

# **A G E N D A**

## **CANBY PLANNING COMMISSION**

### **REGULAR MEETING**

**City Council Chambers  
Monday, November 28, 1994  
7:30 p.m.**

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**I. ROLL CALL**

**II. MINUTES**

**III. CITIZEN INPUT ON NON-AGENDA ITEMS**

**IV. COMMUNICATIONS**

**V. FINDINGS**

MLP 94-08 - Otta  
SUB 94-04 - Township Village VII

**VI. NEW BUSINESS**

**VII. PUBLIC HEARINGS**

**CUP 94-05/DR 94-14/LLA 94-08**, an application by Fred A. Kahut [owner/applicant] for approval to develop a portion of a 14.4 acre parcel of land, within the confines of the Logging Road Industrial Park, and operate a Solid Waste Transfer Station and Recycling Processing Center. The site is located in the southeast portion of the industrial park and is bounded on the south by Township Road; on the north by an easement for Fourth Avenue; on the east by the Logging Road; and on the west, by Redwood Street (Tax Lot 1805 [part] of Tax Map 3-1E-34C). *Continued from November 14, 1994.*

**MLP 94-09**, an application by James A. Bergen for approval to partition an approximate 1.86 acre parcel into three parcels, 9,790 square feet; 9,843 square feet, and 61,340 square feet, respectively. The parcel is located on the east side of N. Pine Street [640 N. Pine Street] (Tax Lot 1700 of Tax Map 3-1E-34BC).

**VIII. DIRECTOR'S REPORT**

**IX. ADJOURNMENT**

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

Kurt Schrader, Chair  
Stan Elliot

Linda Mihata, Vice-Chair  
Dan Ewert

Bob Gustafson  
Tamara Maher

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### *MEETING TIMELINES AND PROCEDURES*

- *In order not to restrict any person from testifying but, rather, to encourage everyone to do so, the Canby Planning Commission shall try to adhere as closely as possible to the following timelines:*

*Applicant (or representative[s]) - not more than 15 minutes*

*Proponents - not more than 5 minutes*

*Opponents - not more than 5 minutes*

*Rebuttal - not more than 10 minutes*

- *Everyone present is encouraged to testify, even if it is only to concur with previous testimony. For more complete presentations, Proponents and Opponents may "buy" time from one another. In so doing, those either in favor, or opposed, may allocate their time to a spokesperson who can represent the entire group.*
- *All questions must be directed through the Chair.*
- *Any evidence to be considered must be submitted to the hearing body for public access.*
- *All written testimony received, both for and against, shall be summarized by staff and presented briefly to the hearing body at the beginning of the hearing.*

*Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.*





**PLANNING COMMISSION  
SIGN-IN FORM**

**Date: November 28, 1994**

**PLEASE PRINT CLEARLY**

NAME	ADDRESS
Howard + Loydalice Lowrie	542 SE 6th Pl.
Carlisle + Karen Jackson	510 SE 7th Place
Walter + Jean Martin	726 S.E. Supreme
Bob Johnson	24010 S. KYLANE DR. CANBY
Dick Brown	829 N. Holly - Canby
ALAN PETERSON	315 S. TOWNSHIP RD CANBY
Steve Jessop	830 SE 7 <sup>th</sup> AV Canby
Myra Winton	343 NW 3rd Ave Canby
John A Mearce	656 SE 6 Place Canby
? Wayne W. Wirtel	675 S. End Rd. Canby City
Herb Carter	1368 SE 10th Ave, CANBY
Kevin Lewis	1344 SE 10th Canby
Troy Nelson	653 S. Oak Pl. Canby
Paul E Bell	687 S Redwood Canby
Alonna Jean McManamon	525 SE. 7th Pl Canby
Frank J.	1178 Berg Parkway Canby Oregon
Bob Tacke	13120 Lakewood DR. N.E. Clatsop
MAXYANN MAPLES	1417 SE 11th LP Canby
TIM MAPLES	1418 SE 11th LP Canby
Jeff + Deanna O'Neil	622 SE 6th Pl. Canby
Bob Guthridge	815 Washington St. O.C.
Charles Ernst	5125 SE Cooper
Chuck + Pam Walker	517 SE 7th Ave, Canby
Nancy Kahut	9911 S Kramberg Canby

**PLANNING COMMISSION  
~~TESTIMONY~~ SIGN-IN FORM**

**Date: November 28, 1994**

**PLEASE PRINT CLEARLY**

**NAME**

**ADDRESS**

Christine Klosser

544 S. Pine St.

Greg Eiche

591 SE 6<sup>th</sup> Place Canby

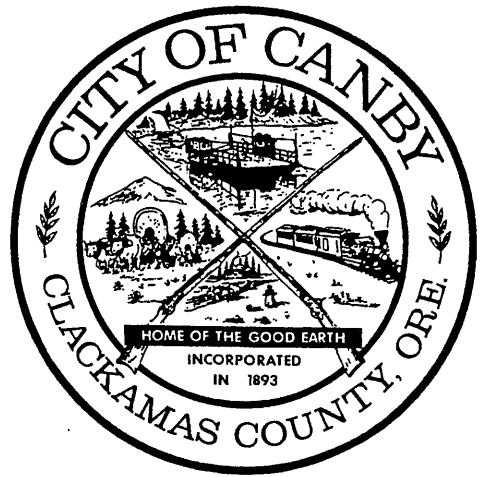
Tory MacGregor

593 SE 1st Ave

Pam Thompson

1178 SW BERG PARKWAY CANBY

**- REVISED -  
- STAFF REPORT -**



**APPLICANT**

Fred A. Kahut  
P.O. Box 550  
Canby, OR 97013

**FILE NO.:**

CUP 94-05/DR 94-14/LLA 94-08

**OWNER:**

Same

**STAFF:**

Robert G. Hoffman, AICP  
Planning Director

**LEGAL DESCRIPTION:**

Tax Lot 1804 and 1805 of  
Tax Map 3-1E-34C

**DATE OF REPORT:**

November 4, 1994  
REVISED 11-18-94

**LOCATION:**

Northeast corner of the intersection  
of S. Redwood and S.E. Township

**DATE OF HEARING:**

November 14, 1994  
CONT. TO 11-28-94  
AND 12-12-94

**COMP. PLAN DESIGNATION:**

Light Industrial

**ZONING DESIGNATION:**

M-1 (Light Industrial)

**I. APPLICANT'S REQUEST:**

The applicant is requesting approval of Conditional Use, Design Review, and Lot Line Adjustment applications to develop a portion of the properties as a Solid Waste Transfer Station and Recycling Processing Center. The site is a portion of the 14.40 acre parcel. **THE APPLICATION WAS AMENDED ON NOVEMBER 11, 1994, BY LETTER, TO PROPOSE INCLUDING STORAGE OF PARTIALLY FILLED STORAGE OF RECYCLABLES IN THE OUTDOOR YARD SPACE.**

**II. APPLICABLE REGULATIONS**

- City of Canby General Ordinances:
  - 16.10 Off-Street Parking and Loading
  - 16.32 M-1 Light Industrial Zone
  - 16.49 Site and Design Review
  - 16.50 Conditional Uses
  - 15.56 General Standards (for Land Division)
  - 16.58 Lot Line Adjustment
  - 16.88 General Standards
  
- City of Canby Comprehensive Plan:
  - I. Citizen Involvement
  - II. Urban Growth
  - III. Land Use
  - IV. Environmental Concerns
  - V. Transportation
  - VI. Public Facilities and Services
  - VII. Economics
  - VIII. Housing
  - IX. Energy

**III. MAJOR APPROVAL CRITERIA**

**16.49 Site and Design Review**

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.

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.

#### 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 Lot Line Adjustments

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

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



- D. 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 site is a 14.40 acre parcel with the applicant proposing to combine two tax lots and move the lot line between the two parcels so that the site for the Transfer/Recycling Center would be a rectangular shaped site approximately 700 x 650 feet, at the northwest corner of Redwood and Township. The second parcel would be triangular shaped, with a base of 560± and 650± height. The dimensions of the primary site are as shown on page A0.2 of the application's supporting report dated September 30, 1994. The final size of the primary parcel would be about 9.5 acres, and the other parcel would be about 5 acres, with access to 4th Avenue.

Previous applications for the use by the applicant, for another site, were reviewed by the Commission in 1988 and 1989, and the Council supported the Commission's denial in 1990. The applicant has a current contract with the City of Canby to haul solid waste. The applicant currently has a waste facility on Berg Parkway. The Planning Commission, in 1988, determined that a use such as proposed is a "conditional Use" within the Development Code regulations for M-1 (Light Industrial) zoned property. The Comprehensive Plan and Zoning for the subject parcel is Light Industrial to the east, north, and west. The Comprehensive Plan proposed land use is Single Family Residential [R-1] to the south of the property, and the zoning is EFU-20 [Farm Use] for the present, and will be R-1 once annexed. Most of the surrounding property is vacant, but the area is proposed by Canby as part of the Logging Road Industrial Project. A new industry is under construction to the west and a new school has been constructed, with the building located over 1,000 feet south of Township Road, the subject property's southern boundary.

