AGENDA

CANBY PLANNING COMMISSION

REGULAR MEETING
City Council Chambers

August 12, 1991 - 7:30 p.m.

I. ROLL CALL

II. MINUTES

July 8, 1991 (carried over)
July 15, 1991
July 22, 1991

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. COMMUNICATIONS

V. FINDINGS

MLP 91-06 - Gregory W. Yoder
DR 91-04 - Wildflower Properties, Inc.
DR 91-05 - Wildflower Properties, Inc.

VI. PUBLIC HEARINGS

SOLAR ACCESS ORDINANCE

MLP 91-07, a request by Patrick S. Harmon to divide a .45 acre parcel into two lots containing 8,323 and 7,290 square feet, respectively. The property is located to the rear of 610 S. Ivy Street (Tax Lot 600 of Tax Map 4-1E-4AB).

ANN 91-05, a request by Dave Anderson (applicant) and W. L. Guttormsen for approval to annex Tax Lot 300 of Tax Map 3-1E-34C into the City of Canby. The property is located at 1233 S.E. 1st Avenue and contains 7.6 acres. **This parcel is being added to the parcels previously recommended for approval to City Council on July 22, 1991 under the same Annexation File Number, 91-05, which will increase the total acreage to 85.3 acres to be annexed.**

VII. DIRECTOR'S REPORT

VIII. ADJOURNMENT

- S T A F F R E P O R T -

APPLICANT:

City of Canby

FILE NO.:

Solar Access Ordinance

LOCATION:

Citywide

STAFF:

Robert G. Hoffman, AICP,
Planning Director

DATE OF REPORT:

August 2, 1991

DATE OF HEARING:

August 12, 1991

COMP. PLAN DESIGNATION:

Energy Conservation Goal IX

ZONING DESIGNATION:

Any designation which permits Residential Use

I. APPLICANT'S REQUEST:

The applicant is requesting adoption of a new Solar Access Ordinance to encourage the use of solar energy by protecting solar access.

II. FINDINGS

Background and Relationships

1. The City of Canby participated, with over twenty other cities, in formulation of a Model Solar Ordinance.

2. Eighteen cities have adopted this ordinance.

3. The homebuilders, architects and landscape architects, and planners association all support the Ordinance.

III. APPLICABLE REGULATIONS

- **City of Canby General Ordinances:**

16.54	Amendments to the Zoning Map
16.88.070	Amendments to Title

- **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

IV. MAJOR APPROVAL CRITERIA

1. Amendments to Title - Section 16.88.070

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

2. Amendments to the Zoning Map

16.54.040 - Standards and Criteria

In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider:

A. The Comprehensive Plan of the City, giving special attention to Policy 6 of the Land Use Element and implementation measures therefor, and the plans and policies of the County, state and local districts in order to preserve functions and local aspects of land conservation and development;

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

2. Comprehensive Plan Consistency Analysis

i. Citizen Involvement Element

This legislative land use review and hearing process is a major element of Canby's Citizen Involvement process.

ii. Urban Growth Element

GOALS:

1. To preserve and maintain designated agricultural and forest lands by protecting them from urbanization.

2. **To provide adequate urbanizable area for the growth of the City, within the framework of an efficient system for the transition from rural to urban land use.**

Policy #1: **. . .coordinate growth and development with Clackamas County. . .**

Policy #2: **. . . provide the opportunity for amendments to the Urban Growth Boundary. . . where warranted by. . . changes. . .**

Policy #3: **. . . discourage urban development of properties until they have been annexed. . .**

The ordinance will apply only within the Canby City limits which is entirely within the Urban Growth Boundary and meets the intent of the Urban Growth Goals and Policies.

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: **. . . separate conflicting or incompatible uses, while grouping compatible uses.**

Policy #2: **. . . encourage a general increase in the intensity and density. . .**

Policy #3: **. . .discourage. . . overburdening. . . public facilities or services.** ***(not applicable)***

Policy #4: **. . .limit development. . . having an unacceptable level of risk. . .** ***(not applicable)***

Policy #5: **. . .utilize the land use map as the basis of zoning and other planning decisions.**

Policy #6: **. . .recognize the unique character of certain areas and . . .utilize the special requirements. . . in building the use and development of these unique areas.** *(not applicable).*

Analysis:

The new Solar Access Ordinance would provide a mechanism to accomplish encouraging the use of solar energy within residential areas. It would not affect density of development. The zoning map will be followed.

iv. Environmental Concerns Element

GOALS: **To Protect Identified Natural and Historical Resources.**

To Prevent Air, Water, Land and Noise Pollution.

To Protect Lives and Property From Natural Hazards.

Policy #1-R-A **. . . direct urban growth such that viable agricultural uses. . . can continue. . .** *(not applicable)*

Policy #1-R-B **. . . encourage the urbanization of the least productive agricultural area. . . as a first priority.** *(not applicable)*

Policy #2-R **. . . protect surface water and groundwater. . .** *(not applicable)*

Policy #3-R **. . . meet the prescribed standards for air, water and land pollution.** *(not applicable)*

Policy #4-R **. . . mitigate. . . noise pollution. . .** *(not applicable)*

Policy #5-R	**. . . support local sand and gravel operations and . . . cooperate with County and State agencies . . .** *(not applicable)*
Policy #6-R	**. . . preserve and . . . encourage restoration of historic sites . . .** *(not applicable)*
Policy #7-R	**. . . improve the overall scenic and aesthetic qualities. . .** *(not applicable)*
Policy #8-R	**. . .preserve and maintain open space. . .** *(not applicable)*
Policy #9-R	**. . . minimize the adverse impacts. . .on fish and wildlife habitats.** *(not applicable)*
Policy #1-H	**. . .restrict urbanization in areas of identified steep slopes.** *(not applicable)*
Policy #2-H	**. . .actively support the federal flood insurance program.** *(not applicable)*
Policy #3-H	**. . .inform property owners and builders of the potential risks associated with construction in areas of expansive soils, high water tables and shallow topsoil.** *(not applicable.)*

Analysis:

The general thrust of the Ordinance is to encourage use of solar energy and protect solar access to the southerly facing facades of buildings. This should not have direct impact on the environment except to the degree that use of solar energy will help preserve other energy resources and, thus, aid in protecting the environment. **Exceptions** are granted if natural resources are present.

v. **Transportation Element**

GOAL: **To Develop and Maintain a Transportation System Which Is Safe, Convenient and Economical.**

Policy #1: **. . . provide the necessary improvement to City streets, and . . .encourage the County to make the same commitment. . .** ***(not applicable)***

Policy #2: **. . . work cooperatively with developers to assure that new streets are constructed. . .**

Policy #3: **. . . improve . . .problem intersections. . .** ***(not applicable)***

Policy #4: **. . .provide an adequate sidewalks and pedestrian pathway system. . .** ***(not applicable)***

Policy #5: **. . .work toward the construction of a functional overpass or underpass. . . between the north and south side. . .** ***(not applicable)***

Policy #6: **. . .provide adequate access for emergency response vehicles and for the safety . . . of the general public.** ***(not applicable)***

Policy #7: **. . . provide. . . for bicycles and. . .for other . . . energy efficient vehicles.** ***(not applicable)***

Policy #8: **. . .to assure the safe utilization of the rail facilities.** ***(not applicable)***

Policy #9: **. . . improve and expand nearby air transport facilities.** ***(not applicable)***

Policy #10: **. . .expand mass transit opportunities. . .** ***(not applicable)***

Policy #11: **. . .work with private developers and public agencies . . . maintaining the transportation . . . and environmental and recreational significance of the Willamette River.** *(not applicable)*

Policy #12: **. . .promote improvements to State highways and connecting County roads. . .** *(not applicable)*

Analysis::

A majority of subdivision streets are encouraged to run in generally an east-west direction, rather than north-south. Studies have shown that this can be accomplished without negatively affecting transportation or costs. Exceptions are permitted in areas of steep slopes, wetland, etc.

vi. Public Facilities and Services Element

GOAL: **To Assure the Provision of a Full Range of Public Facilities and Services to Meet the Needs of the Residents and Property Owners of Canby.**

Policy #1: **. . . work closely and cooperate with all entities and agencies providing public facilities and services.** *(not applicable)*

Policy #2: **. . . utilize all feasible means of financing needed public improvements. . .** *(not applicable)*

Policy #3: **. . . adopt and . . . update a capital improvement program for major City projects. . .** *(not applicable)*

Policy #4: **. . .strive to keep the internal organization of City government current . . .** *(not applicable)*

Policy #5: **. . .assure that adequate sites are provided for public schools and recreation. . .***(not applicable)*

Analysis::

This ordinance should not have direct affect on provision of public facilities or services,

vii. **Economic Element**

GOAL: **To Diversify and Improve the Economy of the City of Canby.**

Policy #1: **. . .promote increased industrial development. . .** ***(not applicable)***

Policy #2: **. . .encourage further commercial development and redevelopment . . .** ***(not applicable)***

Policy #3: **. . .increase in local employment opportunities.** ***(not applicable)***

Policy #4: **. . .consider agricultural operations which contribute to the local economy. . . and shall seek to maintain these . . .*(not applicable)***

Analysis::

The ordinance applies only to areas permitting homes. It should have no direct affect on the economy except insofar as the solar access-related businesses are stimulated in Canby.

viii. **Housing Element**

GOAL: **To Provide For the Housing Needs of the Citizens of Canby.**

Policy #1: **. . . implement an Urban Growth Boundary which will. . . support an increase in population to a total of 20,000 persons.** ***(not applicable)***

Policy #2: **. . .encourage a gradual increase in housing density. . .** *(not applicable)*

Policy #3: **. . .coordinate the location of higher density housing with the ability of the City to provide utilities, public facilities and . . .transportation network.** *(not applicable)*

Policy #4: **. . . encourage the development of housing for low income persons and . . . a variety of residential areas . . .** *(not applicable)*

Policy #5: **. . . provide opportunities for mobile home developments in all residential zones. . .** *(not applicable)*

Analysis::

The proposed ordinance will not affect density or cost or type of housing, except the operating costs of heating and cooling, which will be substantially less for properly sited homes, which the ordinance encourages. When excess costs are encountered due to unique circumstances, exceptions are permitted.

ix. **Energy Conservation Element**

GOAL: **To Conserve Energy and Encourage the Use of Renewable Resources in Place of Non-Renewable Resources.**

Policy #1: **. . .encourage energy conservation . . . in construction practices.**

Policy #2: **. . . take advantage of wind and solar orientation and utilization.**

Policy #3: **. . . increase consumer protection in the area of solar design and construction.**

Policy #4: **. . . reduce wasteful patterns of energy consumption in transportation. . .**

Policy #5: **. . . promote energy efficiency and the use of renewable resources.**

Analysis::

This ordinance has, as its main purpose, accomplishing this goal and aiding in implementing each of the policies in this element.

