES.

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

TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.

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

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

ANALYSIS

1-R-A. The subject property has Class I soils. However, the size and the current use of the property preclude the use of the property for a viable agricultural operations..

2-R. The storm water drainage of the subject property is handled on-site. Clackamas County reviews storm water management and compliance with the Federal Clean Water Act, for each individual lot upon development of that lot. The street drainage is reviewed by the City. There are no known storm water issues for this area.

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

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

7-R. Development of this property will not affect the scenic and aesthetic quality of the City.

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

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

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

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

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

3-H. The subject property has Canderly sandy loam soil, which is a 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 #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.

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

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

- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

ANALYSIS

2. The proposed subdivision will provide street access for 5 lots through the creation of a cul-de-sac off of Pine Street. The cul-de-sac will be located on the east side of N. Pine Street, 130 feet (centerline to centerline) south of the intersection of N.E. Territorial and N. Pine Street. Lot 3 of the proposed subdivision contains an existing residence and will maintain its existing access off of N.E. Territorial.

Concerns have been raised in the request for comments, as well as verbally, by the Traffic Safety Committee and the City Administrator's office. The concerns are with regard to the distance of the proposed cul-de-sac to the intersection of N.E. Territorial Road and N. Pine Street. The concerns pertain to the traffic safety and visibility for auto travel from the subdivision onto Pine Street and for traffic moving west along Territorial and turning south through the intersection. The Traffic Safety Committee has suggested that a street with a connection to a future adjoining development to the east would be appropriate, in lieu of a cul-de-sac. The issue was presented to the applicant and the applicant has chosen to retain the subdivision design as submitted.

Alternatives to the proposed subdivision design include two options. One is to move the cul-de-sac to the south closer to the southern property line and create flag lots. Another option is to move the cul-de-sac to the south closer to the southern property line and have some of the lots to be accessed off of N.E. Territorial Road. A variation of these alternatives is to have the street designed for further extension to the east.

The positive characteristics associated with these alternatives is that they provide an increased distance from the new cul-de-sac/road to the intersection of N.E. Territorial Road and N. Pine Street. The increased distance may result in greater traffic safety and visibility. The negative aspects of the alternatives are that flag lots are not as marketable for residential development, and the area used for accessing flag lots cannot be counted toward minimum lot size, therefore possible reducing the number of lots that can be developed; or the number of direct access points onto N.E. Territorial Road will increase. Further, a road that can be extended further to the east will also reduce the number of lots that can be developed, by requiring more land for right-of-way purposes.

The city does not have any established design requirements or standards that pertain to the minimum distance allowed for cul-de-sac to intersection. In addressing this concern, staff has reviewed the development of the Redwood Terrace Apartments (57 units, 2 access points), located on the southeast corner of N Redwood and N.E. Territorial, as a comparison to this development. The Redwood Terrace Apartments are situated on a 220 foot deep lot and has an access drive on Redwood that is 145 feet (centerline to centerline) from intersection of N. E. Territorial Road and N. Redwood Street. In comparison, the proposed subdivision is situated on a lot 190 feet deep and will have a distance of 130 feet (centerline to centerline) from the intersection of N.E. Territorial Road and N. Pine Street. There has not been any problems noted with the Redwood Terrace Apartments driveway.

The cul-de-sac will be 120 feet in length with a 43 radius. Dedication of the necessary right-of-way to allow for a full-width road construction of N.E. Territorial Road and for N. Pine Street is proposed.

The construction of this public road will need to be built to local street standards and will need to conform to the road construction standards for local streets. The local standards include: thirty six (36) feet of paving, curb to curb; ten (10) inches of crushed rock and two (2) inches of Class "C" asphalt concrete pavement - with another one and a half (1-1/2) inches of Class "C" asphalt concrete pavement overlay applied one (1) year later; curbs; five (5) foot sidewalks, including the curbs; street trees; storm water drainage; extension of the utilities; and street lights.

The location of the planting of the trees needs to be both compatible with the placement of the utilities for the subdivision and such that the trees have adequate room to grow. The street trees shall be planted along the cul-de-sac. In order to accommodate utilities and street trees, with the right-of-way space street trees are to be planted eleven (11) feet behind the curb. In order to insure, as best as possible, the proper planting of the trees, the trees will need to be planted by a licensed landscape contractor. The planting of the trees is a subdivision improvement, and improvements are required to be completed or bonded prior to the signing of the subdivision plat. Since the planting of street trees is inadvisable prior to the construction of the homes, the trees will need to be bonded. One other option is for the developer to pay the City to take responsibility for the planting of the trees. This option requires a payment to the City of \$165 a tree. The cost covers both the purchase of the trees and the cost to contract the work of planting the trees. An easement that specifically permits the street trees to be planted within the utility easement along the street is necessary because the trees may not be planted until after the home has been occupied, and the new homeowner should know at the earliest possible time that the trees will be planted. Nine (9) trees are required, one tree per each lot's frontage, except for the lot with the existing home. The location of the trees will be designated with the construction plans.

3. The nearest major intersection to the subject property is the intersection of N.E. Territorial Road and N. Maple Street. At this time, that intersection is not considered to be a "problem intersection".

The proposed subdivision will add traffic onto N.E. Territorial Road and will consequently, have an impact on the N.E. Territorial Road/Highway 99E intersection. ODOT is conducting a traffic count that should help determine whether or not they will permit signalization of the intersection. The intersection currently functions at a level of service "F" at the PM peak hour. The specific amount of impact, if any, given the distance of this proposed development to the N.E. Territorial Road/Highway 99E intersection, is unknown. Based on the estimated impact of a 4% increased traffic delay from the potential 25-lot development associated with ANN 96-03, this proposed subdivision would increase the delay by approximately 1%.

The development of the property will result in the payment of Transportation System Development Charges which, in accordance with the adopted Transportation Systems Plan for the City, will pay for the impact that this development may have on intersections and streets.

4. Sidewalks will be required for all street frontages. The sidewalks need to be five (5) feet wide and placed alongside the curb. The sidewalks will be looped around mailboxes and other obstructions to provide a clear five (5) foot sidewalk.

In order to provide unobstructed use of the sidewalk, and to allow for off-street vehicle parking in front of the garage, a minimum distance of nineteen (19) feet will need to be maintained between the back of the sidewalk and the face of the garage, as measured from the outward most facing of the garage. If the newspaper boxes and/or mailboxes are located adjacent to the driveway approach, such that the sidewalk is set back from the curb, the minimum distance is from the back of the sidewalk, as it meets the driveway, that is the closest to the house.

6. Neither emergency service provider indicated any problem with access to the proposed subdivision.

7. The cul-de-sac street is proposed to be created as a local road. According to the Transportation Master Plan, no special provision for bicycles or slow moving vehicles are considered necessary in the construction of local roads.

12. The subject property is on a county road which serves as an access road into the City. The improvements to N.E. Territorial Road will be required as a part of development of the property. Clackamas County was sent a "Request for Comments" regarding this application. No comments have been received to date. Improvement to this property's frontage along Territorial Road is required.

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 have been received from the School District, Public Works Department, Canby Telephone Association Fire District, and Sewer Department. All have indicated that adequate facilities and/or services are available, or will be made available through the development. The Police Department, NW Natural Gas, Clackamas County and Canby Utility Board have not responded. There has been no recent indication, unofficial or otherwise, of potential inadequacy of facilities or service from these providers.

The city administrator's office has indicated concerns for traffic safety and visibility. These concerns are addressed in the Transportation Element discussion of this report.

Easements for utility construction and maintenance will need to be provided.

2. Needed 'public improvements' include street construction with curbs, sidewalks, street trees, street lights, and storm water system. All of these improvements have been discussed under the Transportation Element discussion. Additional improvements include the needed utility infrastructure.

3. The City has adopted a Transportation Systems Development Charge (SDC). Any improvements that will be needed for N.E. Territorial Road and N. Pine Street, as well as other needed off-site transportation improvements, will be funded through SDCs in accordance with the City's Transportation Systems Plan. This subdivision development will contribute to those improvements through the SDC's at the time that homes are constructed on the subdivision's individual lots.
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. A mini park has been designated in a nearby area, along N. Redwood Street to the east. Nothing further is needed from this property in order to comply with this policy.

vii. *Economic*

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

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

4. The proposed subdivision will have no effect on agricultural operations that contribute to the local economy.

viii. *Housing*

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

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

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

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

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

ANALYSIS

2. The proposed development will increase the overall housing density, and is consistent with the Comprehensive Plan designation of High Density Residential and is permitted under the R-2 (High Density Residential) zoning designation.