Access to the Transfer/Recycling Center is proposed to be entirely from the new 4th Avenue, to be located along the northern edge of the site. A heavily landscaped, 6-foot high berm is proposed to be located along Redwood and Township, and partially along 4th Avenue, and part of the eastern edge of the site. All transfer and recycling **PROCESSING AND LOADING** and truck service are proposed to take place within the 120 x 300 new building. Truck parking and truck washing, ~~and empty bin storage~~ **AND PARTIALLY FILLED STORAGE CONTAINERS WITH**

RECYCLABLES are the only uses proposed for the outdoor ~~truck~~ STORAGE yard. NO GROUNDING OF RECYCLABLES IS PROPOSED IN THE YARD. A 50 x 80 foot office and 24-space parking lot, and a small public recycling drop-off are also proposed [see Site Plan A0.1 of the report]. The report also states, on page 1 of the Project Narrative, that "When the complex is completed, Canby Disposal Company will vacate its existing location on Berg Parkway." The proposed development will operate between approximately 6:00 a.m. and 6:00 p.m., 5 days per week.

**B. Comprehensive Plan Consistency Analysis**

**i. Citizen Involvement**

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

ANALYSIS

The notification process and public hearing are a part of the compliance with adopted policies and process regarding citizen involvement.

**ii. Urban Growth**

- **GOAL: 1) TO PRESERVE AND MAINTAIN DESIGNATED AGRICULTURAL AND FOREST LANDS BY PROTECTING THEM FROM URBANIZATION.**
- 2) TO PROVIDE ADEQUATE URBANIZABLE AREA FOR THE GROWTH OF THE CITY, WITHIN THE FRAMEWORK OF AN EFFICIENT SYSTEM FOR THE TRANSITION FROM RURAL TO URBAN LAND USE.

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

ANALYSIS

The project is entirely within the City limits and within the Urban Growth Boundary. It fully meets the intent of Canby goals and policies regarding the Comprehensive Plan Urban Growth Chapter.

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 (as outlined).

**ANALYSIS**

The proposal is to use a portion of the proposed Logging Road Industrial Project Site, M-1 zoned property, for a permitted industrial use. There are proposals to reduce any operating characteristics to a level consistent with the existing and proposed uses. Provided that the Conditional Use criteria, the Design Review criteria, and other Code and ordinance criteria are met, the use does appear to be consistent with the Comprehensive Plan Land Use Element. However, a detailed analysis will be done in this report, under the later criteria. Conditions will apply to prevent overburdening the highways, the sewer treatment plant, and other facilities. The subject parcel has not been identified as an area of risk with natural hazards. The subject area is Area "G" in the Comprehensive Plan and is desirable as appropriate for heavy commercial or industrial use which is the use proposed for the subject site by the applicant.

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 *(not applicable since the existing use is not agricultural)*

Policy #1-R-B *(not applicable since the existing use is not agricultural)*

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

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

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

Policy #5-R *(not applicable since it is not a designated mineral site or historical site)*

Policy #6-R *(not applicable since it is not a designated mineral site or historical site)*

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 *(not applicable since the site is not a known or appropriate fish, wildlife, or wetland resource and does not have steep slopes or flood prone areas or problem soils)*  
Policy #10-R

Policy #1-H *(not applicable since the site is not a known or appropriate fish, wildlife, or wetland resource and does not have steep slopes or flood prone areas or problem soils)*  
Policy #2-H  
Policy #3-H

## ANALYSIS

On-site disposal or treatment of storm water will need to be required. State and local Code requirements regarding air, water, and noise pollution will be required of the development and construction. A new noise ordinance is under consideration by City Council. State laws and local regulations will require development to meet standards to prevent air, water, land and noise pollution. The proposal will have minimal affect on the open space. There are no known hazards on the site or nearby. Landscaping will be required.

The City of Canby Contract Engineer has requested some changes of the storm water proposal to add capacity and the Sewer Plant Supervisor has requested special care because of possible on-site spills and contamination in the yard from truck washing **AND POSSIBLE LEAKAGE FROM RECYCLABLE STORAGE CONTAINERS**. He has recommended a number of conditions of approval. All areas where there is parking or maneuvering of vehicles must be hard surfaced. The State DEQ will have numerous conditions for getting their approval (see attached example). Given the recent budget cutbacks on staffing for enforcement of conditions, monitoring of conditions is a concern. Special monitoring provisions such as regular inspections and nearby well monitoring may be needed to avoid possible ground water contamination. Canby has waste management contract provisions allowing careful controls of operations or canceling the contract for failure to perform. The contract may need to be strengthened. Regular task force inspection and reporting has been used with effectiveness in other jurisdictions. Similarly, special performance bonds have also been used. The Canby Chamber of Commerce, by letter dated June 16, 1994, has conditioned its support upon standards being ensured by use of "an irrevocable letter of credit from a sound financial institution to assure all conditions are met."

## v. TRANSPORTATION

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

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

- Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the City's growth needs.
- Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.
- Policy #4: Canby shall work to provide an adequate sidewalk and pedestrian pathway system to serve all residents.
- Policy #5: Canby shall actively work toward the construction of a functional overpass or underpass to allow for traffic movement between the north and south side of town.
- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #9: Canby shall support efforts to improve and expand nearby air transport facilities.
- Policy #10: Canby shall work to expand mass transit opportunities on both a regional and an intra-city basis.
- Policy #11: *not applicable*
- Policy #12: Canby shall actively promote improvements to State highways and connecting County roads which affect access to the City.

## ANALYSIS

The applicant has used a traffic engineer to help design his proposal. All transfer trucks and waste pick-up trucks are proposed to come and go to the site by way of Highway 99-E, S. Pine Street and Redwood St. The site entrance would be from the new S.E. 4th Avenue, which the applicant would fully develop to the edge of his property. Township Road, a County highway, would need to be improved and sidewalks provided along all boundary streets. Bicycle movement and storage would need to be provided for. It is proposed that the public would not be allowed to dump solid waste at the new transfer station, only recyclables. A traffic signal has been programmed to be installed by the State at S. Pine and Highway 99-E. With that improvement, and improvements to Township, all impacts and concerns mentioned by the traffic engineer would be solved. The traffic light is needed to solve the anticipated problems. The site is a part of the Logging Road Industrial Project and the developer will pay in excess of \$25,000 toward the costs of that project.

### 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

The proposed changes will necessitate certain changes in the location or provision of public utilities. The school district has not expressed any concerns with the proposal as drafted. Significant changes in the traffic patterns of the proposed development's trucks were made to meet earlier concerns. The Fire Marshal has asked for two hydrants, sprinkler system, and details for suppression to be worked out before occupancy. The Public Works Supervisor, sewer plant, and Canby Utility Board have each asked for improvements and conditions of approval, as listed on their respective "Request for Comments" form (see attached). We have not received responses to our "Request for Comments" from the telephone company. Staff will make further contacts. The County has asked for certain improvements as indicated. The Logging Road and Advanced Financing project has built a number of improvements and the developer will pay in excess of \$25,000 toward those improvements.

### vii. ECONOMIC

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

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

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

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

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

## ANALYSIS

The proposed use will employ numerous Canby residents and provide a necessary waste collection and transfer service, which will serve all Canby businesses, institutions, and residents, as well as much of the



surrounding area. The Logging Road Industrial Project was formulated to be a place for industries which would not be appropriate for many other locations within the City. The applicant has spoken with many affected owners, businesses, and those seeking economic development. The proposal, as formulated, has attempted to meet their concerns regarding possible traffic, noise, ground water contamination, and impacts. The traffic routing, the landscaped berm, and operating limitation characteristics have been responses to these concerns.

**viii. HOUSING**

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

- Policy #1: Canby shall adopt and implement an Urban Growth Boundary which will adequately provide space for new housing starts to support an increase in population to a total of 20,000 persons. (Already accomplished through area annexation.)
- 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. (Not applicable since the area is proposed for industrial development.)
- 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. (Not applicable since area is industrial.)
- 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. (Not applicable since the area is proposed as Industrial Land Use.)
- Policy #5: Canby shall provide opportunities for mobile home developments in all residential zones, subject to appropriate design standards. (Not applicable since area is industrial.)

## ANALYSIS

The proposed use will provide service to all of Canby's residents. Many have expressed concerns about potential impacts on their neighborhoods. The concerns were noise, traffic, visual blight, pollution of air, ground, and water. The proposed plan has attempted to meet the concerns with the traffic routing, the landscaped berm and numerous limitations on operating characteristics.

### ix. ENERGY CONSERVATION

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

Policy #1: Canby shall encourage energy conservation and efficiency measures in construction practices.

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

Policy #3: Canby shall strive to increase consumer protection in the area of solar design and construction.

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

Policy #5: Canby shall continue to promote energy efficiency and the use of renewable resources.

## ANALYSIS

The applicant will need to meet numerous energy requirements to conserve energy as part of the Building Code requirements. The waste transfer and recycling are the prime purposes of this proposal. Energy savings (as well as cost savings) is a major proposed result.

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

Based upon the above described analysis, the proposal appears to be consistent with or can, with conditions, be made consistent with the policies of the Comprehensive Plan, provided it meets the detailed approval criteria as follows, and adequate conditions are approved and enforced.

**C. Evaluation Regarding Conditional Use Approval Criteria**

**1. Comprehensive Plan Consistency**

The previous discussion determined the proposal's relation to Comprehensive Plan consistency.

**2. Site Suitability**

The site is generally flat, and is large enough to accommodate the proposed use and building with the appropriate setbacks. The original site is proposed to be enlarged to accommodate the large landscaped berm, which surrounds most of the site, except the area to the east, which will be developed industrially. The applicant discusses size, shape, design, location, topography, and improvements on Pages 3-4 of the analysis. Upon review, it does appear that the site is suitable for the proposed use, provided public services and environmental relationships are considered positive and available after proposed improvements are accomplished.