Conclusion Regarding Consistency with the Policies of the Canby Comprehensive Plan and other Government Plans:

Based on the above analysis, staff finds that adopting and implementing the proposed Ordinance is consistent with the policies of the Comprehensive Plan. Since the County and State have similar goals and policies as Canby's, the ordinance is consistent with them, as well.

C. Public Facilities and Services Availability

All residential development and subdivisions will need to demonstrate that the project areas have adequate public facilities and services.

V. CONCLUSION

Based upon the above analysis, and without benefit of public testimony, staff concludes that Comprehensive Plan consistency and Comprehensive Plan Amendment criteria can be fulfilled, provided public facilities and services are extended concurrent with development, which seem likely for all approved development.

VI. RECOMMENDATION

Based upon the findings and conclusions presented in this report, staff recommends that the Planning Commission recommend approval of the Solar Access Ordinance to the Canby City Council. A resolution and set of Findings in support of the adoption is attached for your consideration.

Exhibits:

1. Proposed Ordinance/Findings
2. Proposed Resolution

DIVISION IX. SOLAR ACCESS REQUIREMENTS

CHAPTER 16.90

SOLAR ACCESS DEFINITIONS

Sections:

16.90.010 Definitions
16.90.020 Figures

16.90.010 The definitions to be used in this section are in addition to Chapter 16.04 Definitions. In the case of similar or identical terminology, the definitions in this chapter shall govern for Division IX, Solar Access Requirements.

A. Crown Cover: The area within the drip line or perimeter of the foliage of a tree.

B. Development: Any short plat, partition, subdivision or planned unit development that is created under the City's land division or zoning regulations.

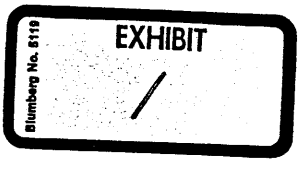
C. Exempt tree or vegetation: The full height and breadth of vegetation that the Planning Director has identified as "solar friendly" that are listed and kept on file in City Hall; and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

D. Front lot line: For purposes of the solar access regulations, a lot line abutting a street. For corner lots the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 1).

E. Non-exempt tree or vegetation: Vegetation that is not exempt.

F. Northern lot line: The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east-west, or if the northern lot line is less than 35 feet, then the northern lot line shall be a line 35 feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2).

G. North-south dimension: The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3).



H. Protected solar building line: A line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 10).

I. Shade: A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

J. Shade point: The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of 3 feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within 45 degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet . If a structure has a roof oriented within 45 degrees of a true east-west line with a pitch that is flatter than 5 feet (vertical) in 12 feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is 5 feet in 12 feet or steeper, the shade point will be the peak of the roof (see Figures 4 and 5).

K. Shade reduction line: A line drawn parallel to the northern lot line that intersects the shade point (see Figure 6).

L. Shadow pattern: A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see Figure 12).

M. Solar feature: A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window or windows that contain(s) at least 20 square feet of glazing oriented within 45 degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this ordinance.

N. Solar gain line: A line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 7).

O. South or South Facing: True south, or 20 degrees east of magnetic south.

P. Sunchart: One or more photographs that plot the position of the sun between 10:30 am and 1:30 pm on January 21, prepared pursuant to guidelines issued by the Planning Director. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a 45-degree and 30 minute northern latitude in 10-degree increments and solar azimuth from true south in 15-degree increments.

Q. Undevelopable area: An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding 20% in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

16.90.020 Figures

Figure 1

FRONT LOT LINE

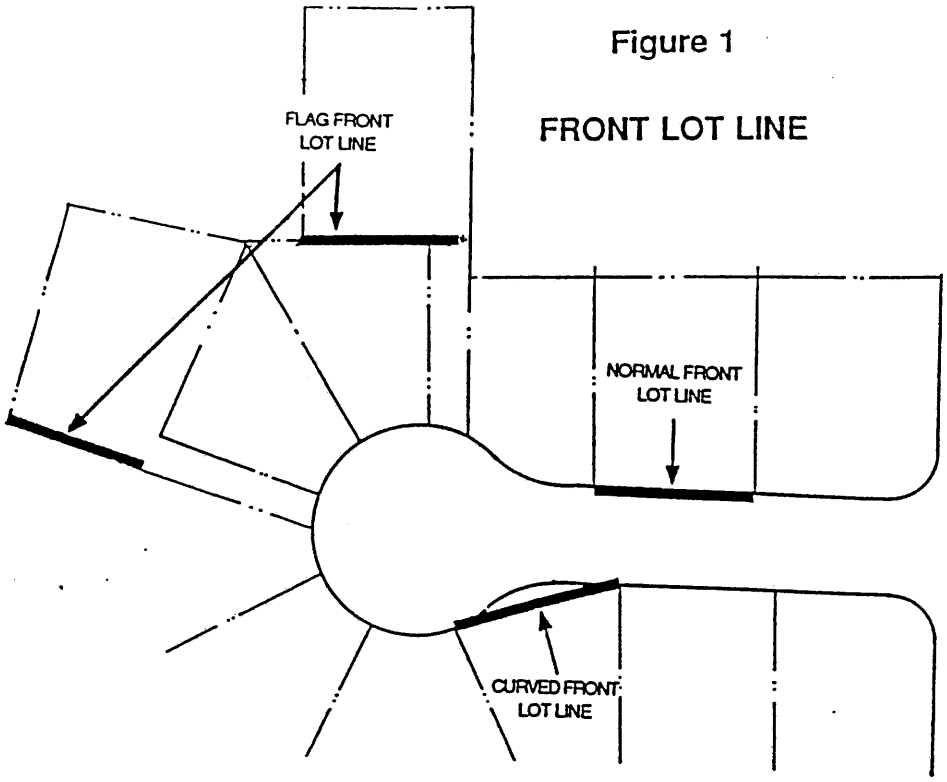


Figure 2

NORTHERN LOT LINE

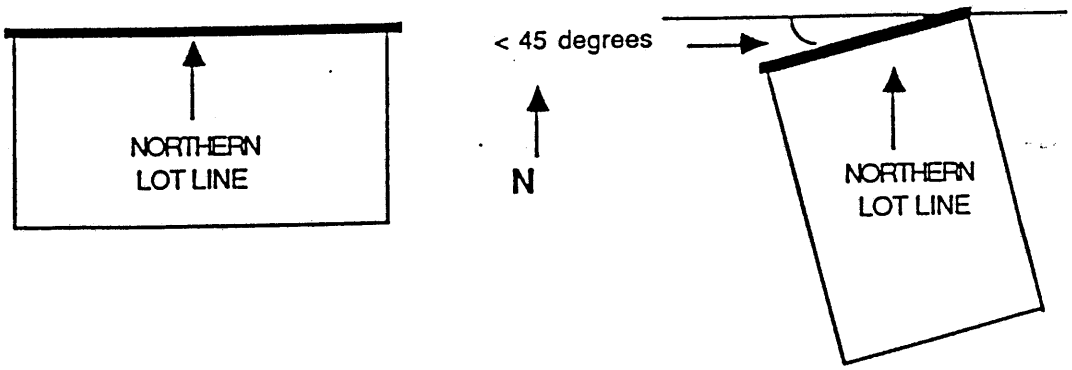


Figure 3

NORTH-SOUTH DIMENSION OF THE LOT

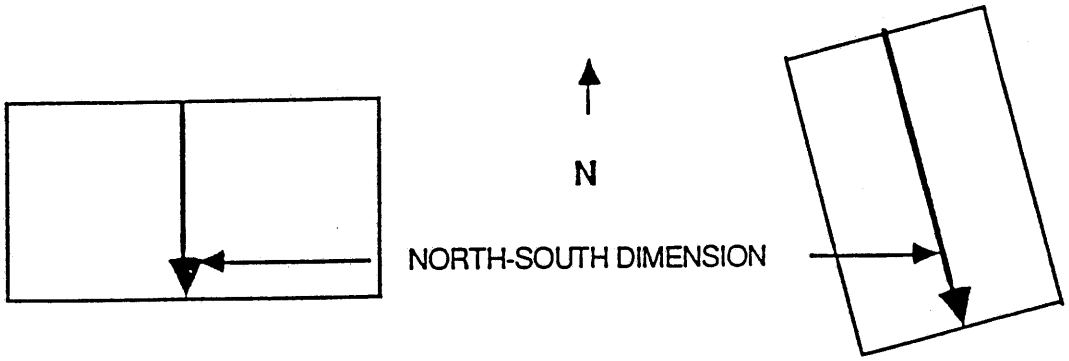
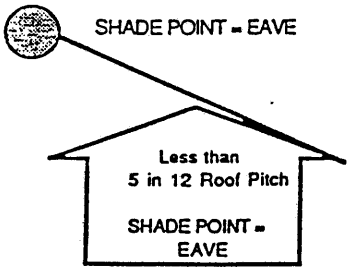


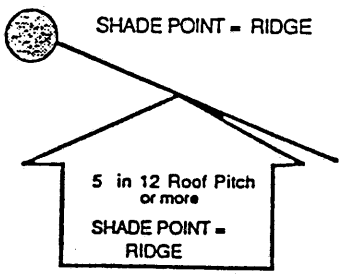
Figure 4

HEIGHT OF THE SHADE POINT OF THE STRUCTURE

If the ridgeline runs EAST-WEST and the pitch is or flatter than 5 in 12:



If the ridgeline runs EAST-WEST and the pitch is 5 in 12 or steeper:



If the ridgeline runs NORTH-SOUTH measure from the northernmost point of the ridge, but reduce the height measurement by three (3) feet.

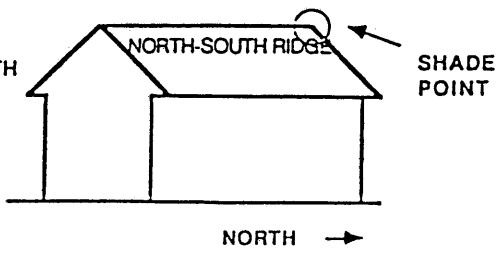


Figure 5

SHADE POINT HEIGHT

Measure to average grade at the front lot line.