3. The proposed development does include higher density housing as it proposes to establish three duplex lots. The Comprehensive plan indicates the high density standard for R-2 land is 14 units per acre. The proposed subdivision will provide 9 units per acre.

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

Policy #4: Canby shall attempt to reduce wasteful patterns of energy consumption in transportation systems.

ANALYSIS

2. Solar Access standards specify as least 80% of the lots in a development need to comply with one or more of the options (16.95.030). Of the six (6) proposed lots, lot 3 has an existing home, lot 2 meets the basic solar access standard, lots 1, 5 and 6 meet the requirements for a "protected solar building line" (PSBL). The PSBL for these lots will not intrude further into the lot than the standard set back lines, therefore, staff is not proposing further restrictions and considers that the subdivision complies with 16.95.030.

4. The City's transportation standards, and this development, are in accordance with the City's Transportation Master Plan.

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

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

Clarification of the issues of development density, traffic impact, and traffic safety associated with this proposed subdivision needs to be discussed. The proposal provides for high density residential development at 9 units per acres. For the purposes of establishing the Urban Growth Boundary, the Comprehensive Plan calculated the average build-out density of High Density Residential land at 14 units per acre.

The traffic impact of this proposal on the intersection of Highway 99E and Territorial Road will be minimal (an estimated increase in the PM peak hour delay of 1%), however, the intersection is operating at a level of service "F" during the PM peak hour.

Traffic safety with regard to the distance between the proposed N.E. 19th Court and the intersection of N. Pine Street and Territorial Road has been mentioned as a concern. There are positive and negative aspects to leaving the proposal as is, or moving the development's access road to the south. There are no specific guidelines or standards for the distance between a road and an intersection (except for through streets that "jog", which does not apply to this situation).

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

16.64.010 Streets.

Right-of-way dedications and road improvements are required for N.E. territorial Road and N. Pine Street.

The street name of the cul-de-sac will be N.E. 19th Court, which is in accordance with the street naming ordinance. The design of the street will be in compliance with the City's standards. The road will be constructed at a paved width of thirty six (36) feet, with a five (5) foot sidewalk provided against the curb, and utilities and street trees behind the sidewalk.

The existing house on Lot 3 is oriented to the northeast so that the access to the existing home and garage is off of the N.E. Territorial Road. The dedication of the 10 foot right-of-way along N.E. Territorial will create a non-conforming structure for the existing house. The house will have a 5-7' setback from the street right-of-way.

16.64.030 Easements.

Easements for utility construction and maintenance will need to be provided. Six foot utility easements will be required to be located along all interior lot lines.

An easement for street tree planting shall be recorded for the twelve (12) foot utility along the cul-de-sac.

The sidewalks will be located against the curb. The sidewalks will be "constructed" around obstacles (such as mailboxes, newspaper boxes and fire hydrants) that are located against the curb. The width of the sidewalk will be five feet, including the curb when the sidewalk is against the curb. The minimum distance between the garage and the back of the sidewalk is nineteen feet (allowing for a car to be parked in front of the garage without obstructing the sidewalk), regardless of the sidewalk's location. Locating the sidewalk in this manner will allow for the utilities and street trees to be placed with the least amount of conflict and hindrance on the "buildable" area of the lot. In addition, the sidewalk will be kept clear of obstacles to pedestrians.

16.64.040 Lots.

The lots will range in size from approximately 5,050 square feet to approximately 7,708 square feet. All lots will meet the minimum required area of 5,000 square feet for the first dwelling and 2,500 square feet for each additional unit, and will be of such dimensions as not to preclude development with single-family and duplex homes for reasons of insufficient room for required setbacks. As proposed, the single family residences will be located on Lots 1 and 6, the multiple family residences will be on Lots 2, 4, and 5. All lots are at least 60 feet in width for interior lots and at least 65 feet for corner lots. All lots are functional for residential uses.

The existing house on Lot 3 is oriented toward the northeast. When N.E. Territorial Road is improved, the house will be facing the street with a 5-7' setback. The right-of-way dedication will cause the structure to be non-conforming with the setback requirement.

16.64.070 Improvements.

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

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

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

IV. CONCLUSION

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

V. RECOMMENDATION

Based on the application, site plan, the facts, findings and conclusions presented in this report, and without benefit of public testimony, staff recommends that should the Planning Commission approve, with conditions, SUB 96-04, that the following conditions apply:

For the Final Plat:

1. The interior lot lines shall have six (6) foot utility easements. An easement for street tree planting shall be recorded for the twelve (12) foot utility along the N.E. Territorial Road and along N. Pine Street.
2. The final plat shall reference this land use application - City of Canby, File No. SUB 96-04, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.

3. The final plat mylars must contain, in the form specified, all information necessary to satisfy all matters of concern to the County Surveyor, or his authorized Deputy, including, but not necessarily limited to, various matters related to land surveying, land title, plat security, and plat recordation.
4. The name of the cul-de-sac street shall be N.E. 19th Court.
5. The subdivision development fee, as provided in the Land Development and Planning Ordinance Section 16.68.040(G), shall be paid.

As a part of construction:

6. A pre-construction conference shall be held prior to construction. The pre-construction plans shall be reviewed and approved by the Canby Utility Board, the Canby Telephone Association, and the City prior to the pre-construction conference. The City's review and approval shall be coordinated through the Planning Office. The construction plans shall include the street design, storm water, sewer, water, electric, telephone, gas, street lights, mail boxes and street trees. The street tree planting location shall be determined as a part of the pre-construction review process.
7. Any necessary utilities shall be constructed to the specifications of the utility provider.
8. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Director of Public Works.
9. Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," as used by Clackamas County, dated August 1991, and as revised.
10. The construction of the sewer system and street storm water system for the subdivision shall be approved by the Public Works Supervisor.
11. The local road shall be constructed to the City specifications and standards. The improvements shall include: thirty six (36) feet of paving, curb to curb; ten (10) inches of crushed rock and two (2) inches of Class "C" asphalt concrete pavement - with another one and a half (1-1/2) inches of Class "C" asphalt concrete pavement overlay applied one (1) year later; curbs; five (5) foot sidewalks, including the curbs; street trees; storm water drainage; extension of the utilities; and street lights.
12. The sidewalks shall be located against the curb, and shall be five-feet wide, including the curb. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width. The sidewalks that are adjacent to the existing sidewalks shall be adjusted from the existing sidewalk setback of two feet to the new location against the curb. This adjustment shall occur in the shortest distance that is practicable.
13. Nine (9) street trees shall be planted. The trees shall be planted eleven (11) feet from the street curb.

Prior to the signing of the Final Plat:

14. Dedication of right of way property necessary for the improvement of N.E. Territorial Road and N. Pine Street shall be recorded prior to the signing of the final plat.
15. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.
16. One of two options shall be fulfilled for the planting of street trees prior to the signing of the final plat: Option 1; a contract, with a licensed landscape contractor, shall be executed. The contract shall include the City as the contractee: Option 2; the developer shall pay the City \$495 for the 3 trees to be planted (\$165 a tree). If option 2 is chosen, the City becomes responsible for the planting of the street trees.

Notes:

17. The existing home on Lot 3 shall be considered a non-conforming structure in providing for the necessary right-of-way dedication for the improvement of N.E. Territorial Road.
18. Development of lots 2, 4, and 5 shall be limited to duplexes. Single family residential units shall not be permitted for these lots.
19. Garages shall be set back a minimum of nineteen (19) feet from the back of the sidewalk. The distance shall be measured from the closest edge of the sidewalk at the driveway.
20. Access to lots 1, 2, 4, 5, and 6 shall be restricted to N.E. 19th Court. Access to these lots shall not be permitted from N. Pine Street or N.E. Territorial Road.
21. "As-built" drawings shall be submitted to the City within sixty (60) days of completion. A copy of the "as-built" drawings shall be submitted on a computer disk in an autocad format.
22. The final plat must be submitted to the City within one (1) year of the approval of the preliminary plat approval according to Section 16.68.020.
23. The approval will be null and void if the final plat is not submitted to the County within six (6) months after signing of the plat by the chairman of the Planning Commission (Section 16.68.070).