**3. Availability of Public Services and Facilities for the Site**

Utility and public facilities and services are available in adequate capacity to serve the proposed use. Site-related improvements will be needed. The service providers each have reviewed the proposal and have provided recommendations for conditions and improvements (see attached reports). The applicant discusses these aspects on Pages 4-6. **SINCE RUNOFF FROM THE YARD COULD POTENTIALLY CONTAMINATE THE GROUND WATER, SPECIAL STEPS NEED TO BE TAKEN TO PREVENT THIS FROM HAPPENING. THE STORAGE CONTAINERS PROPOSED TO HANDLE RECYCLES, NEED TO BE PROTECTED FROM ALLOWING LEAKAGE TO THE GROUND. NO GROUNDING IN THE YARD OF RECYCLABLES SHOULD BE ALLOWED.**

**4. Compatibility with Surrounding Uses**

The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of the surrounding properties for uses listed as permitted in the zone.

The proposed development is located entirely within an area designated for light industrial use. It is proposed to be almost entirely enclosed within a landscaped berm. The transfer and recycling processes are

proposed to be entirely enclosed within a building. Traffic to and from the site by large trucks will enter the site on its northern edge and will come and go by way of Redwood and Highway 99-E, not Township Road. The proposed residential uses to be located across Township will be protected by a 40 foot wide berm (6 to 8 feet in height), landscaping, and a 70 foot wide right-of-way. Provided the development operates as described by the applicant, there should not be adverse effects which would limit or preclude the industrial or residential uses as proposed in the Comprehensive Plan (see Page 6 of the applicant's CUP discussion of this aspect).

**D. Evaluation Regarding Site and Design Review Approval Criteria**

**1. Part IV - Section 2, #2**

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

(See application Page A0.3)

The landscaping requirements for an industrial property is 15% of the area being developed. The amount of landscaping required for the 9.5 acres (413,820 square feet) is approximately 62,073 square feet. The applicant is proposing in excess of approximately 157,000 square feet of landscaping (38%).

**2. Parking**

The parking requirements for an industrial use is 3.5 spaces per 1,000 square feet of office space, plus 1 space per 1,000 square feet of non-office space. The office space is 50 x 80, or 40,000 square feet, requiring 14 parking spaces. The Transfer Building is 120 x 300 or 36,000 square feet, requiring 36 spaces. There are  $18 + 6 = 24$  spaces shown on the plan. **THE APPLICANT NEEDS TO GIVE JUSTIFICATION FOR THE REDUCTION OF 6 SPACES. (THIS JUSTIFICATION IS GIVEN IN THE ATTACHED LETTER FROM STEVE DONOVAN DATED NOVEMBER 15, 1994).** There is almost 5 acres of paved surface, proposed maneuvering, truck parking, and drop boxes (i.e., if additional parking for employees and visitors is required). Handicap spaces will be required, as will bicycle parking. There are numerous trees and bushes indicated on the landscape plan, far exceeding any requirements related to parking. Sidewalks from

Redwood and 4th Avenue, and from the parking area to the office and shop need to be provided and clearly marked. Bicycle parking spaces need to be provided. Loading spaces are clearly indicated on the plan. The site plans are shown on Page A0.1 to A0.4. Screening is provided by the berm. Irrigation will need to be provided to all landscaped areas.

### **3. Architecture**

The office and shop buildings are proposed with exposed concrete tilt-up concrete walls, with flat roofs. In the professional opinion of staff, the building design is appropriate for the proposed function and industrial setting. The landscape berm surrounding the site will soften the impacts of the concrete buildings. The designs are shown on Pages A1.1 and A1.2.

### **4. M-1 Zoning Requirements**

The Commission has previously determined that a Waste Transfer and Recycling Center is a Conditional Use in an M-1 Zone. The lot area clearly exceeds the 5,000 square foot minimum, being 9.5 acres in size. The width and frontage minimums of 50 feet are exceeded. The only required setback is 10 feet across Township, from the residential future development. The 40 foot wide berm clearly meets this requirement with all buildings behind it. The 45 foot height limit is not exceeded, since the highest building is 33 feet. Vision clearance is met at all corners, but the driveway entrance needs to be designed to account for this requirement. The storage areas are screened by the berm.

## **E. Evaluation Regarding Lot Line Adjustment Criteria**

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 nonconforming lots and lots with nonconforming structures provided that the nonconforming lots and structures will be no less in conformity as a result of the lot line adjustment.

## ANALYSIS

The two lots, after the lot line adjustment, will meet all minimum sizes for the zone (see above analysis for M-1 Zone). No buildings exist on the site and, therefore, are not a factor.

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.

## ANALYSIS

The proposal is to move the line between the two tax lots by 86 feet, to create a slightly larger lot along Redwood, in order to accommodate the landscaped berm. No new lots are created. The resultant lots would be 9.5 acres and 4.9 acres, respectively, with access to Redwood, 4th Avenue and Township Road. The Township Road access is not required. (Previous subdivision approval of Tax Lot 1804 required that the access width to 4th Avenue be at least 100 feet wide. This is maintained even after the lot line adjustment.)

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.

## ANALYSIS

A survey will be provided by the applicant, and recorded.

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.

## ANALYSIS

No hazardous locations are present or created, and all needed public facilities will be provided prior to occupancy.

## **V. CONCLUSION**

### ***Regarding Site and Design Review***

The staff hereby concludes that without benefit of a public hearing 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. The proposed conditions are the minimum necessary to achieve the purposes of this ordinance and will not unduly increase the cost of housing.

### ***Regarding Lot Line Adjustment:***

The City Planner and City Administrator, acting as the City Engineer, find, with appropriate conditions, that the lot line adjustment request is in conformance with the applicable approval criteria since required setback and yard requirements can be met in relation to the lot line being adjusted or will be no less in conformity, no new lots are created, and the area is not a known hazardous location.

### ***Regarding the Conditional Use***

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

1. The proposed use of the site is consistent with the applicable requirements and policies of the Comprehensive Plan and the development ordinance;
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 services 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.

**VI. RECOMMENDATION:**

Based upon the **AMENDED** application and drawings submitted, facts, findings and conclusions of this report, and without benefit of a public hearing, staff recommends that the Planning Commission approve CUP 94-05/DR 94-14/LLA 94-08 with the following conditions:

1. Full curbs, sidewalks and paving is required for Township Road, Redwood, and new 4th Avenue. Paving of 4th Avenue shall be a full-width and for the full length of the ownership parcel. Township Road shall be repaved for a half-street width designed to City standards as determined by the Public Works Supervisor and shall also be approved by Clackamas County Transportation and Development Department.
2. Prior to occupancy, a "Spill Response Plan" for wastewater and stormwater shall be reviewed and approved by the City of Canby Pretreatment Coordinator.
3. Prior to occupancy, a local wastewater disposal permit shall be acquired from the City's Pretreatment Coordinator, including a plan for disposal of wastewater in excess of local discharge limits.
4. The building permit and operations shall be in full compliance with 40 CFR, Parts 122 and 403 and RCRA/DEQ Solid Waste Regulations. A DEQ Solid Waste Permit shall be secured prior to occupancy and a copy of the approved permit shall be given to the Canby Planning Director.
5. In compliance with Code Section 16.88.090, significant noncompliance of conditions of approval, including local limits or conditions set forth in the Wastewater Discharge Permit, will result in revocation for noncompliance of the Conditional Use Permit. In terms of wastewater, significant noncompliance is as defined in the Wastewater Discharge Permit and 40 CFR, Part 403.
6. A 12" water line shall be installed along SE 4th Avenue for the full length of the property ownership to the railroad **AS APPROVED BY THE CANBY UTILITY BOARD.**
7. The proposed biofiltration swales shall be redesigned with drywell disposal. Swales used for any pretreated stormwater runoff shall be no more than 1/2" to 1" deep, and a minimum of 100 feet in length **OR AS APPROVED BY THE CITY OF CANBY CONTRACT ENGINEER AND PUBLIC WORKS SUPERVISOR.**



8. The 12" proposed sewer trunk from Redwood shall extend the full width of Lot 1805 **WITHIN 4TH AVENUE RIGHT-OF-WAY, OR AS APPROVED BY THE PUBLIC WORKS SUPERVISOR.**
9. Extension of electric and water infrastructure shall be provided, designed, and installed to Canby Utility Board specifications and practices, and at the developer's expense.
10. A preconstruction meeting with City staff, **THE FIRE MARSHAL**, the Canby Utility Board, Canby Telephone Association, and Northwest Natural Gas representatives shall be held, and all issues resolved prior to construction.
11. A detailed Fire Hydrant, Sprinkler System, and Fire Suppression Plan shall be reviewed and approved by the Fire Marshal at time of Building Permit review.
12. The applicant is to receive and continually comply with all required permits of the Oregon Department of Environmental Quality (DEQ), and any other State or federal agencies with regulatory authority over this sort of operation. Copies of such required permits shall be given to the Planning Director prior to approval of the building permit.
13. No private individual will be allowed to utilize the transfer station for unloading personal garbage.
14. As proposed by the applicant, **AND AS ILLUSTRATED ON DRAWING A0.3, LANDSCAPE PLAN**, a ~~perimeter~~ landscaped berm is to be provided to help minimize visual impacts. In addition, **THE ENTIRE SITE IS TO BE ENCLOSED BY** a ~~perimeter~~ fence, ~~to be a minimum of eight (8) feet in height, is to be provided.~~ Adequate vision clearance shall be provided at each driveway. If the applicant chooses to fence an area which is smaller than the entire tax lot, the fenced area can later be expanded without requiring the approval of a new use permit.
15. Wastewater from restrooms and office plumbing may be drained directly to the City's sanitary sewer system. All other wastewater from garbage handling areas is to be subject to the City's requirements for sewage pretreatment.
16. **EXCEPT FOR THE "PUBLIC RECYCLING" AREA, AS ILLUSTRATED ON DRAWING A0.2, AND THE STORAGE IN THE YARD OF PARTIALLY FILLED STORAGE CONTAINERS OF RECYCLABLES,** ~~No storage or handling~~ of garbage or recyclable material is to occur on any surface located outside the building. **RECYCLABLES ARE TO INCLUDE, BUT ARE NOT LIMITED TO: GLASS, METALS, CORRUGATED PAPER, NEWSPRINT, AND TIN CANS.** All parking, loading and maneuvering areas are to be paved of concrete or asphalt. All roads and