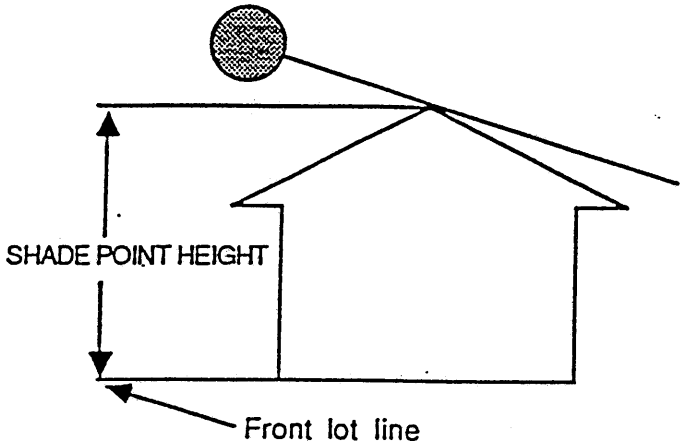


Figure 6

SHADE REDUCTION LINE

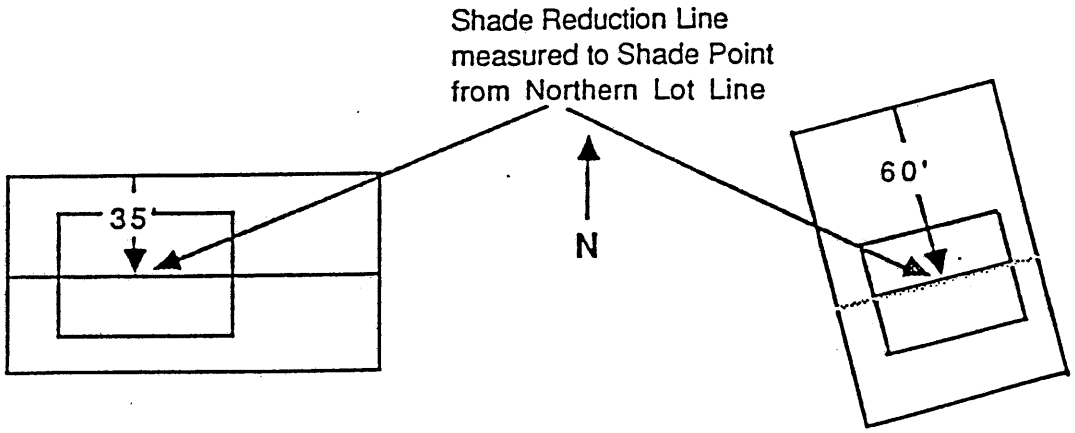


Figure 7

SOLAR GAIN LINE

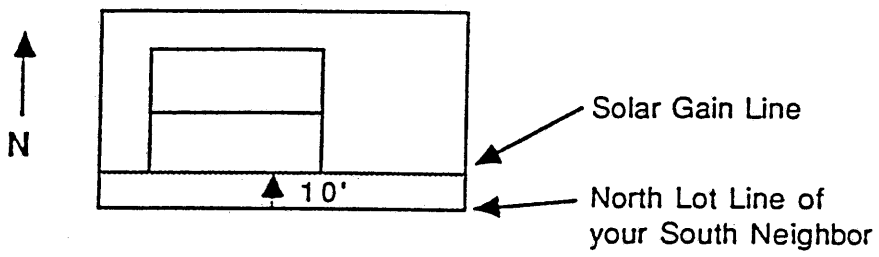
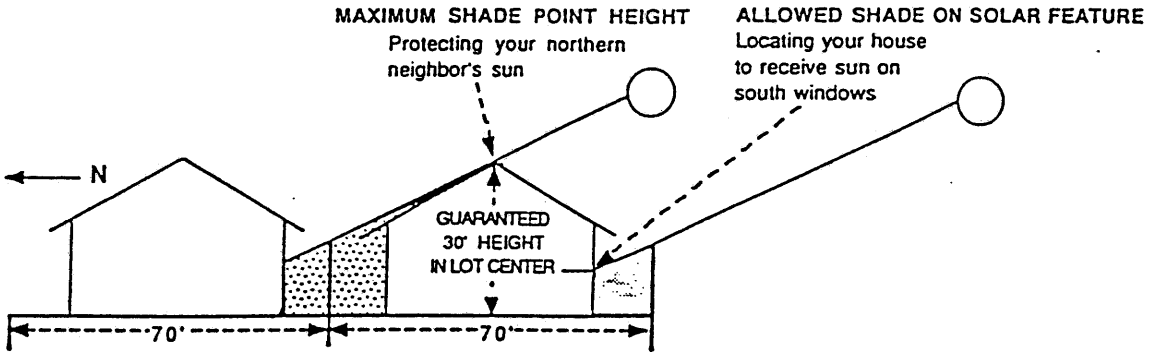
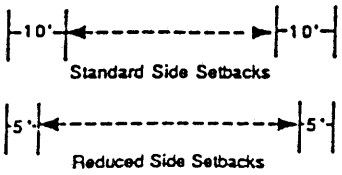


Figure 8

SOLAR BALANCE POINT STANDARD





SETBACK ADJUSTMENTS IF NEEDED
TO MEET SOLAR STANDARDS

Figure 9

SOLAR LOT OPTION 1: BASIC REQUIREMENTS

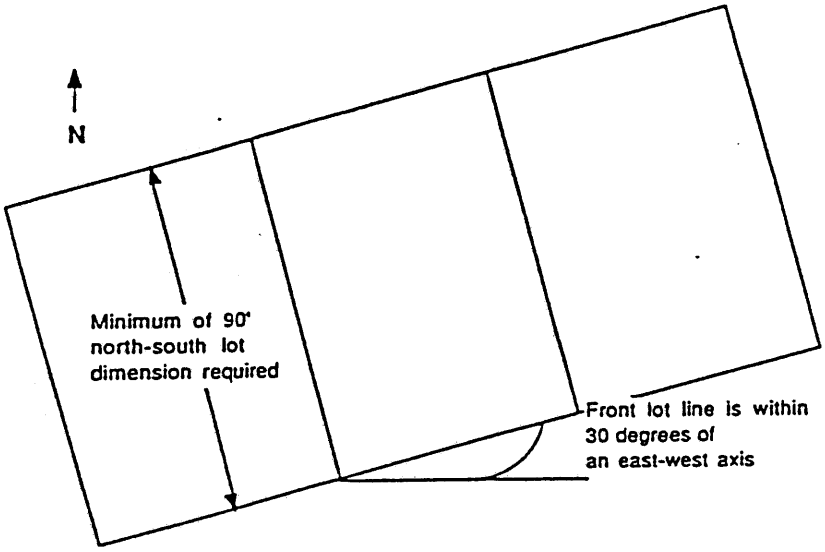


Figure 10

SOLAR LOT OPTION 2: PROTECTED SOLAR BUILDING LINE

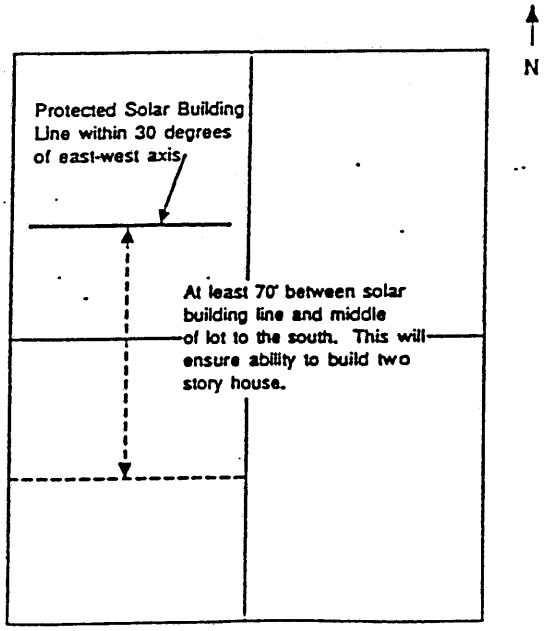
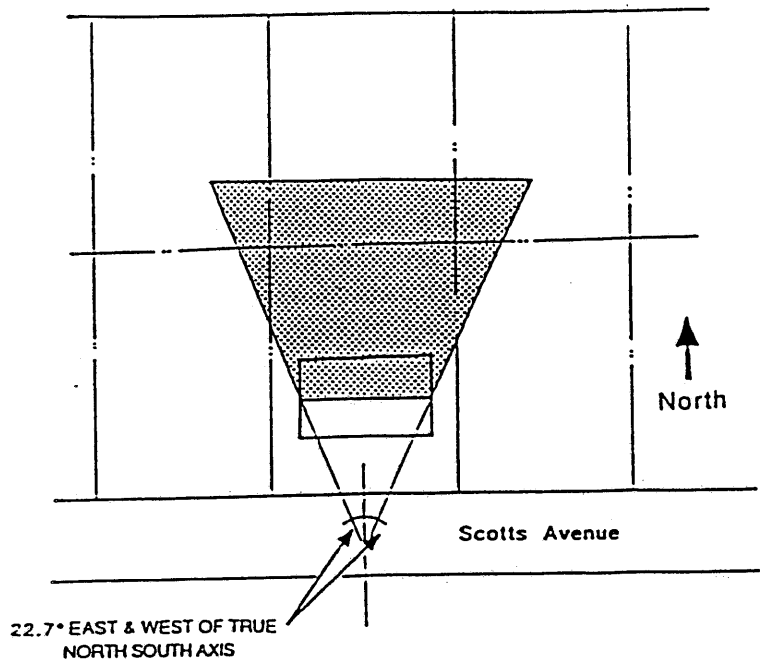


Figure 11

SHADOW PATTERN



CHAPTER 16.95

SOLAR ACCESS STANDARDS FOR NEW DEVELOPMENT

Sections:

16.95.010 Purpose
16.95.020 Applicability
16.95.030 Design Standard
16.95.040 Exemptions from Design Standard
16.95.050 Adjustment to Design Standard
16.95.060 Protection from Future shade
16.95.070 Application
16.95.080 Process

16.95.010 Purpose. The purposes of the solar access ordinance for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

16.95.020 Applicability. The solar design standard in Section 3 shall apply to applications for a development to create lots in the R-1, R-1.5, and R-2 zones and for single family detached dwellings in any zone, except to the extent the approval authority finds that the applicant has shown one or more of the conditions listed in Sections 16.95.040 and 16.95.050 exist, and exemptions or adjustments provided for therein are warranted.