Exhibits:

1. Application
2. Vicinity Map
3. Responses to Request for Comments
4. Tentative Plat (*too large to reproduce*)

5 DIVISION APPLICATION

Fee: \$900 +
\$30/lot

OWNER

APPLICANT

Name Sharon Fazio
Address P0 Box 5362
City Oregon City State OR Zip 97045

Name A. Wayne Scott
Address 1988 NE 19th Avenue
City Canby State OR Zip 97013

SIGNATURE Sharon Fazio Behrendt

Phone: 503-266-3837

DESCRIPTION OF PROPERTY:

Tax Map 31E27C Tax Lot(s) 1200 Lot Size 1.14 Acres
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

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

USE

Existing Single Family Residence
Proposed Residential Subdivision

Existing Structures Single Family Residence

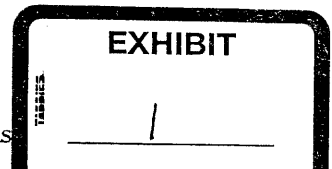
PROJECT DESCRIPTION

A residential subdivision, which will include
two single family, and three duplex lots. A variance is
required to meet front setback requirements for the existing
structure.

ZONING R-2 COMPREHENSIVE PLAN DESIGNATION _____

PREVIOUS ACTION (if any) Annexation

File No. SUB 96-04
Receipt No. 2095
Received by [Signature]
Date Received 9-9-96
Completeness Date _____
Pre-App Meeting _____
Hearing Date 10-19-96



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

cc: John F.

PLEASE RETURN ATTACHMENTS!!!

CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

[503] 266-9404

DATE: September 20, 1996

TO: FIRE, POLICE, SCHOOL, CUB, TELEPHONE/N. Willamette, NW NATURAL GAS,
CLACKAMAS COUNTY TRANSPORTATION, MIKE JORDAN, JOHN KELLEY, ROY,
STEVE

The City has received **SUB 96-04**, an application by Wayne Scott for approval to develop a 6-lot subdivision. The site is located on the southeast corner of Territorial Road and N. Pine Street [Tax Lot 1200 of Tax Map 3-1E-27C]. The subdivision will include the existing house (1159 N.E. Territorial Road), two new single family lots (approximately 5,100 square foot lots) and three duplex lots (approximately 7,600 square foot lots). A new cul-de-sac is proposed for the access of the new lots, and will connect to N. Pine Street.

We would appreciate your reviewing the enclosed application and returning your comments by **September 30, 1996 PLEASE**. The Planning Commission plans to consider this application on **October 14, 1996**. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

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: Stephen Miller Date: 9-25-96
Title: Supt. Agency: Canby School Dist.

EXHIBIT
3
1 22 2025

PLEASE RETURN ATTACHMENTS!!!

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Comments or Proposed Conditions:

This subdivision is OK.

Please check one box:

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

Signature: Wayne Hester Date: 9-30-96
Title: Public Works Supervisor Agency: City

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[503] 266-9404

DATE: September 20, 1996

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Signature: Lon Harbough Date: 9-25-96
Title: Fire Marshal Agency: Canby FD #62

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None

Please check one box:

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Signature: Steve Nanson Date: 9/25/96

Title: POTW Supervisor Agency: City of Canby

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[503] 266-9404

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Signature: Tom Pearson Date: 9/26/96
Title: ENG DEPT Agency: CANBY TEL & NWT

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[503] 266-9404

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Comments or Proposed Conditions:

*TRAFFIC Safety Committee discussed street design - seemed
A STREET THAT WOULD HAVE A CONNECTION WITH A FUTURE
ADJOINING DEVELOPMENT WOULD BE MORE APPROPRIATE.*

Please check one box:

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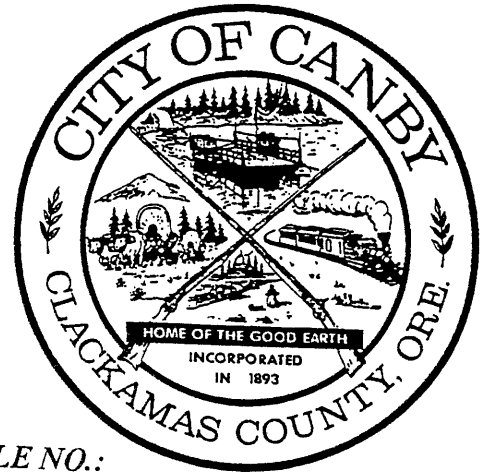
Signature: *Jersey Nipper*

Date: *10/27/96*

Title: *Police Chief*

Agency: *Canby P.D.*

-STAFF REPORT-



APPLICANT:

Daniel Anderson
641 N. Baker Drive
Canby, OR 97013

FILE NO.:

DR 96-12/CUP 96-04/LLA 96-01
(Canby Business Center)

OWNER:

Anderson Properties LLC
641 N. Baker Drive
Canby, OR 97013

STAFF:

Lawrence Vasquez
Assistant City Planner

LEGAL DESCRIPTION:

Tax Lots 200 and 1800
of Tax Maps 3-1E-34C

DATE OF REPORT:

October 4, 1996

LOCATION:

South Redwood Street
Between Highway 99E and
Township Road,

DATE OF HEARING:

October 14, 1996

COMP. PLAN DESIGNATION:

Commercial Manufacturing

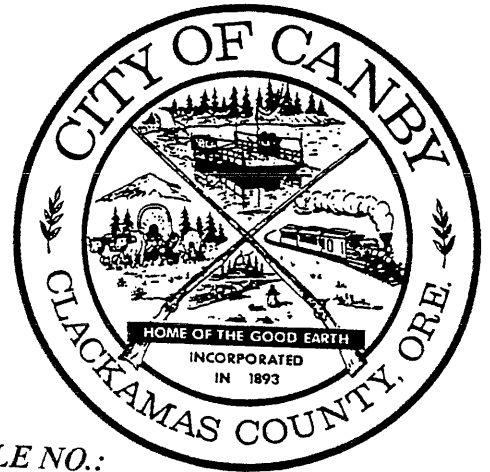
ZONING DESIGNATION:

C-M

I. APPLICANT'S REQUEST:

The applicant is requesting site and design approval, conditional use approval and lot line adjustment approval to construct a 46 unit commercial/industrial business park, encompassing 52,930 square feet of building space on 4.67 acres. The development will be completed in two phases. The purpose for the conditional use is to permit either manufacturing and/or commercial operations. The lot line adjustment will reconfigure the existing two lots such that a 1.55 acres vacant parcel remains to the north. The site is located on the north side of the transition between S. Redwood Street and S.E. 3rd Avenue.

- STAFF REPORT -



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II. APPLICABLE REGULATIONS

City of Canby General Ordinances:

- 16.10 Off-Street Parking and Loading
- 16.30 C-M Heavy Commercial/Manufacturing Zone
- 16.32 M-1 Light Industrial Zone
- 16.49 Site Design and Review
- 16.50 Conditional Uses
- 16.58 Lot Line Adjustments
- 16.88 General Standards

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.
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.

16.50.010 Authorization to Grant or Deny Conditional Uses

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

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

16.58.030 Review by Planner and Engineer (Lot Line Adjustment)

The City Planner and City Engineer shall review the proposed lot line adjustment and shall determine whether the following criteria have been met:

- 1. Each of the remaining parcels and any structures located thereon shall be in full compliance with all regulations of this title, including the setback requirements of Division III. Except, however, that lot line adjustments are permitted on non-conforming lots and lots with non-conforming structures provided that the non-conforming lots and structures will be no less in conformity as a result of the lot line adjustment.
- 2. No new lots or parcels will be created as a result of the lot line adjustment without receiving approval as a partition or subdivision.

3. If the City Planner or City Engineer deems it necessary to assure the accuracy of recorded information, a survey may be required of the applicant. Such will be at the applicant's cost.
4. Lot Line Adjustments shall not be permitted where the result will be the creation of additional building sites in known hazardous locations or where the appropriate development or extension of public facilities will be impaired as a result.

IV. FINDINGS:

A. Background and Relationships:

The properties are located in the Logging Road Industrial Park on the north side of the transition of S. Redwood Street and S.E. 3rd Avenue. The proposed project will create a business park containing 46 units for a total of 52,930 square feet of building space to accommodate commercial manufacturing and light industrial uses. The project will be developed in two phases, Phase I (18 units) and Phase II (28 units).

A conditional use permit at this time is required to allow for manufacturing operations to occur without further review. The lot line adjustment will reconfigure the two existing lots such that a the southern parcel will contain 4.5 acres and a vacant northern parcel of 1.55 acres.