driveways are to be paved of asphalt or concrete and property drained. Outdoor areas used for the storage of empty dumpsters, trucks, or empty drop boxes, are to be completely paved and adequately maintained. **THE PARTIALLY FILLED STORAGE CONTAINERS OF RECYCLABLES STORED IN THE YARD ARE TO BE KEPT COVERED AND SHALL BE LEAKPROOF. NO GROUNDING OF RECYCLABLES IN THE YARD IS PERMITTED. ALL PROCESSING AND LOADING OF STORAGE CONTAINERS IS TO OCCUR WITHIN THE BUILDING.**

17. The applicant is to establish and maintain a daily litter clean-up process on the site and along the truck route coming to the site ~~from Highway 99-E~~. **THE CLEAN-UP SHALL INCLUDE THE ENTIRE ROADWAY LENGTH ADJACENT TO THE SITE, S.E. 4TH AVENUE, BETWEEN REDWOOD AND THE RAILROAD, AND S. REDWOOD, FROM TOWNSHIP TO S.E. 3RD AVENUE.** If it becomes necessary at any time for the City to conduct a clean-up of the public roadway, the applicant will be given a one (1) day written notice of the City's intention to conduct the clean-up, at the applicant's expense. The applicant is to post a \$1,000 bond, or other surety, to the satisfaction of the City Attorney, strictly for this purpose.
18. The site is not to handle any sewage sludge or septic tank pumpings.
19. The applicant is not to **KNOWINGLY** handle any electrical transformers or hazardous or toxic waste at the site.
20. No burning of any kind is to be permitted at the site.
21. Washdown locations for trucks, trailers, or other equipment are to be ~~under cover and~~ drained to the sanitary sewer system after testing and pretreating, if required, as approved by the City Public Works Department and the wastewater management staff.
22. Trucks and trailers hauling garbage to or from the site are to be of leakproof construction, as defined by DEQ.
23. Appropriate procedures are to be taken to eliminate any potential problems from rodents, flies, and birds. The applicant is to comply with any lawful order or requirement of the City, the County, or DEQ for the abatement of any such nuisances.
24. Loads are to be hauled to the landfill as soon as they are full. In no case is garbage to remain on the premises for longer than twenty four (24) hours **EXCEPT DURING A WEEKEND "EMERGENCY."** The transfer area is to be washed down nightly **OR AS PRESCRIBED BY THE CANBY**

**INDUSTRIAL PRETREATMENT OFFICER.** On-site storage of FULL garbage containers is to be kept to a minimum and not exceed ~~six (6)~~ **TWELVE (12)** hours of stay on premises **EXCEPT DURING A WEEKEND "EMERGENCY."**

25. Normal growth of the Canby Disposal operation in terms of such things as amount hauled, number of employees, and number of trucks, will not be regarded as an expansion of this conditional use, and will not require additional public hearings.

26. Utility easements, water and electric services, and street lighting shall be provided to meet the requirements of the Canby Utility Board and other service-providers.

27. A "STOP" sign constructed to meet City Public Works standards is to be provided at the applicant's expense and installed at the corner of S.W. 4th Avenue and S. Redwood Street.

~~28. EXCEPT FOR THE "PUBLIC RECYCLING AREA" AS ILLUSTRATED ON DRAWING A0.2, No dumpsters or drop boxes containing any waste shall be stored outside the enclosed building. In no case shall dumpsters or drop boxes be stacked on top of one another outside the enclosed building. (see #16)~~

289. Other than garbage trucks engaged in their normal pick-up activities, no truck traffic is to use S. Redwood or S. Township, beyond the limit of the designated truck route.

~~30. All glass and scrap metals shall be kept enclosed within the building. (see #16)~~

~~31. Corrugated paper and newsprint shall be handled within the covered building. Once bailed, it shall NOT be stacked outside. (see #16)~~

~~32. Tin cans are to be entirely handled within the building and NOT to be stacked or piled outside the building. (see #16)~~

293033. Before handling any other materials not approved within the DEQ Permit, the applicant is to secure the approval of the Canby Planning Commission, acting on an expansion of this conditional use permit.

303134. Since a sign for the property has not been reviewed under these applications [CUP or DR], any separate sign application for the property will not be approved by the City Planner or Building Official

until at least six (6) months have elapsed after the issuance of the occupancy permit for the site.

- 313235.** 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.
- 323336.** **THE SITE IS TO BE INSPECTED AT LEAST EVERY THREE (3) MONTHS WITHIN THE FIRST YEAR AND EVERY SIX (6) MONTHS THEREAFTER BY THE CITY PLANNER AND BUILDING OFFICIAL.**
- 333437.** **THE CITY FRANCHISE AGREEMENT FOR THE COLLECTION OF SOLID WASTE SHALL BE NEGOTIATED BETWEEN THE PARTIES AT THE EARLIEST PRACTICABLE TIME AND SHALL INCLUDE LACK OF PERFORMANCE UNDER THIS CONDITIONAL USE PERMIT AND DESIGN REVIEW APPLICATION AS GROUNDS FOR BREACH OF CONTRACT.**
- 343538.** **IF THE APPROVAL BY DEQ TAKES LONGER THAN ONE (1) YEAR FROM THE DATE OF THIS CONDITIONAL USE PERMIT APPROVAL, THE TIME PERIOD FOR REVOCATION UNDER SECTION 16.88.090(A) IS HEREBY EXTENDED BY SIX (6) MONTHS.**
- 3536.** **STREET TREES, FROM THE CITY'S APPROVED STREET TREE LIST (WITH SPACING AS RECOMMENDED ON THAT LIST) SHALL BE PROVIDED ALONG TOWNSHIP ROAD, REDWOOD, AND 4TH AVENUE. "CLEVELAND" NORWAY MAPLES SHALL BE UTILIZED ALONG S. REDWOOD, WITH APPROXIMATELY 50 FOOT SPACING. MAPLES SHALL NOT BE USED ALONG 4TH AVENUE AND TOWNSHIP ROAD.**

**Exhibits:**

1. Lot Line Adjustment Application
2. Site and Design Review Application
3. Conditional Use Application
4. Vicinity Map
5. Comments from various service providers, County, and DEQ

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# Canby Transfer & Recycling

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November 15, 1994

Mr. Robert Hoffman, AICP  
Planning Director, City of Canby  
182 North Holly Street, P.O. Box 930  
Canby, Oregon 97013

RE: Parking Requirements:  
CUP 94-05/DR 94-14/LLA 94-08  
Solid Waste Transfer Station and Recycling Processing Center

Dear Mr. Hoffman:

Section 16.10.050 of the City of Canby Land Development and Planning Ordinance states that "the parking standards set out in Table 16.10.050 shall be observed." Based on the data contained in that table, the proposed development of the solid waste transfer station and recycling processing center would require fifty (50) parking stalls based on the following formula:

"3.50 spaces per 1,000 gross square feet of office space, plus 1.00 spaces per 1,000 gross square feet of non-office manufacturing space, with a minimum of 5 parking spaces overall."

Based on our application submittal dated September 30, 1994, we proposed to develop the site with an office building that would have 4,000 gross square feet of space. According to the code, this development would require 14 parking spaces. The development of the shop, recycling, and transfer building calls for 36,000 square feet of gross square feet of space. Once again, according to the code, this development would require 36 parking spaces. The sum of these two requirements amounts to a total of 50 parking spaces.

Based on our projection of parking needs, the code would compel us to develop parking at more than twice our ultimate need (i.e.,  $50 \div 24 = 2.08$ ). Our needs analysis is predicated on the following logic:

Parking Stalls  
Required

Total full and part time office staff .....6  
 Total full and part time fleet, transfer, and recycling staff..... 12  
 Subtotal..... 18

Oversizing factor to accommodate guests and growth in staff @ 33%..... 6

Total projected parking requirement ..... 24

We contend that the requirements of the code are unnecessary and produce false economy to the City and to Canby Transfer & Recycling. Firstly, if we develop the parking for the site in accordance with the letter of section 16.10.050, we will construct impervious surfaces that will not be needed or used. Furthermore, once constructed, these impervious surfaces will forever increase the amount of stormwater runoff originating from the site. This will in turn call for increased investment in stormwater treatment and disposal infrastructure. Secondly, by constructing parking for twice as many passenger vehicles as required, we will at least be developing the site in conflict with the spirit of the Oregon Transportation Rule. As you know, the goal of this planning rule is to reduce the number of vehicle miles traveled over time. Simply by having a surplus of vehicle parking available, we may be encouraging employees and guests to use their automobiles for trips to the site, when alternative sources of transportation (i.e., bicycle, and walking) may be viable.