16.95.030 Design Standard. At least 80 percent of the lots in a development subject to this ordinance shall comply with one or more of the options in this section; provided, a development may, but is not required to, use the options in subsections 16.95.030B or 16.95.030C to comply with section 16.95.030.

A. Basic Requirement (see Figure 9). A lot complies with Section 16.95.030 if it:

1. Has a north-south dimension of 90 feet or more; and

2. Has a front lot line that is oriented within 30 degrees of a true east-west axis.

B. Protected Solar Building Line Option (see Figure 10). In the alternative, a lot complies with Section 16.95.030 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and

2. The protected solar building line is oriented within 30 degrees of a true east-west axis; and

3. There is at least 70 feet between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and

4. There is at least 45 feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80 per cent of their south-facing wall will not be shaded by structures or non-exempt vegetation.

C. Performance Option. In the alternative, a lot complies with Section 16.95.030 if:

1. Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis, and at least 80% of their ground floor south wall will be protected from shade by structures and non-exempt trees using appropriate deed restrictions; or

2. Habitable structures built on that lot will orient at least 32% of their glazing and at least 500 square feet of their roof area to faces within 30 degrees east or west of true south, and that glazing and roof areas are protected from shade by structures and non-exempt trees using appropriate deed restrictions.

16.95.040 Exemptions from Design Standard. A development is exempt from Section 16.95.030 if the Planning Commission finds the applicant has shown that one or more 16.95.030 the following conditions apply to the site. A development is partially exempt from Section 3 to the extent the Planning Commission finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Section 16.95.030.

A. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20 per cent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

B. Off-site shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.

2. Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

3. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.

4. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

C. On-site shade. The site, or a portion of the site for which the exemption is requested, is:

1. Within the shadow pattern of on-site features such as, but not limited to structures and topography which will remain after the development occurs; or

2. Contains non-exempt trees at least 30 feet tall and more than 6 inches in diameter measured 4 feet above the ground which have a crown cover over at least 80% of the site, or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the crown cover that causes the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the Office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party to any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written City approval.

D. Completion of phased subdivision. The site is part of a phased subdivision none of which was subject to the Solar Access Ordinance for New Development, and the site and the remainder of the unplatted portion of the phased subdivision contain no more than 20 percent of the lots in all phases of the subdivision.

16.95.050 Adjustments to Design Standard. The Planning Commission shall reduce the percentage of lots that must comply with Section 16.94.030 to the minimum extent necessary if it finds the applicant has shown it would cause or is subject to one or more of the following conditions.

A. Adverse impacts on density and cost or amenities.

1. If the design standard in Section 16.95.030 A is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g. grading, water, storm drainage and sanitary systems, and road) and solar related off-site site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Section 16.95.030A would reduce density or increase per lot costs in this manner. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.

a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 per cent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor or USGS or other officially recognized topographic information.

b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.

c. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.

d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

2. If the design standard in Section 3A applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with Section 16.95.030A is relevant to whether a significant development amenity is lost or impaired.

B. Impacts of existing shade. The shadow pattern from non-exempt trees cover over at least 80% of the lot and at least 50% of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of non-exempt trees on the site or using an aerial photograph.

1. Shade from non-exempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.

2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

16.95.060 Protection from Future Shade. Structures and non-exempt vegetation must comply with the Solar Balance Point provisions in Chapter 16.94 on all lots in a development subject to the Solar Access Ordinance for New Development, including lots for which exemptions or adjustments to the Solar Access Ordinance for New Development have been granted.

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Section 16.95.060. The City shall be made a party of any covenant or

restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written City approval.

16.95.070 Application. An application for approval of a development subject to this ordinance shall include:

A. Maps and text sufficient to show the development complies with the solar design standard of Section 16.95.030, except for lots for which an exemption or adjustment from Section 16.95.030 is requested, including at least:

1. The north-south lot dimension and front lot line orientation of each proposed lot.

2. Protected solar building lines and relevant building site restrictions, if applicable.

3. For the purpose of identifying trees exempt from Section 16.95.060, a map showing existing trees at least 30 feet tall and over 6 inches diameter at a point 4 feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt.

4. Copies of all private restrictions relating to solar access.

B. If an exemption or adjustment to Section 16.95.030 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in Section 16.95.040 or 16.95.050, respectively.

16.95.080 Process.

Compliance with Chapter 16.95 shall be determined by the approval authority in conjunction with an application for a major or minor partition (Chapter 16.60) or subdivision (Chapter 16.62 and 16.64).

CHAPTER 16.100

SOLAR BALANCE POINT STANDARDS

Sections:

16.100.010 Purpose
16.100.020 Applicability
16.100.030 Solar Site Plan Required
16.100.040 Maximum Shade Point Height Standard
16.100.050 Exemption from the Maximum Shade Point Height Standard
16.100.060 Adjustments to the Maximum Shade Point Height Standard
16.100.070 Analysis of Allowed Shade on Solar Feature
16.100.080 Solar Balance Point
16.100.090 Yard Setback Adjustment
16.100.100 Review Process

16.100.010. Purpose. The purposes of this ordinance are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to this ordinance are intended to be ministerial.

16.100.020. Applicability. This ordinance applies to an application for a building permit for all structures in the R-1, R-1.5, and R-2 zones and all single family detached structures in any zone, except to the extent the approval authority finds the applicant has shown that one or more of the conditions listed in sections 16.100.050 or 16.100.060 exists, and exemptions or adjustments provided for there are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of Section 16.92.060 of the Solar Access Ordinance for New Development shall comply with the shade point height standards as provided in sections 16.100.040 and 16.100.050 of this chapter.

16.100.030. Solar Site Plan Required. An applicant for a building permit for a structure subject to this ordinance shall submit a site plan that shows:

A. The maximum shade point height allowed under section 16.100.040;

B. If the maximum shade point height is adjusted pursuant to section 16.100.040, the average elevation of the rear property line ;

C. The location of the shade point, its height relative to the average elevation of the front lot line or the elevation at the midpoint of the front lot line, and its orientation relative to true south; and, if applicable,

D. The solar balance point for the structure as provided in section 16.100.080.

16.100.040. Maximum Shade Point Height Standard. The height of the shade point shall comply with either subsection A or B below.

A. Basic Requirement.

1. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If necessary interpolate between the 5 foot dimensions listed in Table A.

$$H = \frac{(2 \times SRL) - N + 150}{5}$$

Where:

H = the maximum allowed height of the shade point (see Figures 4 and 5);

SRL = shade reduction line (the distance between the shade point and the northern lot line, see Figure 6); and

N = the north-south lot dimension, provided that a north-south lot dimension more than 90 feet shall use a value of 90 feet for this section.

2. Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line

TABLE A
MAXIMUM PERMITTED SHADE POINT HEIGHT (In Feet)

Distance to Shade Reduction Line from northern lot line (in feet)	North-south lot dimension (in feet)												
	100+	95	90	85	80	75	70	65	60	55	50	45	40
70	40	40	40	41	42	43	44						
65	38	38	38	39	40	41	42	43					
60	36	36	36	37	38	39	40	41	42				
55	34	34	34	35	36	37	38	39	40	41			
50	32	32	32	33	34	35	36	37	38	39	40		
40	28	28	28	29	30	31	32	33	34	35	36	37	38
35	26	26	26	27	28	29	30	31	32	33	34	35	36
30	24	24	24	25	26	27	28	29	30	31	32	33	34
25	22	22	22	23	24	25	26	27	28	29	30	21	32
20	20	20	20	21	22	23	24	25	26	27	28	29	30
15	18	18	18	19	20	21	22	23	24	25	26	27	28
10	16	16	16	17	18	19	20	21	22	23	24	25	26
5	14	14	14	15	16	17	18	19	20	21	22	23	24

B. Performance Option. The proposed structure, or applicable non-exempt vegetation, will shade not more than 20 per cent of the south-facing glazing of existing habitable structure(s), or, where applicable, the proposed structure or non-exempt vegetation comply with section 3B or 3C of the Solar Access Ordinance for New Developement. If section 3B, Protected Solar Building Line, is used, non-exempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every 1 foot of height of the structure or of the mature height of non-exempt vegetation over 2 feet.

16.100.050. Exemption from the Maximum Shade Point Height Standard. The City Planner shall exempt a proposed structure or non-exempt vegetation from sections 16.100.030 and 16.100.040 of this chapter if the applicant shows that one or more of the conditions in this section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

A. Pre-existing shade. The structure or applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

1. An existing or approved building or structure;

2. A topographic feature; or

3. A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

B. Slope. The site has an average slope that exceeds 20 percent in a direction greater than 45 degrees east or west of true south based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

C. Insignificant benefit. The proposed structure or non-exempt vegetation shades one or more of the following:

1. An undevelopable area;

2. The wall of an unheated space, such as a typical garage;

3. Less than 20 square feet of south-facing glazing; or

4. An undeveloped lot, other than a lot that was subject to the Solar Access Ordinance for New Development, where:

a. There are at least four single family detached or attached homes within 250 feet of the lot within the same subdivision or a phase of the subdivision; and

b. A majority of the homes identified in subsection 4.a. above have an average of less than 20 square feet of south-facing glazing.

D. Public Improvement. The proposed structure is a publicly owned improvement.

16.100.060. Adjustments to the Maximum Shade Point Height Standard. The City Planner shall increase the maximum permitted height of the shade point determined using section 16.100.040 to the extent it finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

A. Physical conditions. Physical conditions preclude development of the site in a manner that complies with section 16.100.040, due to such things as a lot size less than 3000 square feet, unstable or wet soils, or a drainage way, public or private easement, or right of way.

B. Conflict between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards. A proposed structure may be sited to meet the solar balance point standard described in section 16.100.080 or be sited as near to the solar balance point as allowed by section 16.100.080, if:

1. When the proposed structure is sited to meet the maximum shade point height standard determined using section 16.100.040, its solar feature will potentially be shaded as determined using section 16.100.070; and

2. The application includes a form provided for that purpose by the City that:

a. Releases the applicant from complying with section 16.100.040 and agrees that the proposed structure may shade an area otherwise protected by section 16.100.040.

b. Releases the City from liability for damages resulting from the adjustment; and

c. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of section 16.100.040.