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

B. Comprehensive Plan Consistency Analysis

iii. Land Use Element

- **GOAL:** TO GUIDE THE DEVELOPMENT AND USES OF LAND SO THAT THEY ARE ORDERLY, EFFICIENT, AESTHETICALLY PLEASING AND SUITABLY RELATED TO ONE ANOTHER.

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

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

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

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

ANALYSIS

1. The properties are currently vacant. The properties to the north and west are zoned Commercial Manufacturing (C-M), the same as the subject property. The property to the south is vacant and zoned Light Industrial (M-1). Along the eastern boundary is the Molalla Logging Road, a city-owned bike/walking path that is not currently in the City limits. On the other side of the Logging Road from the subject property is the Molalla Railroad Spur, owned by Southern Pacific and privately operated. The properties located beyond the railroad are currently used for farming or forestry and have been designated for commercial/manufacturing uses (the same as the subject properties) in the Comprehensive Plan at the time that they are annexed into the City.

The location of commercial/manufacturing near agricultural operations is not considered to be a problem. Industrial and agricultural uses are not considered to be incompatible.
2. The properties are currently vacant and unused. Development of the property will increase the overall commercial/manufacturing density within the City limits.
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 properties, C-M, Commercial Manufacturing, is consistent with the Land Use Map designation for the property (Commercial Manufacturing). Light Industrial uses are a permitted conditional use in the C-M zone. There is no minimum lot size for parcels in the C-M zone.

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

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

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

- Policy #8-R: Canby shall seek to preserve and maintain open space where appropriate, and where compatible with other land uses.
- Policy #9-R: Canby shall attempt to minimize the adverse impacts of new developments on fish and wildlife habitats.
- Policy #10-R: Canby shall attempt to minimize the adverse impacts of new development 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 properties have Class I soils. The current site is vacant. The land use designation of the properties are for commercial manufacturing and the properties are currently within the City limits with all necessary infrastructure readily available.

1-R-B. The subject properties, while currently vacant, are considered to be urbanized. The annexation of the properties (ANN 91-05) and the construction of S. Redwood Street by the City were for the purposes of commercial and industrial development of the subject (and neighboring) properties.

2-R. The storm water drainage of the subject properties is handled on-site. Clackamas County reviews storm water management and compliance with the Federal Clean Water Act.

3-R. The existing use has not created a known pollution problem. Construction activity and industrial activity is required to comply with prescribed standards for air, water, and land pollution, through the building permit process and the State's Department of Environmental Quality standards. A Data Disclosure Form will be needed to be completed for the industrial discharge into the City's sewer collection system. Any pretreatment requirements will be worked out between the commercial/industrial business and the Sewer Treatment Plant, as there are numerous options available.

4-R. Noise will be expected as a result of commercial and industrial activity. The property is located a minimum of 1500 feet from residentially zoned property, and is fully surrounded by non-residentially zoned property.

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

7-R. The lot line adjustment and conditional use itself will not affect the scenic or aesthetic quality of the City. Future development of either of the proposed parcels will affect the scenic and aesthetic quality of the City. The development of open space changes the scenic or aesthetic quality of the City, sometimes for the better and sometimes for the worse. The visual impacts of development of the subject parcels will be reviewed through the Site and Design Review process, both now and in the future.

8-R. The subject properties are considered to be open space at this time. Preservation of open space on the properties in perpetuity is impractical. The nearby Logging Road is a public use facility for walking and bicycling. Further discussion of this is found under the discussion of the Public Facilities Element.

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

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

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

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

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

v. ***TRANSPORTATION***

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

- Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.
- Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.
- Policy #4: Canby shall work to provide an adequate sidewalks and pedestrian pathway system to serve all residents.
- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #9: Canby shall support efforts to improve and expand nearby air transport facilities.
- Policy #11: Canby shall work with private developers and public agencies in the interest of maintaining the transportation significance as well as environmental and recreational significance of the Willamette River.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

ANALYSIS

2. The impact of the additional traffic that the proposed commercial/ industry will create, will be paid for through the imposition of Transportation System Development Charges.

In order to provide appropriate access to vacant land both on the subject properties, and on adjacent vacant property, road improvements will

need to include the dedication of the 30 foot access road, and construction of a 1/2 street to local street standards. The street will travel north a distance of 325 feet and will to curve to the west so as to eventually connect to S.E. 2nd Avenue. The precise street alignment will be worked out with the contract engineer for the City, with the intent on providing a local street connection to the existing S.E. 2nd Avenue. The construction will include a 20-foot wide paved surface, with curbs and sidewalks on the east side.

3. The nearest major intersection to the subject property is the intersection of S. Pine Street and Highway 99E. At this time, that intersection is not considered to be a "problem intersection". A half-street road will be constructed as a part of the development of the properties. The City has a Transportation Systems Plan that includes improvements of "problem intersections", and is paid, in part, by Transportation System Development Charges.

4. Sidewalks are in place along S. Redwood and S.E. 3rd Avenue. Sidewalks will be required along the east side of the proposed local 1/2-street. The Public Works Supervisor has indicated that a easement needed for a storm line that runs along the south end of the property and has recommended that the easement provision be combined to provide for a bike and walking path that would connect this property to the Logging Road to the east. This easement will provide enhanced access to the Logging Road. However, because there is not an "essential nexus" between the development of this property and the provision of the bicycle/pedestrian easement, this will not be a condition upon the approval of the development, but it will be a request.

6. The fire district and police department have responded to the Request for Comments and have indicated that both adequate services are available and no further conditions related to the proposed development.

7. South Redwood Street has been built to "collector" standards, which has room for the provision of a bike lane. A bike lane has been provided along the western side of South Redwood. With the development of the property, specifically the possible pathway connection between the Logging Road and S.E. 3rd Ave., a bicycle connection to the Logging Road could be provided.

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

9. The proposed lot line adjustment and conditional use permit have no bearing on efforts to improve or expand nearby air transport facilities.

11. The subject properties are not near the Willamette River and will have no effect on the transportation potential or use of the Willamette River.

12. The subject properties are fully within the City limits and is not near any "entry point" into the City.

vi. ***PUBLIC FACILITIES AND SERVICES***

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

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

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

Policy #3: Canby shall adopt and periodically update a capital improvement program for major city projects.

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

ANALYSIS

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

2. Public improvements that are required for the development of these properties are the improvement of the 30 foot wide access road to half-street local street standards including curb and sidewalk.

3. The subject properties are a part of the area benefitting from the Logging Road Industrial Park road improvements project. Major infrastructure improvements have been or are under construction which will benefit this property and are being initially funded through the City. Development of property within the benefitted property zones is the mechanism by which the City will be able to pay for the improvements. The improvements include the S Pine Street/S. Redwood Street road connection between Highway 99-E and Township Road, and sewer and water mains to service the southeastern portion of the City, including the subject property. Reimbursement for the improvements occurs with the development of the property.

5. The City has adopted a Parks Master Plan in which appropriate sites or areas for recreation facilities are identified. No parks have been designated in the vicinity of the subject property. The Logging Road is City property and will be used in a manner that might be construed as a "linear park" in that the "road" will be used as a walking/bike path. An easement for the connection to the Logging Road from S.E. 3rd Avenue/S. Redwood Street has been recommended, but will not be required.

vii. ECONOMIC

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

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

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

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

ANALYSIS

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

2. The proposed development is commercial/industrial in nature. The creation of a business park in this location is appropriate and encourages further commercial and industrial development.

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

viii. HOUSING

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

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

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

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

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

ANALYSIS

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

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

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

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

ix. ENERGY CONSERVATION

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

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

Policy #4: Canby shall attempt to reduce wasteful patterns of energy consumption in transportation systems.

ANALYSIS

2. The applicant has chosen not to incorporate wind or solar orientation considerations in the siting and development of the properties. The proposed development meets the requirements of the Solar Ordinance.

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

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

Review of the above analysis will show that the proposed conditional use/lot line adjustment, 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.

Section 16.58.030.B states:

No new lots or parcels will be created as a result of the lot line adjustment without receiving approval as a partition or subdivision.

The lot line adjustment proposed by the applicant requires that the remaining fragmented triangle land area in the southwest corner of Tax Lot 1800, which lies west of the Pine/Redwood transition, must be identified as to its status. Options for this area are: 1) to be retained with the parcel containing the business park, 2) be incorporated into adjacent property to the west, or 3) partitioned from the other parcels. Staff recommends the fragmented land be incorporated into the adjacent property.