Section 16.10.010 (A.) states that "... A lesser number of spaces may be permitted by the Planning Commission based on clear and objective findings that a lesser number of parking spaces will be sufficient to carry out the objective of this section." For the reasons stated above, we feel that 24 passenger vehicle spaces are adequate to serve the site. If you should require additional information to clarify this matter further, please feel free to contact me at your earliest convenience.

Very truly yours,

Steve Donovan  
 Assistant to the President

CC: Roger Reif  
 Fred Kahut  
 Aron Faegre

DATE: November 15, 1994

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that a continued Public Hearing will be held before the City of Canby Planning Commission on Monday, November 28, 1994 and December 12, 1994 at 7:30 p.m., in the **ADULT CENTER, located at S.E. 13th and S. Ivy**, Canby, to consider CUP 94-05/DR 94-14/LLA 94-08, applications by Fred A. Kahut [owner/applicant] for approval to develop a portion of a 14.4 acre parcel of land, within the confines of the Logging Road Industrial Park, and operate a Solid Waste Transfer Station and Recycling Processing Center. The site is located in the southeast portion of the industrial park and is bounded on the south by Township Road; on the north by an easement for Fourth Avenue; on the east by the Logging Road; and on the west, by Redwood Street (Tax Lot 1804, 1805 of Tax Map 3-1E-34C).

The applicable criteria for the Conditional Use, Design Review, and Lot Line Adjustment reviews are set forth in Chapters 16.10, 16.32, 16.49, 16.50, 16.56, 16.58 and 16.88 of the Canby Municipal Code. Copies of the criteria are available from the Planning Department located at 182 N. Holly. All testimony and evidence shall be directed to the applicable criteria or the person providing testimony shall state which other criteria they believe applies to the application.

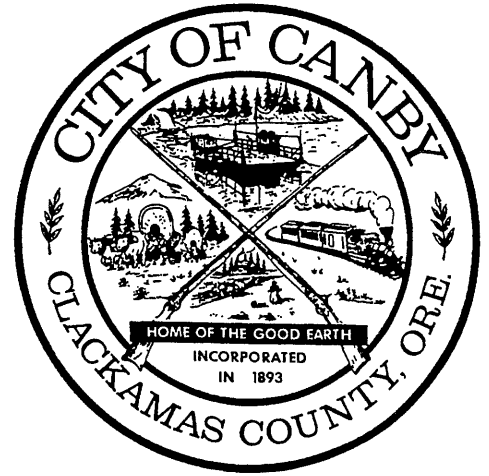
Anyone wishing to comment on the proposed applications may do so by submitting written or verbal testimony at the hearing. Failure of an issue to be raised at a hearing, in person or by letter, or failure to provide sufficient specificity to afford the Planning Commission an opportunity to respond to the issue, precludes an appeal to the State Land Use Board of Appeals. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Unless there is a continuance, if a participant so requests before the conclusion of the evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Roberts Rules are generally followed at the hearing. Meeting timelines and hearing procedures are outlined on the meeting agenda.

A copy of the application and record are available for inspection at no cost, and will be provided at reasonable cost, in the office of the Canby Community Services Department, 182 N. Holly, Canby, Oregon, during regular working hours (8:00 a.m. to 5:00 p.m.). A copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing, and will be provided at reasonable cost. **Staff Coordinator is Bob Hoffman, 266-4021.**

Notice of this hearing is as provided in Section 16.88.130 of the Land Development and Planning Ordinance (#740), as adopted February 1, 1984, and amended to this date.

**FILE: CUP 94-05/DR 94-14/LLA 94-08**

**- STAFF REPORT -**



**APPLICANT:**

James A. Bergen  
640 N. Pine Street  
Canby, OR 97013

**FILE NO.:**

MLP 94-09

**OWNER:**

James A. Bergen  
640 N. Pine Street  
Canby, OR 97013

**STAFF:**

James S. Wheeler  
Assistant Planner

**LEGAL DESCRIPTION:**

Tax Lot 1700 of Tax Map 3-1E-34BC

**DATE OF REPORT:**

November 18, 1994

**LOCATION:**

640 N. Pine Street  
the east side of N. Pine Street  
south of N.E. 8th Place

**DATE OF HEARING:**

November 28, 1994

**COMP. PLAN DESIGNATION:**

High Density Residential

**ZONING DESIGNATION:**

High Density Residential (R-2)

**I. APPLICANT'S REQUEST:**

The applicant is requesting approval to partition a 80,973 square foot parcel (1.86 acres) into three parcels, 9,790 square feet, 9,843 square feet, and 61,340 square feet.



**II. APPLICABLE CRITERIA:**

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

- A. Conformance with the text and the applicable maps of the Comprehensive Plan;
- B. Conformance with all other requirements of the Land Development and Planning Ordinance;
- C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of the adjacent properties;
- D. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.
- E. In no case shall the use of a private road be approved for the partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to City standards is not necessary to insure safe and efficient access to the parcels.

**III. OTHER APPLICABLE CRITERIA**

- A. 16.20.030 Development Standards in R-1 Areas
- B. 16.56 General Provisions (for land divisions)
- C. 16.60 Major or Minor Partitions
- D. 16.64 Subdivisions - Design Standards

**IV. FINDINGS:**

**A. Location and Background**

The subject property is identified on the Clackamas County Assessor's Map as Tax Lot 1700 of Tax Map 3-1E-34BC. It is located at 640 N. Pine Street, on the east side of N. Pine Street. The property consists of approximately 80,973 square feet. The County Assessor's map shows 2.37 acres for the property, but the surveyor only turned up 1.86 acres. There is approximately 500 feet of frontage along N. Pine Street.

The property was annexed into the City in 1991 (ANN 91-06). At the same time as the annexation, the Comprehensive Plan land use designation for the property was changed from Light Industrial to High Density Residential (CPA 91-04). At the time of the annexation, the property's zoning became R-2 (High Density Residential).

In 1984, as a part of the approval of the North Pine Addition subdivision (N.E. 8th Place, on the west side of N. Pine Street just north of the subject property), the developer of that subdivision paid the City monies for the eventual improvement to N. Pine Street in that area. There is a vertical curve in the road that is unacceptable. The solution is to change the grade of the road as well as some of the utilities in the road.

## **B. Comprehensive Plan Consistency Analysis**

### **i. Citizen Involvement**

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

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

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

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

### **ANALYSIS**

1. The notification process and public hearing are a part of the compliance with adopted policies and process regarding citizen involvement. The Planning Commission seeks input of all citizens at the public hearing of all applications.

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

3. The review of the contents of the Comprehensive Plan is not germane to this application.

**ii. Urban Growth**

- **GOAL:** **1) TO PRESERVE AND MAINTAIN DESIGNATED AGRICULTURAL AND FOREST LANDS BY PROTECTING THEM FROM URBANIZATION.**
- 2) TO PROVIDE ADEQUATE URBANIZABLE AREA FOR THE GROWTH OF THE CITY, WITH IN THE FRAMEWORK OF AN EFFICIENT SYSTEM FOR THE TRANSITION FROM RURAL TO URBAN LAND USE.**

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

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

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

**ANALYSIS**

1. The property is entirely within both the Urban Growth Boundary and the City Limits. No direct input from the County has been determined to be necessary or desirable nor was any sought.
2. No changes to the Urban Growth Boundary are proposed with this application.
3. All necessary urban services are, or will be available for the partition (see discussion under Public Services Element).

**iii. Land Use Element**

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

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

### ANALYSIS

1. The parcel is zoned R-2, High Density Residential and is proposed to be developed with two additional single family residential structures. The Comprehensive Plan land use designation of the subject parcel is High Density Residential, which is consistent with the zoning designation. The current use of the property is one single-family residence. The surrounding uses include: mini-storage to the south (zoned M-1, Light Industrial), vacant to the northeast (zoned R-2, High Density Residential), apartments further to the north and to the southwest (zoned R-2, High Density Residential), single family residential to the northwest (zoned R-2, High Density Residential), and vacant to the southwest (zoned M-1, Light Industrial).

The proposal to partition the property is for the purpose of constructing two new single family residences on the new lots. The new lots will be located on the northern side of the subject property, closer to the single family residences located nearby. The remaining portion of the subject property can still be developed with higher density residences. The north side of the property is the most compatible partition of the subject property for location of single family residences. It is anticipated that the remaining portion of the subject property and the vacant property to the northeast will be developed with high density residential development. If this happens, the single family

homes would be surrounded on all sides (with the exception of the single family homes to the northwest) by apartments. Implementation Measure H states that "wasteful development practices and designs" are to be discouraged, and that "a gradual increase in the density and intensity of development" is to be encouraged (page 49). The proposed partition and development is considered to be a "wasteful design" which discourages an increase in the density and intensity of development.

2. The proposal is to develop the new lots with single family residences. The subject property is zoned for high density residential uses. With the partition and development of the new lots with single family residences, the potential number of units possible on the subject property by six additional units. The new lots have the potential for two units each. The difficulty that the partition of the subject property poses for the future development of high density residential development is in the configuration of the remaining portion of the subject property and the vacant property to the northeast. Both the subject property and the vacant property to the northeast are triangular, and when combined, are rectangular. The two new lots will create a very irregularly shaped island in the middle of the remaining property to be developed.

Once the partition is completed, single family homes can be built without further review. This would result in underdevelopment of the subject property. If single family residential units are to be constructed on R-2 zoned property, the size of the new lots created should be closer to the minimum lot size for the zone, which is 5,000 square feet.

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, and all of the proposed lots meet the minimum lot size requirement.