3. Before the City issues a permit for a proposed structure for which an adjustment has been granted pursuant to section 16.100.060 B, the applicant shall file the form provided for in subsection B.2 above in the office of the county recorder with the deeds to the affected properties.

16.100.070. Analysis of Allowed Shade on Solar Feature

A. An applicant may, but is not required to, perform the calculations in or comply with the standards of section 16.100.070.

B. Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or non-exempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:

1. Existing structure(s) or non-exempt trees; or

2. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.

C. The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.

D. The applicant can determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection B by using the following formula or Table B.

$$SFSH = SH - (SGL/2.5)$$

Where:

SFSH = the allowed shadow height on the solar feature (see Figure 8)

SH = the height of the shade at the northern lot line of lot(s) to the south as determined in Subsection B

SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, see Figure 7)

TABLE B
MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE (feet)

Distance from Solar Gain Line to Lot Line (in feet)	Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (feet)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

Table C may be used to determine (SH) in the above formula.

TABLE C

North-south lot dimension of adjacent lot(s) to the south	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height at the property line of adjacent lot(s) to south	12	12	12	13	14	15	16	17	18	19	20	21	22

E. If the allowed shade height on the solar feature calculated in subsection D is higher than the lowest height of the solar feature calculated in subsection C, the applicant shall be encouraged to consider changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

16.100.080. Solar Balance Point. If a structure does not comply with the maximum shade point height standard in section 16.100.040 and the allowed shade on a solar feature standard in Section 16.100.070, then the solar balance point of the lot shall be calculated (see Figure 8). The solar balance point is the location on the lot where a structure would be an equal distance between the locations required by the maximum shade point height standard and the allowed shade on a solar feature standard.

16.100.090. Yard Setback Adjustment. The City shall grant an adjustment to the side, front and/or rear yard setback requirement(s) as indicated below if necessary to build a proposed structure so it complies with either the shade point height standard in section 18.100.040, the allowed shade on a solar feature standard in section 16.100.070, or the solar balance point standard in section 16.100.080 as provided herein (see Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of this chapter.

A. R-1 Zone:

1. A front yard setback may be reduced to not less than *[18]* feet on the side with the driveway and 12 feet in other locations.
2. A rear yard setback may be reduced to not less than *[10]* feet.
3. A side yard setback may be reduced to not less than *[3]* feet.

B. R-1.5 Zone:

1. A front yard setback may be reduced to not less than *[18]* feet on the side with the driveway and 12 feet in other locations.
2. A rear yard setback may be reduced to not less than *[10]* feet.
3. A side yard setback may be reduced to not less than *[3]* feet.

C. R-2 Zone:

1. A front yard setback may be reduced to not less than *[18]* feet on the side with the driveway and 12 feet in other locations.
2. A rear yard setback may be reduced to not less than *[10]* feet.
3. A side yard setback may be reduced to not less than *[3]* feet.

16.100.100. Review process. Compliance with Chapter 16.100 shall be determined by the City Planner in conjunction with an application for a building permit.

BEFORE THE PLANNING COMMISSION
OF THE CITY OF CANBY

In the matter of the recommended Solar Access Protection Ordinance)

FINDINGS & CONCLUSIONS IN SUPPORT OF ADOPTION (July 31, 1991 Draft)

I. There is a public need for and a public health, safety and general welfare interest in having local governments adopt solar access protection regulations.

A. Traditional property law does not protect solar energy access in the absence of a private agreement or a public law that requires such protection. Existing local land use laws in the Portland-Vancouver Metropolitan Area do not expressly protect solar energy access. Private easements and incentives in those laws to encourage the use of solar energy have not resulted in significant protection of solar energy access.

B. Because local laws do not require protection of solar energy access, many cost-effective energy savings measures and future options have been lost forever. They will continue to be lost in the future unless new land use laws are adopted. The potential impact of this loss amounts to millions of dollars during the life of new development in the region and to a waste of non-renewable resources.

C. Federal laws and plans promote conservation of energy by such means as solar access protection.

1. The Northwest Electric Power Planning and Conservation Act of 1980 directed the Northwest Power Council and Bonneville Power Administration to give priority to conservation and renewable resources in their resource planning and acquisition.

2. The Northwest Power Plan recommends "acquisition of cost-effective lost opportunity resources which, if not secured now or in the near term, could be lost forever to the region. The primary example is incorporating energy efficient features into new buildings when they are constructed, since many of these measures cannot be installed later and the buildings will consume energy long after the surplus is over."

   The Northwest Power Plan supports adoption of solar access ordinances by local governments region-wide, because it develops the capability to deliver energy conservation in the future.

   The Northwest Power Planning Council's Model Conservation standards include minimum solar access requirements for sun-tempered and passive solar homes.

D. State statutes recognize there is a public interest in protecting solar energy access and authorize local governments to enact solar access protection regulations.

1. ORS 469.010 declares that "continued growth in demand for non-renewable energy forms poses a serious and immediate, as well as future, problem. It is essential that future generations not be left a legacy of vanished or depleted resources, resulting in massive environmental, social, and financial impact. It is the goal of Oregon to promote the efficient use of energy resources and to develop permanently sustainable energy resources."

2. ORS 227.190 and 215.044 authorize City and County government bodies, respectively, to adopt and implement ordinances "protecting and assuring access to incident solar radiation" provided they do not conflict with acknowledged Comprehensive Plans and land use regulations. State statutes provide that a solar access ordinance "shall provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities.

   "The governing body shall consider for inclusion in any solar access ordinance, but not be limited to, standards for: (a) the orientation of new streets, lots and parcels; (b) the placement, height, bulk and orientation of new buildings; (c) the type and placement of new trees on public street rights-of-way and other public property; and (d) planned uses and densities to conserve energy, facilitate the use of solar energy, or both."

3. Oregon Statewide Planning Goal 13 is to conserve energy. It promote land use controls that "maximize the conservation of all forms of energy, based upon sound economic principles." It directs that Comprehensive Plans "should consider the potential of renewable energy sources, including solar energy, and may use implementation techniques which affect such factors as lot size, siting, building height, bulk, surface area, and availability of light."

E. The City of Canby Comprehensive Plan contains the following policies that promote energy conservation and solar energy:

ix. Energy Conservation Element

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::

This ordinance has, as its main purpose, accomplishing this goal and aiding in implementing each of the policies in this element.

II. Federal, State and local governments, with help from interested members of the public and the development industry, created and carried out a project to address the need for solar energy access protection in the Portland-Vancouver metropolitan area. The project provides a foundation based on which local governments can assume authority provided by statute to encourage, protect and provide solar access. The project is summarized in the following findings.

A. In 1985, twenty-one governments in the Portland-Vancouver Metropolitan Area, including the City of Canby, passed resolutions to join together to ask the Bonneville Power Administration (BPA) for funds to develop solar access protection laws that would be considered for adoption by each government in the project. BPA agreed to fund the 2-year project. It was administered by the Washington Energy Office and Oregon Department of Energy. A twenty-second government, the City of Portland, joined the project late in 1987. The 21 original project participants are listed below:

Beaverton	Milwaukie
Canby	Multnomah County
Clackamas County	Oregon City
Clark County	St. Helens
Cornelius	Scappoose
Fairview	Tigard
Forest Grove	Troutdale
Gresham	Vancouver
Happy Valley	Washington County
Lake Oswego	West Linn
	Wilsonville

B. A structure for the participants in the project was created. It is summarized below.

1. Each participating government appointed 2 or 3 "liaisons" to the project, generally one each from the government body, planning commission, and planning staff. The liaisons participated on project committees, attended project seminars, regularly received information about the project, and relayed information and concerns between the project staff and their government.

2. The liaisons in turn appointed a 12-member Steering Committee of local government officials. The Steering Committee appointed technical committees, managed the project, undertook public involvement and public attitude studies, synthesized the work of the technical

committees, and made policy choices involved in the project, such as adopting design principles and recommending the solar access protection ordinances.

3. The Steering Committee appointed liaisons, industry representatives, and other people with related skills and experience to two technical committees. The committee members represented a balanced cross section of interests and operated by consensus. The Research Committee was responsible primarily for research about the factors that affect solar access and about the benefits of solar access protection. The Ordinance Committee was responsible for researching existing land use laws, drafting model solar access protection ordinances, and estimating the costs of implementing those ordinances.

C. Public involvement activities were undertaken. These included an attitude survey and a review of studies about public and builder attitudes toward solar energy. Project staff prepared a quarterly publication describing project activities and meeting schedules. It was sent by mail to about 1000 residents, firms, and agencies in the area. Also governing bodies and planning commissions throughout the area received briefings about the project periodically; their meetings were open to the public. Press releases were distributed prior to each meeting of the Steering Committee and before other project events. All meetings of the committees were open to the public. Several briefings and work sessions were held with groups and individuals from the development industry. Broadcast media coverage and a community cable television videotape also informed the public about the project.

D. Drafts of the solar access ordinances were evaluated by the Ordinance Committee. Also, they were tested by eleven jurisdictions and industry officials by applying them to "real world" land use requests in those jurisdictions. As a result, the ordinances were changed to be more clear, to ease administration, and to comply more with the project design principles.

E. The following reports and studies were produced and considered during the project, and form the basis for the technical recommendations in the solar access protection ordinances. They are incorporated herein by reference; several are summarized in attachments for convenience.

1. Research Committee, *An analysis of 402 Sites to Determine the Major Factors Influencing Solar Access in the Portland-Vancouver Metropolitan Area,* June, 1987, summarized in Addendum B.

2. Research Committee, ***Potential Benefits of Solar Access,*** September, 1987, summarized in Addendum C.

3. Pihas, Schmidt, Westerdahl, ***Solar Energy, Solar Access, and Energy Conservation Research Compilation,*** May, 1987, summarized in Addendum D.

4. Ames Associates, ***Solar Friendly Tree Report,*** June 1987, summarized in Addendum E.

5. Ordinance Committee, ***New Development Standard Cost Report,*** January, 1988, summarized in Addendum F.

6. Ordinance Committee, ***Potential Costs of the Solar Balance Point Standard,*** January, 1988, summarized in Addendum G.