C. Evaluation Regarding Conditional Use Approval Criteria

1. Comprehensive Plan Consistency

The previous discussion determined the proposal's relation to Comprehensive Plan consistency. The application for a commercial/manufacturing uses on the subject properties are found to be consistent with the policies of the Comprehensive Plan. The request for conditional use approval to allow for light industrial operations is consistent with the conditionally permitted uses in the commercial manufacturing zone.

2. Site Suitability

The site is generally flat, and is large enough to accommodate the proposed use and building with the appropriate setbacks.

3. Availability of Public Services and Facilities for the Site

Utility and public safety facilities and services are available in adequate capacity to serve the proposed use and expansion.

4. Compatibility with Surrounding Uses

The use of the property is consistent with the zone and the permitted uses of the surrounding properties. Commercial/industrial uses in the area include a storage facility to the northeast, a steel tank manufacturer to the southeast, an electric panel manufacturing company and two wood-working businesses are located to the south, and vacant property is located to the north and west. The proposed development is found to be compatible with these uses. Industrial uses are generally considered to be compatible with agricultural uses, which are existent approximately 120 feet to the east, across the Logging Road and the Molalla Rail Spur. The proposed commercial manufacturing/industrial development is found to be compatible with surrounding uses.

D. Evaluation Regarding Site and Design Review Approval Criteria

1. Part IV - Section 2, No. 2

"Minimum area for landscaping is 15% of the total area to be developed."

The minimum amount of landscaping required for the 203,805 square foot developed portion of the parcel is 30,570 square feet (15%). The total amount of landscaping proposed is approximately 50,509 square feet (25%).

2. Parking.

The number of parking spaces required for an commercial/industrial use such as is proposed is 89 (49 spaces for the 13,325 square feet of office space, and 40 spaces for the 39,697 square feet of commercial manufacturing space). There are 103 parking spaces being proposed, including 5 ADA (American Disabilities Act) parking spaces (5 are required). Four ADA space have the required access aisle. All the ADA spaces have a designated path to the building. The parking lot access drive that connects with the S.E. 3rd Avenue and N. Redwood Street transition is 30 feet wide. The two access drives off of the proposed half-street local road will be 30 feet wide.

Two loading berth areas are located along the eastern boundary. The loading areas are each 12 feet wide and 60 feet long.

Wheel stops are required for all the parking spaces as all parking spaces front either a walkway or landscaping.

3. Access

One access drive each to the main parking lots will be provided from the S.E. 3rd Avenue and S. Redwood Street transition. Two more access drives will be provided along the proposed half-street local road.

Pedestrian access is provided from the public sidewalk along S.E. 3rd Avenue to the southern most building units.

The trash bin area, located in the northeast portion of the property, will be fenced.

4. Architecture

The exterior of the building will be smooth face concrete masonry block, with a masonry accent band. The building will be beige in color with painted split face accent that will be darker a beige. The roof material is vertical metal siding that is gray in color and the windows will be aluminum storefront glazed. Each building unit will have a 10' x 10' overhead door. A suspended steel awning, five (5) foot in width, will hang over each individual unit's entry.

Proposed signage includes one monument sign for the business center complex and 46 individual unit tenant signs. The monument sign measures 6 feet high and 10 feet wide with brick columns and will be located west of the main access drive. The sign will have a 3 1/2 inch trim and will be externally illuminated. Actual sign area is approximately 30 square feet. The tenant signs are each 3' x 8' (sign area - 24 square feet) and will be mounted to the wall above each of the unit's suspended awning entryway.

Under the current sign ordinance, the sign area allowed for this 52,930 square foot project is 960 square feet. If the 30 square foot monument sign is deducted from the total the project has a remainder of 930 square feet available for tenant signage. To meet the signage requirement, the tenant sign size of 24 square feet will have to be reduced. The requirement will permit Unit A type tenants (995 square feet) a sign area of 16.7 square feet per unit, and Unit B and C type tenants (1,205 square feet) a sign area of 21.3 square feet per unit.

If and when the new sign ordinance is adopted and becomes effective, (adoption date is expected at the October 16, 1996 City Council meeting, and effective date is expected November 18, 1996), it will provide specific standards for signage in multi-business buildings. Under the new sign ordinance each multi-business unit will be permitted 50 square feet of sign area, and therefore, the project's proposed tenant sign (24 square feet per unit) will meet the sign requirement.

5. Other Aspects

a. Utilities

All utilities are available in S. Redwood Street.

b. Landscaping

Landscaping planters consisting of a mixture of shrubs, trees and ground cover are placed intermittently along the western and eastern property lines and in the northeastern corner of the project area. A forty (40) foot wide strip of lawn area runs along the southern boundary and to the east towards the Logging Road. To the north are two landscape strips approximately 8 feet in width.

The Red Sunset Maples as proposed by the applicant will need to be replaced by Cleveland Norway Maples. The Norway Maples are the street trees designated for the S.E. 3rd Avenue/S. Redwood Street transition. Flowering Pears are proposed for the half-street local road and will need to be planted and spaced according to the City Street List specifications. The Hogan Cedars proposed along the half-street will be omitted from the landscape plan.

The total landscaping required for the 205,805 square foot of developed area is 30,570 square feet (15%). The proposal provides for a total of 50,509 square feet (24.7%) of landscaping.

c. Parking Lot Landscaping

The amount of parking and maneuvering area is estimated to be approximately 80,400 square feet. The amount of landscaping required for that amount of parking lot area is approximately 12,060 square feet (15%), and is to be within ten feet of the parking/ maneuvering area. The amount of landscaping provided within ten feet of the parking/maneuvering area is approximately 15,294 square feet (19%).

At the formula of one tree per 2800 square feet of parking/ maneuvering area, a total of 29 trees are required. There are approximately 32 trees within or adjacent to the paved vehicle parking/maneuvering area.

The parking lot trees consists of Mt. Fuji Cherries, Hogan Cedars, and Flowering Pears.

d. Density and yards and height

The setbacks requirements for the C-M zone have been met by this development proposal.

E. REVIEW FOR LOT LINE ADJUSTMENT CONFORMANCE TO SECTION 16.58.030:

A. Setback and Yard Requirements

The approval of this proposal will result in the alteration of the common property line between Tax Lots 1800 and 200. The size of either lot will not be altered, just the shape. The lot line adjustment will make Tax Lot 200 more area to develop an commercial/industrial business park. All lots will be of appropriate size and dimensions to accommodate the existing, proposed, and/or future developments.

A ten (10) foot utility easement that is located along the current eastern property of Tax Lot 1800 and Lot 200 will not be moved. This easement should not adversely affect the developability of either lot.

B. In order to provide that no new lots or parcels will be created as a result of the lot line adjustment the remaining fragmented parcel in the southwest corner, across S. Redwood Street, of Lot 1800 will need to be combined with the commercial/industrial business park development or, combined into the adjacent property to the west. Staff recommends combining with the adjacent property.

C. A survey is not required by the City of Canby for the lot line adjustment.

D. No additional building sites are being created. No hazardous locations have been identified.

V. OTHER INFORMATION

An appeal of a staff decision can be made to the Planning Commission, if such appeal is filed in writing, within ten (10) days of the mailing of the staff decision. According to State law, the appeal "shall be raised with enough specificity so as to afford the governing body, Planning Commission, hearings body or hearings officer, and the parties, an adequate opportunity to respond to each issue."

V. CONCLUSION

The staff hereby concludes that, providing that the issue of the fragmented parcel of Tax Lot 200 are resolved in favor of the proposal, and with appropriate conditions, the proposed development as described in the application, site plan, and this report, is in conformance with the standards of this and other applicable ordinances; the design is compatible with the design of other developments in the vicinity; and, the location, design, size, and materials of the exterior of the structure will be compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.

Further, staff concludes that, with approval conditions:

1. The proposed development of the site is consistent with the applicable standards and requirements of the Canby Municipal Code and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
2. The characteristics of the site are suitable for the proposed use;
3. That all required public facilities and services exist to adequately meet the needs of the existing structure and proposed use, and that no significant increase in demand for public facilities and service will result; and,
4. The proposed use will not alter the character of the surrounding areas in such a way as to substantially limit or preclude the uses allowed.
5. The proposed design for the development is compatible with the design of other developments in the same general vicinity; and
6. 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; and
7. 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 96-02/CUP 96-04/LLA 96-01, the following conditions apply:

Prior to the issuance of the Building Permit:

1. A preconstruction conference shall be held prior to the issuance of the building permit. The conference shall be coordinated through the Planning Office.