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

#### iv. ENVIRONMENTAL CONCERNS

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

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

- Policy #1-R-A: Canby shall direct urban growth such that viable agricultural uses within the urban growth boundary can continue as long as it is economically feasible for them to do so.
- Policy #1-R-B: Canby shall encourage the urbanization of the least productive agricultural area within the urban growth boundary as a first priority.
- Policy #2-R: Canby shall maintain and protect surface water and groundwater resources.
- Policy #3-R: Canby shall require that all existing and future development activities meet the prescribed standards for air, water and land pollution.
- Policy #4-R: Canby shall seek to mitigate, wherever possible, noise pollution generated from new proposals or existing activities.
- Policy #5-R: Canby shall support local sand and gravel operations and will cooperate with county and state agencies in the review of aggregate removal applications.
- Policy #6-R: Canby shall preserve and, where possible, encourage restoration of historic sites and buildings.
- Policy #7-R: Canby shall seek to improve the overall scenic and aesthetic qualities of the City.
- Policy #8-R: Canby shall seek to preserve and maintain open space where appropriate, and where compatible with other land uses.
- Policy #9-R: Canby shall attempt to minimize the adverse impacts of new developments on fish and wildlife habitats.
- Policy #1-H: Canby shall restrict urbanization in areas of identified steep slopes.
- Policy #2-H: Canby shall continue to participate in and shall actively support the federal flood insurance program.

Policy #3-H: Canby shall seek to inform property owners and builders of the potential risks associated with construction in areas of expansive soils, high water tables, and shallow topsoil.

### ANALYSIS

1-R-A. The property is currently developed residentially. The proposal will not alter nor affect any farm uses.

1-R-B. The property is considered to currently be urbanized.

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

3-R. The existing use has not created 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.

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

6-R. The existing home, garage and green house and buildings are surrounding properties are not historic buildings. The subject property and surrounding properties are not historic sites.

7-R. The partition itself will not affect the scenic or aesthetic quality of the City.

8-R. The subject property is considered to be open space.

9-R. No wildlife or fish habitats 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 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 property have been identified.

v. **TRANSPORTATION**

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

- Policy #1: Canby shall provide the necessary improvement to city streets, and will encourage the county to make the same commitment to local county roads, in an effort to keep pace with growth.
- Policy #2: Canby shall work cooperatively with developers to assure that new streets are constructed in a timely fashion to meet the city's growth needs.
- Policy #3: Canby shall attempt to improve its problem intersections, in keeping with its policies for upgrading or new construction of roads.
- Policy #4: Canby shall work to provide an adequate sidewalks and pedestrian pathway system to serve all residents.
- Policy #5: Canby shall actively work toward the construction of a functional overpass or underpass to allow for traffic movement between the north and south side of town.
- Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.
- Policy #7: Canby shall provide appropriate facilities for bicycles and, if found to be needed, for other slow moving, energy efficient vehicles.
- Policy #8: Canby shall work cooperatively with the State Department of Transportation and the Southern Pacific Railroad Company in order to assure the safe utilization of the rail facilities.
- Policy #9: Canby shall support efforts to improve and expand nearby air transport facilities.
- Policy #10: Canby shall work to expand mass transit opportunities on both a regional and an intra-city basis.



- Policy #11: Canby shall work with private developers and public agencies in the interest of maintaining the transportation significance as well as environmental and recreational significance of the Willamette River.
- Policy #12: Canby shall actively promote improvements to state highways and connecting county roads which affect access to the city.

### ANALYSIS

1. Dedication of ten (10) feet of land for right-of-way purposes and road improvements will match what has been dedicated in newer developments located further north on N. Pine Street. N. Pine Street is a County road.
2. No new streets are needed as a result of the proposed partition. The Comprehensive Plan does identify N. Pine Street as a collector street. The standard right-of-way width for a collector street is sixty (60) feet. In recent residential developments along N. Pine Street (N. Pine Additions 1 and 2, Twelfth and Pine Addition, O-ME-CO Inc. No. 3, and North Woods Addition), dedication of land for a total of a sixty (60) foot road right-of-way has been provided with the development. The City's Public Works Department is currently attempting to work with the County's Department of Transportation to coordinate the effort to correct the deficiencies in this location of N. Pine Street. At this time, the two departments are planning on having a meeting to discuss this section of N. Pine Street. Until the two public works departments have had an opportunity to discuss this section of N. Pine Street, the specifics of what improvements are needed is unknown. Street trees will need to be planted along N. Pine Street.
3. There are no "problem intersections" identified within the vicinity of the subject property.
4. Sidewalks will be required for the property's frontage along N. Pine Street. The sidewalk on N. Pine Street will need to be located against the curb and be five (5) feet wide, including the curb. The sidewalk will need to be "swept" around any obstructions (i.e. fire hydrants, utility poles, mailboxes, etc.). A sidewalk that "sweeps" means that it is constructed at the five (5) foot width around the obstacle.
5. The subject property is not involved in any possible overpass or underpass of Highway 99-E and the railroad. The logging road is located immediately adjacent to the property on the southeast boundary. The logging road has an overpass of the highway. The overpass is insufficient for regular traffic, but may be used for emergency vehicles. The subject property is not specifically

effected because the logging road, where it is adjacent to the subject property, is elevated. Access to the logging road, from the north, for emergency vehicles will be from a point further north, either N.E. 9th Avenue or N.E. 11th Avenue.

6. The police department has not responded to the Request for Comments. The access for emergency vehicles for the two additional lots is very similar to the current access the existing property. The fire district has no further requirements at this time.
7. The City's Transportation Systems Plan, has designated a bike lane as a part of a collector street. The improvements in N. Pine Street will allow for the future designation of a bike lane.
8. The existing use and the proposed use of the property have no specific use for the rail facilities that exist in Canby.
9. The proposed partition has no bearing on efforts to improve or expand nearby air transport facilities.
10. The mass transit system in operation in Canby has no direct bearing on the proposed partition. No future transit stops have been proposed.
11. The subject property is not near the Willamette River and will have no effect on the transportation potential or use of the Willamette River.
12. The subject property is fully within the City limits and is not near any "entry point" into the City.

**vi. PUBLIC FACILITIES AND SERVICES**

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

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

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

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

Policy #4: Canby shall strive to keep the internal organization of city government current with changing circumstances in the community.

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

### ANALYSIS

1. All needed public facility and service providers were sent a "Request for Comments" regarding this application. Positive responses were received from the Public Works Department, Fire District, and the School District. All have indicated that adequate facilities and/or services are available. Northwest Natural Gas has indicated that it will not be able to service this property at this time. Natural gas service is desired to offer an alternative to electricity for heating and cooking, however, the property will be serviced with electricity and, therefore, natural gas is not essential. The Canby Telephone Association, Waste Water Treatment Plant, Canby Utility Board, and Police Department have not responded to the recent application. There has been no recent indication, unofficial or otherwise, of potential inadequacy of facilities or service from these providers. The County has not responded, but the City's Public Works Department will be making contact and coordinating a response.

2. The needed 'public improvements' include some road work on N. Pine Street, curbs and sidewalks, and street trees. The street widening for this section of N. Pine Street is discussed in the Transportation Systems Plan. There are a number of trees on the northern portion of the subject property, adjacent to the street. These trees may well need to be removed for the construction of the road widening and sidewalks. If the trees need to be removed (the City and the County will be forwarding the needed improvements), street trees will need to be planted. Street trees along the southern road frontage of the subject property will need street trees.

3. The City has adopted a Transportation Systems Development Charge (SDC). All needed transportation improvements that are listed in the Transportation System Plan, will be funded by through SDC. This partition will contribute to those improvements through the improvements to N. Pine Street and through the construction of sidewalks, and partially through the SDC's at the time that homes are constructed on the 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. No parks have been designated near the subject property. The County Fairgrounds are located nearby. The

southern portion of the subject property is used for parking during the County Fair. The new homes will be required to pay the Parks System Development Charge to contribute to acquisition and development of parks within the City.

**vii. ECONOMIC**

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

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

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

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

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

**ANALYSIS**

1. The proposed development is not industrial in nature, nor does the current zoning of the subject property allow industrial development.

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

3. The proposed development is residential in nature and zoning. The project will have no adverse or directly beneficial impacts on any economic program or project which leads to an increase in local employment opportunities. The property is adjacent to industrially zoned and developed land, and across the street from vacant industrially zoned land. The property to the south has mini-storage units. With the residential development on this property, future development of industrial uses on the vacant property may be a bit more difficult due to the potential conflict of the industrial and residential uses.

4. The proposed development is residential in nature and zoning. 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 #1: Canby shall adopt and implement an urban growth boundary which will adequately provide space for new housing starts to support an increase in population to a total of 20,000 persons.
- Policy #2: Canby shall encourage a gradual increase in housing density as a response to the increase in housing costs and the need for more rental housing.
- Policy #3: Canby shall coordinate the location of higher density housing with the ability of the city to provide utilities, public facilities, and a functional transportation network.
- Policy #4: Canby shall encourage the development of housing for low income persons and the integration of that housing into a variety of residential areas within the city.
- Policy #5: Canby shall provide opportunities for mobile home developments in all residential zones, subject to appropriate design standards.