7. Columbia Information Systems, ***Public Attitude Survey,*** March, 1987.

8. Fleitell, Paula, ***Survey of Experiences in Communities with Solar Access Ordinances,*** August, 1987.

9. Boe and Tumidaj, ***Comparative Solar Setback Analysis of 80 Metro Area Site Plans,*** April, 1987.

10. Portland Bureau of Planning, ***Solar Access Ordinance Evaluation: Support Document,*** August, 1987.

11. Columbia Information Systems, ***A Survey of the Building Community on the Solar Access Ordinances,*** n.d.

12. Benkendorf Associates, ***Plat Re-design Case Studies: Waterhouse, Dawn Crest, and Bridgeport,*** February-June, 1987.

13. Benkendorf Associates, ***Solar Re-Design Cost of Comparison -- Waterhouse and Dawn Crest,*** May, 1987.

14. Mark Johnson, BPA, ***Residential Standards Demonstration Program Solar Access Report (Draft),*** December, 1987.

15. Salem Dept. of Community Development, ***Solar Access Program Final Performance Report,*** October, 1987.

16. Bureau of Governmental Research & Service, ***An Evaluation of the City of Portland's Solar Access Ordinances,*** 1986.

17. Larry Epstein, PC, ***Summary of Land Use Ordinances for Jurisdictions in the Metro Solar Access Project,*** 1987.

18. Conservation Management Services, ***Impact of the Solar Balance Point Standard,*** January, 1988.

F. The most important products of the project are the four solar access protection ordinances.

1. One ordinance -- the Solar Access Standard for New Development -- applies to land divisions and planned unit developments in single family zoning districts and to single family detached dwelling developments in any zone. It promotes proper lot orientation for solar access as well as generally preventing structures and some new trees from significantly shading neighbors.

   The basic requirement for new developments is that 80 percent of lots front on streets oriented within 30 degrees of a true east-west line and have a north-south dimension of 90 feet or greater. This will maximize the number of lots with good solar access characteristics and minimize the potential problems of protecting solar access to homes on north-south streets. Two alternative requirements and provisions for exemptions and adjustments also are included.

2. A second ordinance -- the Solar Balance Point Standard for Existing Lots -- applies to new structures and additions in single family zoning districts and to single family detached dwellings in all zones. It prevents new structures from significantly shading neighbors and balances solar rights and development rights of affected property owners. It also applies to certain trees planted on lots that are created after the effective date of the ordinance.

   The Solar Balance Point Ordinance protects full south wall solar access on lots that have good solar characteristics, and allows more shade on lots with poor solar access characteristics.

3. A third ordinance -- the Solar Access Permit Ordinance -- enables the jurisdiction to issue a permit on a case-by-case basis at the request of a property owner in an existing neighborhood to prevent neighbors from planting new trees that would significantly shade a solar energy feature on the applicant's property.

4. A fourth ordinance contains definitions used throughout the other three ordinances.

5. The ordinances protect homes in new and existing developments from shade caused by "solar unfriendly" trees planted after a certain date. A list of "Solar Friendly Trees" has been developed to assist in landscaping lots to protect solar access without significantly restricting the public's range of landscape options.

6. The Solar Access Ordinance for New Development and the Solar Access Balance Point Ordinance are mandatory in the sense that development subject to either of the two ordinances must comply with them or comply with standards for exemptions and adjustments. The ordinances do not require the use of solar energy features; they merely

protect solar access so that the option to use solar energy in the future is preserved.

III. Early int he project, the Steering Committee adopted eight "design principles." The participating governments and Home Builders Association of Metropolitan Portland agreed that the solar access protection program they would draft should comply with these principles. The program also has to comply with applicable state statutes and with the local Comprehensive Plan. The eight design principles commit project participants to draft a solar access program that will:

A. Be **efficient** to administer and comply with and easy to enforce;

B. Have a **clear rationale** supported by credible project research;

C. Provide **certainty** to property owners regarding the extent and limitations of their sun and shade rights;

D. Provide **flexible** enough standards to deal with a variety of development situations, including providing exceptions for difficult circumstances;

E. Provide an **easy means to inform the public** about its provisions and effects;

F. Provide **equitable** treatment to all property owners; and

G. Provide **equitable** treatment to all property owners; and

H. Be **coordinated and balanced** with other local ordinances, standards and policies.

IV. The proposed ordinances are consistent with and help implement federal law and comply with applicable state statutes and comprehensive plan policies, based on the following:

A. The proposed ordinances are consistent with the Northwest Electric Power Planning and Conservation Act of 1980 and with the Northwest Power Plan, because they promote use of energy efficient features and design principles in new residential development and will help new residential developments comply with the Northwest Power Planning Council's Model Conservation Standards.

B. The proposed ordinances are consistent with State enabling legislation, because they protect solar access to south-facing windows during winter to the extent feasible, considering existing and potential physical features and land uses.

C. The proposed ordinances are consistent with the statewide planning goals listed below. Remaining statewide planning goals are not relevant.

a. Goal 1 (Public Involvement), because of the public involvement conducted as part of the project and the public hearings conducted by the Planning Commission and governing body;

b. Goal 2 (Land Use Planning), because they result from a consensus-oriented planning process in which issues and needs were identified, existing conditions were inventoried, alternatives were considered, and recommendations were made based on broad public review of options;

c. Goal 5 (Open Spaces, Scenic and Historic Areas and Natural Resources) and Goal 13 (Energy Conservation), because they conserve nonrenewable energy resources and promote use of renewable energy resources; and

d. Goal 10 (Housing), because the ordinances do not reduce permitted densities or reduce availability of housing for any segment of the public and they do not significantly increase the cost of housing. On the contrary, solar access can reduce operating costs for heating and cooling of residential structures, thereby reducing housing costs.

V. The proposed ordinances also are consistent with the "design principles" adopted by the Steering Committee, based on the following findings:

A. The ordinances are efficient to administer and comply with and easy to enforce, because:

1. The ordinances reflect the experience of other jurisdictions with solar access protection laws, and include features that avoid problems and complexities in those cases.

2. The ordinances have been tested by the development industry and by eleven local governments in the project. The lessons learned from this preliminary testing have reduced uncertainty and increased the ease of administration.

3. The project staff will train staff and the public and development community before the ordinances are implemented, reducing the time and effort it takes to implement and comply with the ordinances.

4. The costs of implementing the ordinances have been estimated. Compared to costs of other land use regulations, the proposed ordinances should not increase the cost of complying with those regulations. The ordinances allow, if compliance does increase development costs in a given case by a minimum amount, adjustments can be granted.

5. The ordinances include clear and objective approval standards, reducing the need for administrative discretion and extensive public review procedures. All terms are defined and many are illustrated by drawings, reducing the potential for confusion and misunderstanding. Exceptions and adjustments are provided for, reducing the need for variances to the proposed ordinances. The ordinances minimize new procedures; rather they are to be integrated into existing land use procedures, reducing the potential for delay or increased administrative cost.

6. Research showed a voluntary or incentive-based solar access program is more costly to implement and more difficult to evaluate than a mandatory one.

B. The proposed ordinances have a clear rationale supported by credible project research:

1. The research shows there is a need for solar access protection regulations. Existing development codes of participating governments do not protect solar access. Therefore, many solar access opportunities in the Metro Area have been lost. If existing development trends toward smaller lots and taller houses continue without regard for solar access, many more opportunities will be lost in the future.

2. The research shows it is practicable to develop land so that less solar access is lost.

   a. While only 40% of existing lots have optimum solar orientation and access, research shows new developments in the region generally can be designed so that at least 80% of new lots can have optimum solar orientation and access without significantly increasing development costs.

   b. Increased solar access can result in substantial energy savings over the life of a typical residential structure. BPA research shows homes with good solar access use 10% less energy for heating than other homes. Project research shows solar access protection will cause average savings of about $1150 in heating costs over the life of a home and can provide as much as $4000 in savings. The gross energy savings to owners of new houses in the region from implementing the ordinances is estimated to be $150 million over the next 20 years. Savings could increase to $325 million if more people use solar energy design principles and features in new construction (using 1988 dollars).

   c. The solar access ordinances cost the consumer about $20 per lot in a new development, or $55 per new structure in an infill development. They cost the government $4 to $7 per lot (using 1988 dollars).

3. Project research shows solar energy access protection has values that are difficult to quantify, but benefit from adoption of the proposed ordinances. For instance, the proposed ordinances will protect solar access not only for immediate use for passive solar space heating but also for the present and future use of solar water heating and the future use of photovoltaic cells.

   Also solar access protection provides certainty that makes solar energy a more reliable source of alternative energy. It establishes a qualified property right to solar access. That can motivate people to use solar energy. In fact, research shows that people use solar energy several times more in a jurisdiction that has solar access regulations, compared to a jurisdiction that does not. Lastly, solar energy is environmentally non-polluting. Use of solar technology promotes a wide range of positive environmental values.

4. Research about existing solar access conditions in the Portland-Vancouver Metropolitan Area shows:

   a. The major factor influencing solar access orientation of homes and windows is street orientation. Compared to homes on north-south streets, homes on east-west streets:

      1. Had less shading;

      2. Had more south roof, yard and wall area to accommodate solar additions;

      3. Had more south window area for solar heating benefits;

      4. Are shaded more from on-site sources under a homeowner's own control; and

      5. Are less affected by slope, the placement and design of neighboring homes, and north-south lot dimension.

   b. Solar access to homes on north-south streets is significantly affected by such factors as north-south lot dimensions, setback, height, and ridgeline orientation of neighboring homes.

   c. The historical trend has been toward smaller lots and two-story homes. If this trend continues, solar access increasingly will be affected by neighboring homes, particularly on north-south streets.

   d. There is no discernible trend toward development on steeper slopes.

e. There are some minor differences in solar access between counties. However, they were not of a nature as to require different policy treatment between counties.

5. The research showed a voluntary or incentive-based solar access program does not have demonstrable results. Therefore, the research does not provide a rationale for a voluntary or incentive-based program. The research shows the force of law is needed to provide effective solar access protection over time.

6. Public attitudes survey and other research indicates strong and consistent public support for solar access. The public attitudes surveys completed for the project showed that:

   a. The majority of people favored solar energy and/or solar access in their answers to all of the survey questions, and on many questions, the rate of support for solar access exceeded 70 percent.

   b. The vast majority of people will accept local solar access regulations, and they place a positive economic and non-economic value on lots and homes with good access to direct sunlight.

C. The proposed ordinances provide certainty to property owners regarding the extent and limit of their rights to cast shade and to receive direct sunlight.

1. The standards are clear and objective, and depend on such tangible measures as street orientation, lot dimensions, house height and setback.