For the Building Permit Application:

2. A detailed landscape construction plan shall be submitted with the building permit. The detailed landscape plan shall show: the number of plants, plant spacing/location of planting, the type of plants, the size of plants, the schedule of planting, and irrigation plans.
3. The landscaping shall be planted at such a density so as to provide a minimum of 95% coverage of the landscape areas with vegetation, within a 3-year time period. Bark mulch and similar material shall consist of not more than 5% of the total landscape area after the 3-year period. The plant spacing and starting plant sizes shall meet the ODOT plant spacing/starting size standards. Trees are to be a minimum of 2" in diameter at the 4-foot height.
4. Planting and spacing of the flowering Pear street trees along the half-street local road will be in accordance with the City Street Tree List specifications. The Hogan Cedar trees along the half-street local road will be omitted from the landscape plan.
5. All ADA parking spaces are to have access aisles. A minimum of one access aisle shall be a minimum width of 8 feet. All other access aisles are to be a minimum width of 6 feet.
6. A five (5) foot wide ADA walkway shall be located between the front ends of the two opposing rows of ADA parking spaces.
7. Wheel stops shall be provided for all parking spaces located adjacent to landscaping or walkways. The wheel stops shall be placed two (2) feet in front of the end of the space. The A.D.A. parking spaces shall be designated as such with signs.
8. All stripes designated parking spaces shall be a minimum of 18 feet in depth.

Prior to Construction:

9. The address for the job site shall be posted and shall meet the Uniform Fire Code 901.4.4 requirements.

During Construction:

10. Erosion-control during construction shall be provided by following Clackamas County's Erosion Control measures.
11. The half-street local road will be constructed to public road standards, including curbs, sidewalks, necessary utility construction along the east side. The pavement width shall be a minimum of twenty (20) feet, and the access to the parking lots and the vacant parcel to the north shall be by driveway approaches.

Prior to Occupancy:

12. If necessary, due to construction, a new easement for the existing storm drainage line shall be recorded with Clackamas County.

Notes:

13. Signage for the individual tenants shall have a strong element of consistency with other tenant signage and with the buildings, specifically regarding the appearance and style of the signs.
14. The City requests that the stormwater easement be expanded to include a bicycle and pedestrian access between the S.E. 3rd Avenue/S. Redwood Street public sidewalk and the City-owned Logging Road.

Exhibits:

1. Application for Design Review/Conditional Use/Lot Line Adjustment
2. Department Responses to "Request for Comments"
3. Site Plan/Elevations/Landscape Plan *(too large to reproduce)*

SITE AND DESIGN REVIEW APPLICATION

Fee: \$750

OWNER

APPLICANT

NAME Anderson Properties LLC

NAME Daniel Anderson

ADDRESS 641 N. Baker Dr.

ADDRESS 641 N. Baker Dr.

CITY Canby STATE OR ZIP 97013

CITY Canby STATE OR ZIP 97013

SIGNATURE [Signature]

PHONE: 263-6006

DESCRIPTION OF PROPERTY:

TAX MAP 3 1E 34C TAX LOT(S) 200&1800 LOT SIZE APPx 6Acres
(Acres/Sq. Ft.)

or

LEGAL DESCRIPTION, METES AND BOUNDS (ATTACH COPY)

PLAT NAME _____ LOT _____ BLOCK _____

PROPERTY OWNERSHIP LIST

ATTACH A LIST OF THE NAMES AND ADDRESSES OF THE OWNERS OF PROPERTIES LOCATED WITHIN 200 FEET OF THE SUBJECT PROPERTY (IF THE ADDRESS OF THE PROPERTY OWNER IS DIFFERENT FROM THE SITUS, A LABEL FOR THE SITUS MUST ALSO BE PREPARED AND ADDRESSED TO "OCCUPANT"). LISTS OF PROPERTY OWNERS MAY BE OBTAINED FROM ANY TITLE INSURANCE COMPANY OR FROM THE COUNTY ASSESSOR. IF THE PROPERTY OWNERSHIP LIST IS INCOMPLETE, THIS MAY BE CAUSE FOR POSTPONING THE HEARING. THE NAMES AND ADDRESSES ARE TO BE *typed onto an 8-1/2 x 11 sheet of labels*, JUST AS YOU WOULD ADDRESS AN ENVELOPE.

USE

EXISTING Farm Use

PROPOSED Light Industrial Business Park

EXISTING STRUCTURES None

SURROUNDING USES Light Industrial, as previously zoned

PROJECT DESCRIPTION Light Industrial Business Park in which each UNIT has office with store front, and warehouse space for storage/manufacture, Etc. Outer structure to be completed first with the interiors to be built to occupants needs.

Two phases Proposed with 18 units in Phase I (Appx 21,000 sq.ft.), And Phase II, 24 units (Appx 25,000 sq.ft.).

ZONING _____ COMPREHENSIVE PLAN DESIGNATION _____

PREVIOUS ACTION (IF ANY) _____

FILE NO. DR 96-12

RECEIPT NO. 2113

RECEIVED BY BA

DATE RECEIVED 9-16-96

COMPLETENESS DATE _____

PRE-AP MEETING _____

HEARING DATE 10-14-96

IF THE APPLICANT IS NOT THE PROPERTY OWNER, HE MUST ATTACH DOCUMENTARY EVIDENCE OF HIS TO ACT AS AGENT IN MAKING APPLICATION.

EXHIBIT

1
7 pages

SCOTT BECK, ARCHITECT

PROJECT NARRATIVE

Date: 9/16/96

To: James Wheeler: City of Canby, Planning Director

From: Scott Beck, Architect

Re: CANBY BUSINESS CENTER
S. REDWOOD STREET SOUTH OF HIGHWAY 99E.
PARKING AND LANDSCAPE DESIGN REVIEW

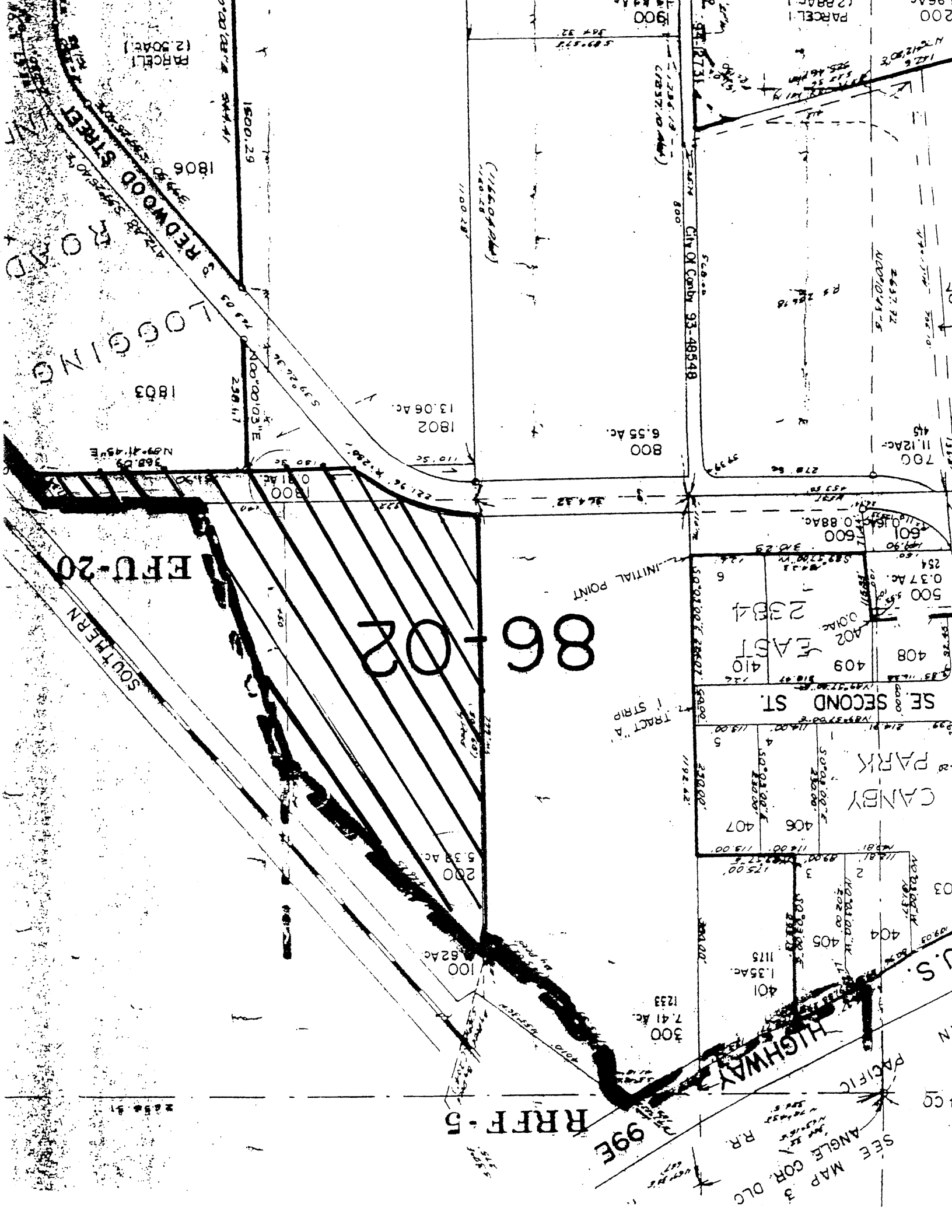
The proposed commercial/light industrial complex is proposed to be constructed in two phases. Phase I consists of approximately 20,690 square feet of floor area, Phase II approximately 32,240 square feet for a total area of 52,930 square feet. The site is currently zoned M-1 and CM. The facility is intended to be leased to individual tenants. Anticipated uses include manufacturing, warehousing and sales, and office and are therefore allowed outright.