**ANALYSIS**

1. The location and size of the Urban Growth Boundary is not a part of the proposed application. When the Urban Growth Boundary was designated and calculations to determine the amount of land needed for residential growth, in 1984 as a part of the acknowledged 1984 Comprehensive Plan, the subject property was originally counted for industrial development.
2. The proposed partition will increase the housing density of the property. However, the potential density of the property will be reduced by the proposed development of two single family residential units on 9,000 square foot lots.
3. The proposed development does not include higher density housing. The change in the Comprehensive Plan for the property (to High Density Residential) does call for higher density housing. The partition will create two lots that will inhibit the use of the property for including higher density housing, as in accordance with the zoning and Comprehensive Plan land use designation of the property.

4. The proposed development does not specifically include housing for low income persons. Future development of the property could include housing for low income persons.
5. The proposed development is not a mobile home development. Future development of the property could include a manufactured home to be placed on the property.

**ix. ENERGY CONSERVATION**

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

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

**ANALYSIS**

1. Energy conservation and efficiency as a part of construction practices has been incorporated into the building permit review process and the Uniform Building Code.
2. Parcel 1 does not meet the basic solar standard for new development. This is due solely to the orientation of N. Pine Street, a north-south street. Parcel 2 is a flag lot that does meet the basic solar access standards for new developments. Parcel 3, the remaining portion of the subject property, does not meet the basic solar standard, again due solely to the orientation of N. Pine Street. Section 16.95.050.A.1.c. (page 123 of the Land Development and Planning Code) does permit an adjustment due to the orientation of existing roads.
3. Any new buildings will be required, as a part of the building permit review process, to be reviewed for compliance to the Solar Ordinance.

4. The City has undergone a Transportation System Plan study. The proposed development complies with the Transportation System Plan.

5. Energy conservation and efficiency as a part of construction practices has been incorporated into the building permit review process and the Uniform Building Code.

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

Review of the above analysis will show that the proposed partition is not completely consistent with the policies of the Comprehensive Plan. The proposed development of the two new lots do not comply with Implementation Measure H of Policy 1, and with Policy 2 of the Land Use Element. Specifically, the design of the partition is "wasteful" in that it discourages increase in the density of residential development.

**C. *Evaluation Regarding Minor Land Partition Approval Criteria***

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

The proposed development of the two new lots do not comply with Implementation Measure H of Policy 1, and with Policy 2 of the Land Use Element. Specifically, the design of the partition is "wasteful" in that it discourages increase in the density of residential development. The proposed partition is not completely consistent with the policies of the Comprehensive Plan (see discussion above).

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

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

C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of the adjacent properties.

The size and orientation of the proposed parcels is such that future development of the proposed parcels is both possible and feasible.

Access facilities are readily available.

- D. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.

As best as staff has been able to determine, all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. No indication of difficulties have been mentioned, officially or otherwise, with regards to these public facilities and services providing service to any development. The exception to this statement is NW Natural Gas and Public Works. NW Natural Gas will not be able to service the property, however, this has been determined not to be an essential service. Public Works is currently attempting to appropriately assess the improvements needed to N. Pine Street. A supplemental report will be forthcoming when their complete comments are submitted.

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

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

## **V. CONCLUSION**

1. Staff concludes that the partition request, with appropriate conditions, is considered to be not in conformance with the Comprehensive Plan. The partition request do, in all other respects, conform to the Municipal Code.
2. Staff concludes that the overall design of the proposed partition will be compatible with the area and will provide adequate building area for the provision of public facilities and services for the lots.
3. Staff concludes that, with appropriate conditions, the overall design and arrangement of the proposed parcels are functional and will adequately provide building sites, utility easements, and access facilities which are necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
4. Staff concludes that all necessary public services will become available through the development of the property, to adequately meet the needs of the proposed land division.



## **VI. RECOMMENDATION**

Based upon the application and drawings submitted, facts, findings and conclusions of this report, and without benefit of a public hearing, staff recommends that should the Planning Commission approve MLP 94-09, the following conditions should apply:

1. A final partition plat modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application -- City of Canby, Planning Department, File No. MLP 94-09.
2. The final partition plat shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department.
3. A new deed and legal description for the new parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
4. All monumentation and recording fees shall be borne by the applicant.
5. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:
  - 6 feet in width along all lot lines, except;
  - 12 feet in width along street frontages.
6. All utilities must meet the standards and criteria of the providing utility authority.
7. 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 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.
8. A pre-construction conference shall be held prior to the construction/extension of services to the properties.
9. Ten (10) feet of land for road right-of-way shall be dedicated. Road improvements to N. Pine Street shall be completed to the road standards of the City and Clackamas County. Curbs and sidewalks shall be constructed, and street trees shall be planted along the subject property's frontage of N. Pine Street. The sidewalk shall be constructed against the curb and shall be five (5) 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.

10. The address for the home on the flag lot shall be posted at the driveway entrance from N. Pine Street.

**Exhibits:**

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

# MINOR LAND PARTITION APPLICATION

Fee: \$900

OWNER

APPLICANT

Name James A. Berger SR  
Address 1640 N Pine St  
City Carby State OR Zip 97013  
Signature: [Signature]

Name James A. Berger SR  
Address 1640 N Pine St  
City Carby State OR Zip 97013  
Phone: 503 266-2270

### DESCRIPTION OF PROPERTY:

Tax Map 3-1E 34R Tax Lot(s) 1700 Lot Size 2.37 AC  
(Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)

Plat Name \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

### PROPERTY OWNERSHIP LIST

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

### USE

Existing \_\_\_\_\_ Proposed \_\_\_\_\_

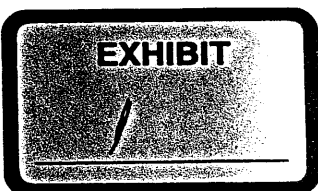
Existing Structures \_\_\_\_\_

### PROJECT DESCRIPTION

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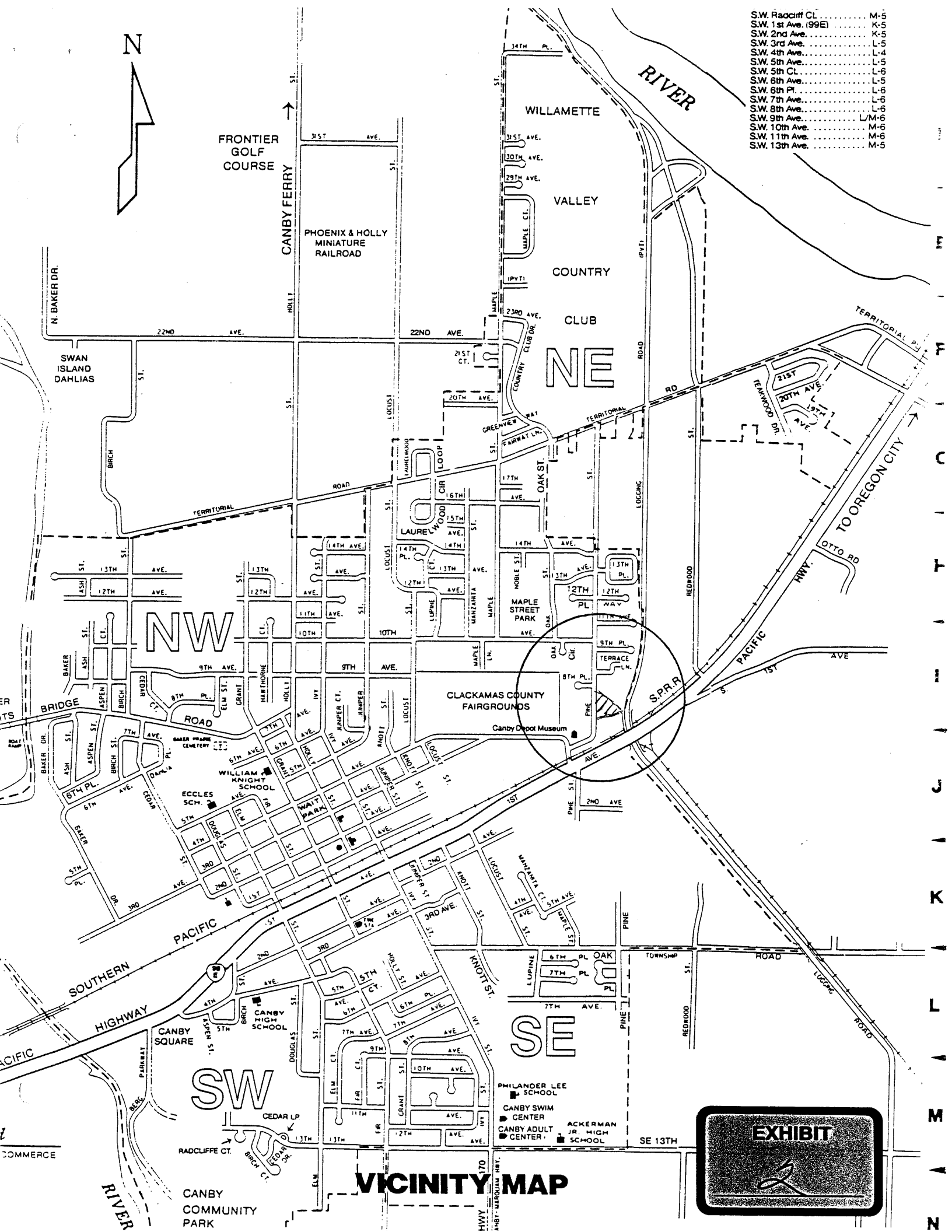
ZONING \_\_\_\_\_ COMPREHENSIVE PLAN DESIGNATION \_\_\_\_\_  
PREVIOUS ACTION (if any) \_\_\_\_\_

File No. MLP 94-09  
Receipt No. 9182  
Received by [Signature]  
Date Received 10-28-94  
Completeness Date \_\_\_\_\_  
Pre-Ap 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.