2. Property owners can reasonably predict the amount of shade that will be allowed to fall on their property.

3. Property owners and the private sector development community can reasonably predict the development guarantees the ordinances' provisions.

4. A mandatory program provides the same guarantees to owners of all similarly situated properties. Property owners do not have certainty about their solar rights or duties if a solar program is voluntary or incentive-based.

D. The proposed ordinances are flexible enough to deal with a variety of development situations.

1. The more difficult the situation, the more lenient the standard; the easier the situation, the more solar access to be protected.

2. The ordinances provide exceptions for difficult circumstances, including steep slopes, pre-existing road and lotting patterns, pre-existing vegetation, and circumstances where a negligible solar benefit would be protected by meeting the standards.

3. Normal avenues of appeal or variance are still available to persons seeking relief from the ordinances.

E. The solar access protection ordinances and associated training provide an easy means to inform the public about its provisions and effects.

1. Extensive public information programs were conducted with interested groups during the project.

2. A training and eduction program for local government staff and the building industry will be available during a 90-day period between ordinance adoption and implementation.

3. Information about the solar access standards for new development can be provided to developers during the pre-application conference for new subdivisions and PUDs.

4. Notice to future purchasers of property subject to the solar ordinances will be provided by filing appropriate records with the title of each lot affected by the New Development and Solar Access Permit Ordinances.

5. Public information materials will be developed by the project consultants and made available to local governments for distribution.

6. Notice of and information about the solar access standards will be provided with every building permit application.

F. The proposed ordinances will be provided with effective solar access protection to properties.

1. The ordinances protect solar access to the extent feasible in keeping the Research Committee's analysis of the major factors affecting solar access.

2. The ordinances protect solar access between 10:30 a.m. and 1:30 p.m. on January 21. This is the level of solar access required for homes to qualify under the solar options of the Model Conservation Standards.

3. It is estimated that the number of lots meeting minimum solar access criteria can be increased from 40 percent to 80 percent in new developments by implementing the Solar Access Ordinance for New Developments.

4. The proposed ordinances will provide substantial economic and non-economic benefits over time.

5. The ordinances are mandatory, because voluntary and incentive-based programs, such as the one in Salem and the ones reported in the Washington State Energy Office report, do not result in significant solar access protection. For instance, after 18 months of operation, the Salem program had distributed more than 4000 brochures and guidebooks, held meetings attended by 950 people including 129 home builders, and reviewed 252 building permits. Nevertheless, Salem could not show that any of their good work informing the public resulted in more solar access or solar access protection, and no one applied for the incentives int he program. Jurisdictions with mandatory programs, such as in Ashland and central Oregon, showed positive results.

G. The proposed ordinances provide equitable treatment to all property owners.

1. The standards benefit both the subject property and neighboring properties and require consideration of effects of solar access on both properties.

2. Lots are categorized by clear, well-defined criteria. Lots of similar characteristics must meet the same standards, and are guaranteed the same levels of solar access. A mandatory solar access program is recommended because it treats similarly situated properties the same; a voluntary or incentive-based program does not.

3. Existing development densities are protected.

4. Owners of all lots to which the ordinances apply are guaranteed the right to build a structure that produces as much shade as a 30-foot tall building in the middle of every lot.

5. Existing and solar-friendly trees are exempt from the standards.

6. Exemptions are allowed when benefits can be shown to be insignificant, as when there is pre-existing shade from other sources or the area being protected is an unheated area of the home, such as a garage.

7. The ordinances protect solar access in new and existing development settings. Since the potential benefits of solar access are available in both settings, to do otherwise would provide inequitable benefits.

H. The proposed ordinances are coordinated and balanced with other local ordinances, standards and policies.

1. The standards help implement comprehensive plan policies to conserve energy. Also, they do not reduce permitted density, require use of

environmentally sensitive or significant land, or violate other plan policies.

2. The standards modify existing standards and land use tools for the additional purpose of protecting solar access in a manner that is consistent with existing land use laws.

3. Exceptions are provided to allow for cases where conflicts arise between solar access and other comprehensive plan ordinances or policies. Such conflicts include density, affordable housing, tree preservation, infrastructure needs, consistency with surrounding street layouts, natural features, and topography.

4. The ordinances are consistent with implementation techniques specifically allowed by Oregon statutes and LCDC Goal 13. Also, the ordinances rely predominantly on existing review procedures.

5. The ordinances will provide a consistent set of solar access standards throughout the region, resulting in more coordinated development practices and more consistent development patterns and facilitating ease of implementation for builders who work in more than one jurisdiction in the region.

BEFORE THE PLANNING COMMISSION
OF THE CITY OF CANBY

In the matter of	)	
the proposed	)	**RESOLUTION RECOMMENDING**
Solar Access Protection	)	**ADOPTION**

WHEREAS, it is State and Federal policy to promote energy conservation and the use of renewable resources, and Oregon statutes authorize local governments to encourage, protect and provide solar access;

WHEREAS, the Comprehensive Plan in the City of Canby promotes energy conservation and protection of solar energy access rights, and use of solar energy;

WHEREAS, traditional property law principles do not protect solar energy access in the absence of a private agreement or public law that requires such protection. Existing land use laws in the City of Canby do not protect solar energy access. Private easements and incentives in those laws to encourage the use of solar energy have not resulted in significant protection of solar energy access;

WHEREAS, without protection of solar access, many opportunities to use solar energy have been lost forever and will continue to be lost in the future;

WHEREAS, twenty-two local governments and interested agencies, firms, organizations and individuals in the Portland-Vancouver Metropolitan Area have joined together with the goal of developing uniform land use ordinances to protect solar access throughout the area, and as of this date, eighteen local governments have adopted the Model Ordinance or a minor modification of same;

WHEREAS, a detailed program of technical research and public involvement was conducted. The ordinances were drafted by consensus with broad and representative input from local governments and the private development community. The benefits of implementing the ordinances were determined to exceed the costs, and the ordinances were determined to comply with State and local laws and the eight design principles set forth early in the process;

WHEREAS, representatives of the City of Canby participated in that process, and the Planning Commission has been briefed regularly about the project. The Planning Commission also has reviewed and considered the proposed solar ordinance and supporting data in a public hearing for which timely public notice was given as required by law. The Commission is in accord with the findings, conclusions, and recommendations of the project.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission recommends that the Canby City Council adopt the Solar Access Protection Ordinance based on this resolution and the accompanying findings and conclusions.

DATED this _____ day of _____, 1991.

FOR THE PLANNING COMMISSION

By: _____
Kurt Schrader, Chair

-STAFF REPORT-

APPLICANT:

Patrick Harmon

FILE NO.:

MLP 91-07

OWNER:

Patrick Harmon

STAFF:

Robert G. Hoffman, AICP
Director of Planning

LEGAL DESCRIPTION:

Tax Lot 600 of
Tax Map 4-1E-04AB

DATE OF REPORT:

August 2, 1991

LOCATION:

Behind 610 S. Ivy

DATE OF HEARING:

August 12, 1991

COMP. PLAN DESIGNATION:

Residential/Commercial
Land Use

ZONING DESIGNATION:

R-1

I. APPLICANT'S REQUEST:

The applicant is requesting approval to divide an 0.45 acre parcel into two parcels containing approximately 7,290 and 8,323 square feet, respectively.

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

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

III. OTHER APPLICABLE CRITERIA

A. 16.56 General Provisions (for land divisions)

B. 16.60 Major or Minor Partitions

C. 16.62 Subdivisions - Applications

D. 16.64 Subdivisions - Design Standards

E. 16.64.040 Lots Related to Flag Lots:

Flag Lots or Panhandle-shaped Lots:

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

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

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

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

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

IV. FINDINGS:

A. Location:

The subject property is identified on the Clackamas County Assessor's Map as Tax Lot 600 of Tax Map 4-1E-04AB. The property consists of approximately 0.45 acres.

Access is by way of a 20 foot wide access drive off S. Ivy. The entire area is zoned R-1, Low Density Residential.

The front of the tax lot is currently occupied by a single-family house addressed as 610 S. Ivy Street. The subject parcel is vacant. There is room for adequate yards if the minor partition is granted. Homes also occupy the parcels on each side. Flag lots exist to the north of this parcel.

B. Conformance with the Text and Maps of the Comprehensive Plan and Other Ordinances:

1. The Canby Comprehensive Plan map shows the general area of the subject property located in a Residential/Commercial District, as are all adjacent parcels.

Comment: Land division as proposed, and development of the flag lot with a single family home or other permitted R-1 use, would be consistent with this designation since adjacent property is zoned as R-1 or R-1.5 and primarily developed with single family houses.

2. The Residential Lands Policy No. 2 (page 140, Canby Comprehensive Plan) states the following:

POLICY NO. 2: CANBY SHALL ENCOURAGE A GRADUAL INCREASE IN HOUSING DENSITY AS A RESPONSE TO THE INCREASE IN HOUSING COSTS . . .

IMPLEMENTATION MEASURES: Continue to allow for a variety of lot sizes within residential zones with the overall average equaling the minimum square footage requirement.

Comment: Land division, as proposed, would help to implement this policy and implementation measures. Given the location of the existing house, zoning pattern, and the need for an access drive, only two lots are considered feasible.

C. Compliance with All Other Applicable City Ordinances:

1. Section 16.60.030 of the Canby Municipal Code requires all public facilities and services be available, or made available through the development of the property.

Comment: In most cases, services will have to be extended to serve the rear parcels of property proposed to be created. This will need to be a condition of approval.

a. Sewer

The City has a sewer line in S. Ivy and Township. It has adequate depth. Easements will be necessary to serve each lot. There are no known sewer capacity problems in this part of the City since the Ivy/Township/Knott sewer is now available.

b. Water

The water system is operated by Canby Utility Board. Capacity is available in the system.

c. Electricity

The electrical system is owned and operated by the Canby Utility Board. Service to the newly created parcels can be obtained. The expense of extending those services will be borne by the applicant. There is an existing utility pole in the proposed access drive. It will need to be moved.

d. Fire

The existing parcel is presently served by Fire District No. 62. The proposed parcels can easily be served, as well.

e. **Police**

The City provides police protection to the area and can easily serve the proposed parcels.

f. **Storm Drainage**

All on-site storm water will be dealt with on-site and not discharged to the City system.

2. Street/Traffic

Canby's ordinance requires that any newly created parcels have access to a public street. The two parcels are proposed to have access to S. Ivy Street by way of a 20 foot wide paved drive. Sidewalks are not present. S. Ivy Street is an existing arterial street in the Comprehensive Plan. It is currently a 60 foot right-of-way. There are no plans for widening.