Special attention has been paid to design a parking lot and drive aisles which allows for truck turning and circulation. Landscaping is designed to soften the buildings and break up the parking and circulation areas. Street trees are proposed along S. Redwood street to enhance the streetscape.

The Amount of parking proposed for the total buildout is 103 stalls. We anticipate an approximate ratio of 25% office and 75% warehouse/manufacturing, however total parking proposed allows for a ratio of 37% office and 63% warehouse/manufacturing. With this type of project it is important to build-in flexibility for a variety of uses and associated parking requirements.

In closing, I will state that to the best of my knowledge this project design is in full conformity with the City of Canby - Land Development and Planning Ordinance "Design Criteria" .

Please refer to the Design Review Drawings dated 9/16/96 for further explanation of this project.



86-02

SE SECOND ST

CANDY PARK

HIGHWAY 99E

SOUTHERN

REDWOOD STREET

CITY OF CONRY 93-48548

RRFF-5

99E

SEE MAP 3
ANGLE COR. D/C
RR

PARCEL 1
(2.50 AC)

1803

1802
13.06 AC

800
6.55 AC

600
0.88 AC

500
0.37 AC

408

409

406

407

200
5.38 AC

100
62 AC

300
7.41 AC

401
1.35 AC

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LOT LINE ADJUSTMENT APPLICATION

Fee: \$100.00

OWNER

APPLICANT

Name Anderson Properties LLC Daniel Anderson
Address 641 N. Baker Dr. 641 N. Baker Dr.
City Canby State OR Zip 97013 Canby State OR Zip 97013
Phone: 263-6006
SIGNATURE [Handwritten Signature]

DESCRIPTION OF PROPERTY:

Tax Map 3 1E 34c Tax Lot(s) 200&1800 Lot Size Appx. 6 acres
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name Lot Block

PROPERTY OWNERSHIP LIST

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

USE

Existing Farm use
Proposed Light Industrial Business Park

Existing Structures NONE

PROJECT DESCRIPTION

Light Industrial Business Park in which the southerly 4.5 acres (APPX.)
Nearest S. Redwood St. to be developed upon all approvals.
The Northern Parcel, appx 1.5 acres with a 30' Access road
will remain vacant at this time.

ZONING COMPREHENSIVE PLAN DESIGNATION

PREVIOUS ACTION (if any)

File No. LA 96-01
Receipt No. 2113
Received by [Handwritten]
Date Received 9.16.96
Completeness Date
Pre-App Meeting
Hearing Date 10.14.96

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

September 16, 1996

To: Jim Wheeler, Planner
City of Canby

From: Daniel Anderson
641 N. Baker Dr.
Canby, OR

RE: Lot Line Adjustment
Map: 3S, 1E, sec34c, TAX LOTS 200 & 1800

The purpose of this request is to change two tax lots into two different size tax lots for the purpose of constructing an industrial park which meets the criteria for this zone.

This proposal combines TAX LOTS 200&1800, at the same dividing part of TAX LOT 1800 into a separate parcel. (See page "LOT LINE ADJUSTMENT"). Be aware that Parcel C will have its own deeded street access when Parcel A & B are combined.

A property survey and proper recordings will be completed when approvals have been made.

Respectfully,



Daniel Anderson

Applicant

LOT LINE ADJUSTMENT



CURRENT MAP:

PARCEL A (TL 1800)

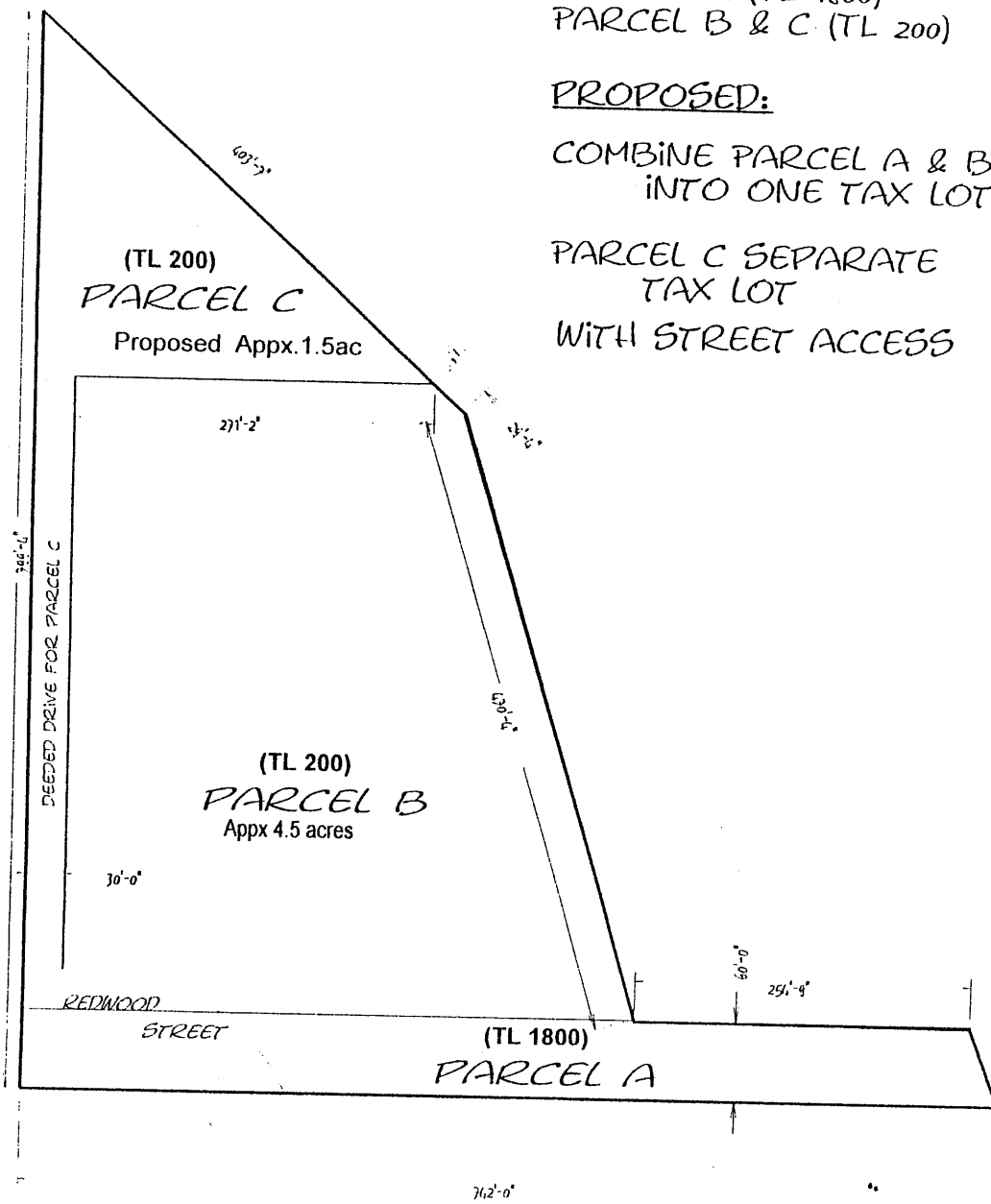
PARCEL B & C (TL 200)

PROPOSED:

COMBINE PARCEL A & B
INTO ONE TAX LOT

PARCEL C SEPARATE
TAX LOT

WITH STREET ACCESS



CONDITIONAL USE APPLICATION

Fee: \$900

OWNER

APPLICANT

Name Anderson Properties LLC

Name Dave Anderson, Inc.