- S.W. Radcliff Ct. .... M-5
- S.W. 1st Ave. (99E) ..... K-5
- S.W. 2nd Ave. .... K-5
- S.W. 3rd Ave. .... L-5
- S.W. 4th Ave. .... L-4
- S.W. 5th Ave. .... L-5
- S.W. 6th Ave. .... L-6
- S.W. 7th Ave. .... L-6
- S.W. 8th Ave. .... L-6
- S.W. 9th Ave. .... L/M-6
- S.W. 10th Ave. .... M-6
- S.W. 11th Ave. .... M-6
- S.W. 13th Ave. .... M-5



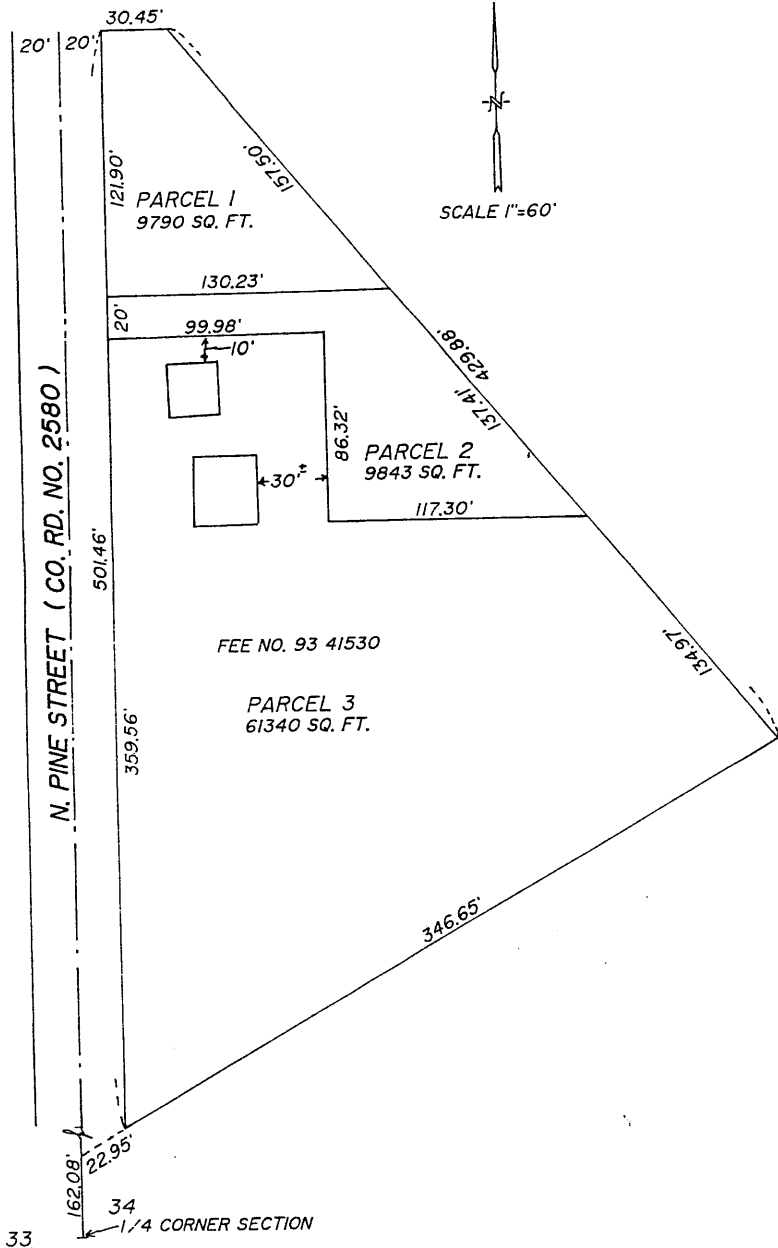
**VICINITY MAP**



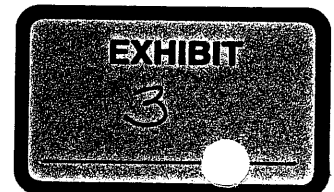
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**PROPOSED PARTITION**

FOR JAMES A. BERGEN  
640 N. PINE ST.  
CANBY, OREGON 97013  
PHONE 266-2270  
SEPTEMBER 26, 1994  
CLACKAMAS COUNTY RECORDER'S FEE NO. 93 41530  
CLACKAMAS COUNTY TAX MAP NO. 3 IE 34BC, TAX LOT NO. 1700  
PREPARED BY:  
RICHARD A. SHAVER  
TIMBERLINE SURVEYS  
33537 S. SAWTELL ROAD  
MOLALLA, OREGON 97038  
PHONE 503-829-5688  
TOTAL ACRES = 1.86±



33.



**PLEASE RETURN ATTACHMENTS!!!**

*JSW  
11/16/94*

**CANBY PLANNING DEPARTMENT  
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: November 3, 1994

TO: FIRE, POLICE, SCHOOL, CUB, TELEPHONE, TELECOM, NW NATURAL GAS, ROY, STEVE, CLACKAMAS COUNTY & BILL SPEARS, MIKE J., JOHN K.

The City has received *MLP 94-09*, an application by James A. Bergen for approval to partition an approximate 1.86 acre parcel into three parcels, 9,790 square feet; 9,843 square feet, and 61,340 square feet, respectively. The parcel is located on the east side of N. Pine Street [640 N. Pine Street] (Tax Lot 1700 of Tax Map 3-1E-34BC).

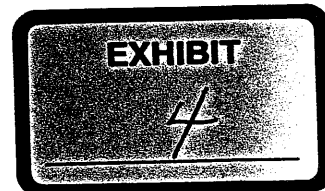
We would appreciate your reviewing the enclosed application and returning your comments by November 14, 1994 PLEASE. The Planning Commission plans to consider this application on November 28, 1994. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

Please check one box:

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



Signature: *James A. Bergen* Date: 11/8/94

9xw  
11/16/94

# PLEASE RETURN ATTACHMENTS!!!

## CANBY PLANNING DEPARTMENT REQUEST FOR COMMENTS

P.O. Box 930, Canby, OR 97013

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Comments or Proposed Conditions:

The County Road Department and myself are meeting on N. Pine to discuss the road way for this parcel.

Hold off on your decision, till County and I come up with a solution.

(See Attachment)

Please check one box:

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

Signature: Ray L. Kester Date: 11-14-94



# Dave Anderson, Inc.

REALTOR • BUILDER • DEVELOPER



OFFICE 255 S.W. FIRST  
CANBY, OREGON 97013  
(503) 266-2295

HOME 641 BAKER DRIVE  
CANBY, OREGON 97013  
(503) 266-8866

City of Canby  
182 N. Holly  
Canby, Oregon

Atten: Stephan Lashbrook

Dear Stephan:

In 1984 I represented Charlie Hartwell for a zone change from R-1 to R-2 on that property now known as North Pine Addition.

As a condition of the zone change, the city required a waiver of remonstrance for the improvements of North Pine, which was done and a copy is hereby attached.

In 1985 a purchased the property and developed it for single family homes. The city required N. Pine improvements including curbs and sidewalks. However we felt that when the day comes to improve N. Pine in its entirety, this would all be removed, the road grade lowered, and all redone in this area, as there is a hump in Pine due to an old railroad bed.

We approached Bud Atwood with this thinking and he concurred. Bud approached the council who also agreed and we then gave a check to the city for \$6,214.50 of which a copy of the receipt is attached.

I would now like to request the city cancel the Waiver of Remonstrance as it keeps clouding title reports, caused concerns to property owners as well as lenders.

Respectfully yours,

David R. Anderson



**PLEASE RETURN ATTACHMENTS!!!**

*9 sw  
11/16/94*

**CANBY PLANNING DEPARTMENT  
REQUEST FOR COMMENTS**

*P.O. Box 930, Canby, OR 97013*

*[503] 266-4021*

**DATE: November 3, 1994**

**TO: FIRE, POLICE, SCHOOL, CUB, TELEPHONE, TELECOM, NW NATURAL GAS, ROY, STEVE, CLACKAMAS COUNTY & BILL SPEARS, MIKE J., JOHN K.**

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Comments or Proposed Conditions:

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

Please check one box:

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

Signature: *Steph Milk*

Date: *11-8-94*

**PLEASE RETURN ATTACHMENTS!!!**

gsw  
11/16/94

**CANBY PLANNING DEPARTMENT  
REQUEST FOR COMMENTS**

P.O. Box 930, Canby, OR 97013

[503] 266-4021

DATE: November 3, 1994

TO: FIRE, POLICE, SCHOOL, CUB, TELEPHONE, TELECOM, NW NATURAL GAS, ROY, STEVE, CLACKAMAS COUNTY & BILL SPEARS, MIKE J., JOHN K.

The City has received *MLP 94-09*, an application by James A. Bergen for approval to partition an approximate 1.86 acre parcel into three parcels, 9,790 square feet; 9,843 square feet, and 61,340 square feet, respectively. The parcel is located on the east side of N. Pine Street [640 N. Pine Street] (Tax Lot 1700 of Tax Map 3-1E-34BC).

We would appreciate your reviewing the enclosed application and returning your comments by November 14, 1994 PLEASE. The Planning Commission plans to consider this application on November 28, 1994. Please indicate any conditions of approval you may wish the Commission to consider if they approve the application. Thank you.

Comments or Proposed Conditions:

No comments or conditions at this time.

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: Jack Stark Date: 11-14-94