D. Overall Design of Parcels

The partition as proposed will result in the creation of two rectangular lots consisting of approximately 7,290 and 8,323 square feet, respectively. The applicant will be required to provide any necessary easements for utilities as a standard condition of approval. A reciprocal access easement, 20 feet in width, is proposed to serve the two lots.

The subject property is generally flat, with room for building and required setbacks and yards. The parcel is zoned R-1, Low Density Residential, and each parcel is large enough to provide the required development space and yards. The driveway, as proposed, is adequate, and turning movements will be provided on-site. There is a "flair" of the access drive at S. Ivy to facilitate ease of turns. To build the driveway, the utility pole will need to be moved and a number of trees will be lost. It would be preferable to arrange a reciprocal access drive agreement with the owners of the adjacent drive.

V. CONCLUSION

1. Staff finds that the partition request is in conformance with the Comprehensive Plan and 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 two single family structures.

3. Staff concludes that the partition will have adequate frontage on a public street to insure safe and efficient access for two single family structures.

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, provided that conditions deal with easements and sidewalk needs.

VI. RECOMMENDATION

Based upon the findings and conclusions in this report, the information submitted by the applicant, and the additional information contained in the file (and without benefit of public hearing), staff recommends approval of MLP 91-07, subject to the following conditions:

1. The applicant shall prepare a final partition map. The final partition map 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.

2. 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.

3. Utility easements, a minimum of six (6) feet in width, shall be provided on the exterior and interior lot lines of each lot in the proposed development.

4. A final partition modified to illustrate the conditions of approval, shall be submitted to the Director of Public Works for review and approval. The final partition shall reference this land use application -- City of Canby, Planning Department, File No. MLP 91-07.

5. Plans to extend the sewer shall be approved for construction by the Director of Public Works, prior to the issuance of any building permits on the site.

6. All monumentation and recording fees shall be borne by the applicant.

7. All utilities must meet the standards and criteria of the providing utility authority. Unless an arrangement to share the adjacent driveway can be made, the utility pole shall be moved.

8. A reciprocal agreement to share the driveway shall be made a part of the final partition. If an arrangement can be made to share all or part of the adjacent driveway to the north, this is permitted and shall be indicated on the final partition.

9. A sidewalk shall be provided prior to occupancy of the home on the rear lot.

Exhibits:

1. Application
2. Site Plan

MINOR LAND PARTITION APPLICATION

Fee: $300.00

OWNER	APPLICANT
Name Patrick S Harmon	Name Patrick S Harmon
Address P O Box 216	Address P O Box 216
City Canby State Oregon Zip 97013	City Canby State Oregon Zip 97013
SIGNATURE Patrick S Harmon	Phone: 266/1553

DESCRIPTION OF PROPERTY:

Tax Map T4S,R1E,Sec 04AB (SN 0769418) Tax Lot(s) 6 00 Lot Size .45 AC+- (Acres/Sq. Ft.)

or

Legal Description, Metes and Bounds (Attach Copy)
Plat Name _____ Lot _____ Block _____

PROPERTY OWNERSHIP LIST

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

USE

Existing ~~Vacant land~~ (R-1 Zone) Proposed Minor Partition for 2 single Family Lots

Existing Structures There are no structures on this property

PROJECT DESCRIPTION

It is my intention to divide the subject property in full compliance with all city and state goals in mind. The present zoning is for single family housing and I do intend to retain the present status of the zone. I am requesting that the subject property be divided into two lots that will meet or even exceed minimum requirements--on these lots will be two single family homes. I will provide a reciprocal maintenance easement agreement.

ZONING R-1 COMPREHENSIVE PLAN DESIGNATION Commercial-Residential
PREVIOUS ACTION (if any) Lot Line Adjustment (1991)

File No. MLP 91-07
Receipt No. 1457
Received by _____
Date Received _____
Completeness Date _____
Pre-Ap Meeting _____
Hearing Date Aug 12, 1991

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

EXHIBIT 1

Blumberg No. 8119

July 07, 1991

City of Canby
Planning Commission
182 N. Holly
Canby, Oregon 97013

Planning Commission]

The following LCDC goal are applicable to the minor partition of Tax Lot 600--T4S,R1E, Sec.04AB:

Goal 9 - Economy of the State:
Due to the shortage of affordable single family residential lots in Canby and considering that the highest and best use of .45 acre which well over the minimum lot size and could be considered a waste of potential residential property if not used to its fullest potential.

Goal 11- Public Facilities and Services:
There are both Canby sever and water service located in the center of Ivy St. at the Souther-Westerly side of Tax Lot 600. Both electrical and phone services will be brought in underground from Ivy St. to the proposed minor partition.

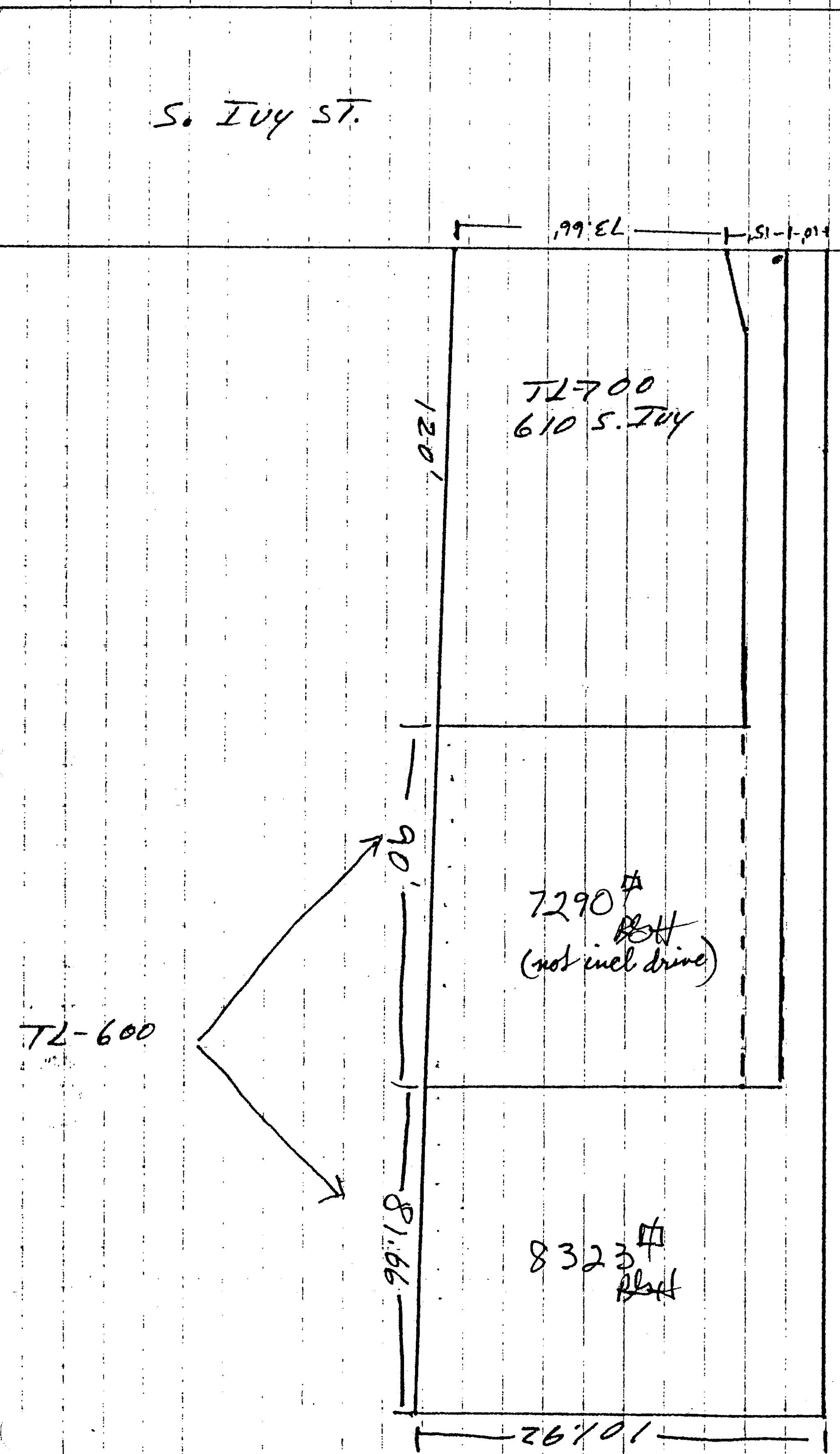
Goal 12- Transportation:
Tax lot 600 is a flag lot that has been in existenance since 1950,entrance being 25 feet wide and tapering to 20 feet wide--it presently has access to South Ivy St--this entrance roadway would be blacktopped. The access is wide enough to allow the existing electrical pole to stay and have one way traffic on each side--in turn the large tree next to the pole will be left in place (if Possible) to meet another goal of the planning commission and the city for preservation of our trees.

I would hope that you would strongly consider this a good cause for minor partition of my property.

Sincerely,

Patrick S. Harmon

Patrick S. Harmon
P.O. Box 216
Canby, Oregon 97013



*OWNER - PATRICK Harmon
(APPLICANT) P.O. 216
Candy, Ore
97013
*DATE - July 08, 1991
*ZONING - R-1
*ACREAGE - 20,400 sq. ft.
*LEGAL - T4S, R1E, S4AB
*TAX LOT - 600
*SEWER - AVAIL. in Ivy ST.
*ELEC. - AVAIL.
*WATER - AVAIL. in Ivy ST.
*SCALE - 1/4" = 10'
*● Indicates utility pole
*Adjoining properties - SEE Attached PLAT.

EXHIBIT
2
Blumberg No. 5119

PLANNING COMMISSION

SIGN-IN SHEET

Date: AUGUST 12, 1991

NAME (Please Print)	**ADDRESS (Please Print)**
MR & MRS L.A. GRAFF	580 S. IVY
R. Harmon	P.O. 216 - Canby -

PLANNING COMMISSION

SIGN-IN SHEET

Date: AUGUST 1ST, 1991

NAME (Please Print)	ADDRESS (Please Print)
KEITH LADEN, MCKEEVER/MORRIS	222 SW 2ND PORTLAND
266-1211 [illegible]	5SE S IOP
263-8674 [illegible]	5SE S. IOP
[illegible]	P.O. 216 —