Address 641 N. Baker Dr.

Address 641 N. Baker Dr.

City Canby State OR Zip 97013

City Canby State OR Zip 97013

SIGNATURE [Signature]

Phone: Dan Anderson (VP) 263-6006

DESCRIPTION OF PROPERTY:

Tax Map 3s 1E 34c Tax Lot(s) 200&1800 Lot Size Appx 6ac
(Acres.Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

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

USE

Existing Farm Use

Proposed Business Park

Existing Structures None

PROJECT DESCRIPTION

Current zoning for this parcel is Heavy Commercial/Manufacturing (C-M). With the proposed Business Park, some Light manufacturing may occur, which requires an M-1, Light Industrial Zone OR Conditional Use Permit as stated in Chapter 16.30, 16.020.

ZONING C-M COMPREHENSIVE PLAN DESIGNATION _____

PREVIOUS ACTION (if any) _____

File No. CUP 96-04

Receipt No. 2124

Received by JSW

Date Received 9/23/96

Completeness Date 9/23/96

Pre-App Meeting _____

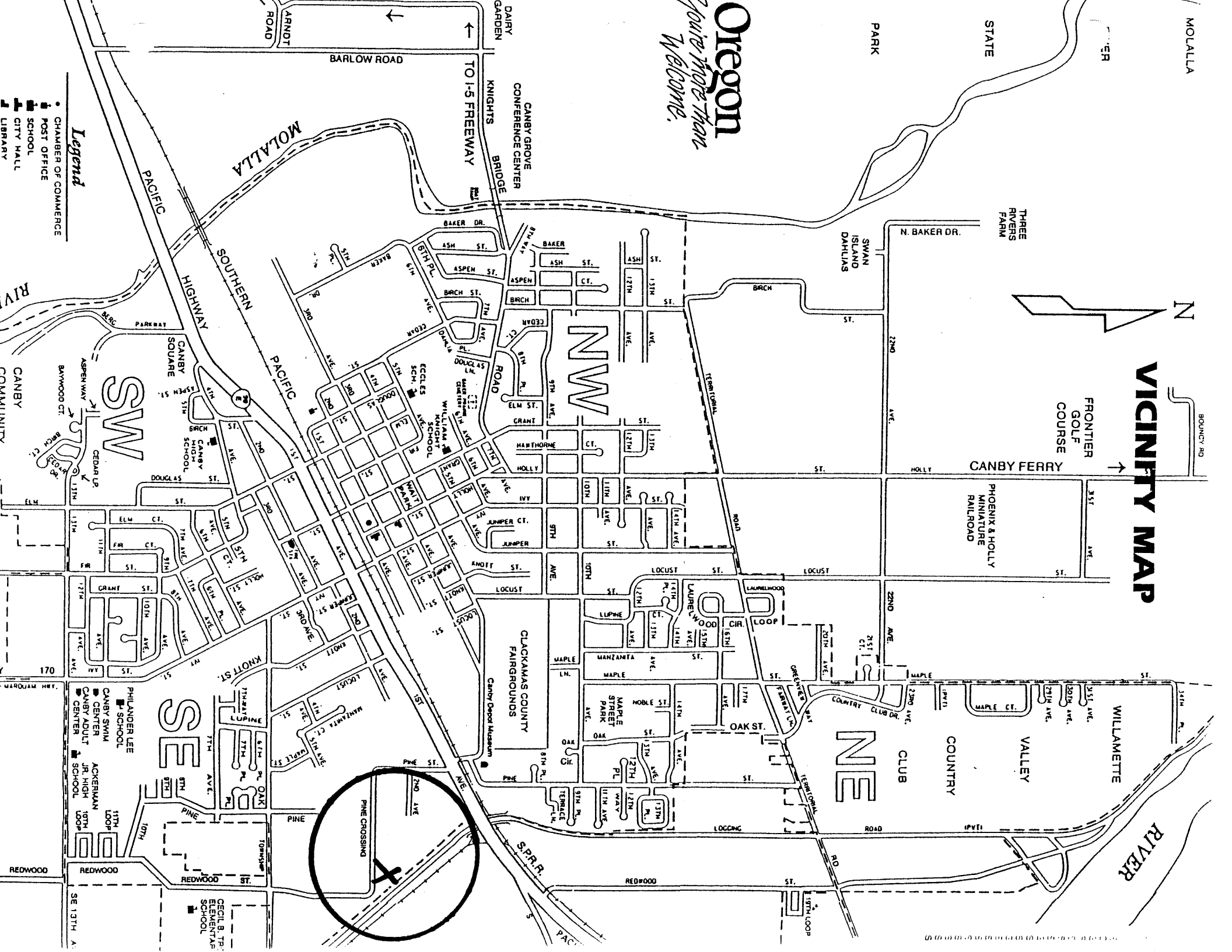
Hearing Date 10/1/96

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

MOLALLA

VICINITY MAP

Oregon
*Just more than
Welcome.*



BOUNCY RD

FRONTIER GOLF COURSE

THREE RIVERS FARM

CANBY FERRY

PHOENIX & HOLLY MINIATURE RAILROAD

WILLAMETTE VALLEY CLUB

WILLAMETTE RIVER

PARK STATE

SWAN ISLAND DAHLIAS

N. BAKER DR.

CANBY GROVE CONFERENCE CENTER
KNIGHTS BRIDGE
TO I-5 FREEWAY

BARLOW ROAD

MOLALLA

SOUTHERN HIGHWAY

PACIFIC

CANBY SQUARE

SW

NW

NE

SE

CLACKAMAS COUNTY FAIRGROUNDS

S.P.R.R.

PINE CROSSING

Legend

- CHAMBER OF COMMERCE
- 📮 POST OFFICE
- 🎓 SCHOOL
- 🏛️ CITY HALL
- 📖 LIBRARY

ASPEREN WAY
BAYWOOD CT.
CEDAR UP
CEDAR PL.
CEDAR CT.

PHILANDER LEE SCHOOL
CANBY SWIM CENTER
CANBY ADULT CENTER
ACKERMAN JR. HIGH SCHOOL
ACKERMAN LOOP

CECIL B. TR. ELEMENTARY SCHOOL

REDWOOD

REDWOOD

REDWOOD

MARQUAM HHT.

170

0 100 200 300 400 500 600 700 800 900 1000

PLEASE RETURN ATTACHMENTS!!!

**CANBY PLANNING DEPARTMENT
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: September 23, 1996

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

The City has received **DR 96-12/CUP 96-04/LLA 96-01**, an application by Dan Anderson for approval to construct a 46 unit commercial/industrial business park, encompassing 52,930 sq. ft. of building space on 4.67 acres. The development will be completed in two phases. The purpose for the conditional use is to permit either manufacturing and/or commercial operations. The lot line adjustment will reconfigure the existing two lots such that a 1.55 acre vacant parcel remains to the north. The site is located on the north side of the transition between S. Redwood Street and S.E. 3rd Avenue [Tax Lots 200 & 1800 of Tax Map 3-1E-34C]. Staff is looking at having the 30-foot access drive to the back parcel dedicated to the public for a half-street improvement. Eventually, this public road will connect to S.E. 2nd Avenue.

We would appreciate your reviewing the enclosed application and returning your comments by **September 30, 1996 PLEASE**. The Planning Commission plans to consider this application on October 14, 1996. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

The City has a storm line on south end of this property. IT appears that building structures will NOT be on storm line. Could the City get an easement for this and possibly, a bike & walking path on this area. The property is continues to the City property at the Logging Road.

Please check one box:

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

Signature: Ray Nester Date: 9-30-96

Title: Public Works Supervisor Agency: City

EXHIBIT	
2	pages

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Signature: Jerry Stager Date: 9/27/96
Title: Police Chief Agency: Canby P.D.

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Signature: Tom Pierson Date: 9/26/96
Title: ENG. DEPT Agency: CANBY TEL & NWT

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None

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Signature: *Steph D. Hans* Date: *9/25/96*
Title: *POTW Supervisor* Agency: *City of Canby*

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Signature: Don Harbrough Date: 9-25-96
Title: Fire Marshal Agency: Canby FD #62