

CANBY CITY COUNCIL

SPECIAL MEETING

OCTOBER 24, 1979

Mayor Robert E. Rapp presiding. Councilmembers present: Beryl Brown, Beauford Knight, Richard Nichols, Robert Westcott and Bill Pulver. Absent: Councilman Robert Swayze.

Also present: City Planner Stephan Lashbrook, City Attorney Wade P. Bettis, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Secretary Marilyn Perkett, Canby Herald Editor Jeff Durham, Brenda Lashbrook, David Bury, Wallace Ramey, Emma Campbell, Ralph Campbell, R.K. Meredith, Karol Conly, Steve Conly, Jacque Kraxberger, Mary Jane Lemke, Betty Ramey and Earl Oliver.

The Special Meeting was called to order at 7:31 p.m., followed by the flag salute and roll call.

COMMUNICATIONS: Planner Lashbrook read a letter from the Coalition of Social Services of Clackamas County requesting our annual contribution, which is a budgeted item. Councilman Westcott moved that the City donate \$1,000. to Clackamas County Coalition of Social Services for the fiscal year 1979-80. Seconded by Councilwoman Brown. Mayor Rapp noted that we also donate directly to the Loaves and Fishes rather than have them go through the legality of contracts through the County. However, the program does sponsor several organizations in our community, such as, Latch Key, Campfire, Barlow Day Care Center, etc. Motion passed 6-0.

Mayor Rapp informed the Council of a letter he received from Gerald Grossnickle requesting a delay in their annexation decision till after the water study is completed. Councilman Westcott noted that Council had already delayed the decision for them and the public is aware to the fact that the decision will be at the next meeting. Councilman Westcott moved that the final decision on the Grossnickle Annexation be reaffirmed, as scheduled, on the Regular Meeting of November 7, 1979, and as per the public announcement. Seconded by Councilman Pulver and approved 5-0. Mr. Lashbrook will notify Mr. Grossnickle of the Council decision.

NEW BUSINESS: Mr. Wallace Ramey presented petitions with 71 signatures requesting 25MPH signs on N. Ivy Street, and recommended one every two blocks, 3rd Avenue, 7th Avenue, 9th Avenue, 11th Avenue and 13th Avenue. Mr. Ramey has filmed the traffic speeding on N. Ivy Street. He also inquired about paving of the street, stating in 1974 when curbs were put in they were to have the street paved. Councilman Westcott responded by saying this is a problem in many areas and budget-wise, oil matting is about all that can be done now. Mayor Rapp suggested the matter of signing go before the Traffic Safety Committee and staff will discuss patrolling with the Police Department. Councilman Knight moved to have the signing of N. Ivy Street be referred to the Canby Traffic Safety Committee to study and come back to the Council with a recommendation and to have the patrolling instituted right away. Seconded by Councilman Westcott and approved 5-0.

No names were presented for committee appointments, however, Mayor Rapp asked Council to be thinking of this and perhaps in our next Regular Meeting some appointments could be made to the Planning Commission, Building Board of Appeals and Budget Committee.

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UNFINISHED BUSINESS - Attorney Bettis read the names of grantors of all the deeds for dedications on N.W. Baker Drive for street widening: Florence Zwicker, Robert D. Westcott, Glynn Richkoff, Port of Portland, Globe Union Inc., U.S. Credit Corporation, and Martin Clark Inc. Councilman Nichols moved that the deed to the City of Canby for widening N.W. Baker Drive and by the grantors whose names were mentioned by the City Attorney be accepted for recording. Councilman Westcott abstained from voting due to a conflict of interest. Seconded by Councilman Knight, motion carried 4-0.

Ken Ferguson, Public Works Director, explained to Council about the Bargain and Sale Deed from Southern Pacific for a right-of-way of N.W. 3rd Avenue from Ceder Street west and down over the hill adjacent to the CUB property, the original property given to the City in 1929 for street purposes. Southern Pacific will retain oil and mineral rights at a 500 foot depth beneath the surface. Councilman Nichols moved to accept for recording the deeds for street right-of-way on N.W. 3rd Avenue from the Southern Pacific Industrial Development Company and a title report at the City's expense. Seconded by Councilman Pulver, approved 5-0.

Mr. Ferguson gave a staff report on street excavations. Several alternatives were discussed and staff was directed to draft up a sample ordinance for this matter and perhaps revise the street cut permits.

Mayor Rapp declared a 5 minute recess at 8:30 p.m. and reconvened the Special Meeting at 8:44 p.m.

Stephan Lashbrook presented his staff report relating to signs for garage sales. He pointed out that Ordinance 552 as amended in Section 39 states: POSTERS UNAUTHORIZED - No person shall in any manner affix a placard, bill or poster upon personal or real property private or public, without first obtaining permission of the owner or proper public authority. This along with provisions of the Zoning Ordinance should adequately address the issue if it were enforced. Council instructed staff to talk to the Police Department and when they see signs still hanging which are past dated to go to the home and ask the people to remove them.

Ken Ferguson gave a staff report regarding improvements benefitting adjacent properties. No actual decisions were made and Council discussed this at length and felt another workshop should be set on this issue.


Myra Weston read an editorial wrote in 1949 by Tom Gerber in regards to the cost of the Sewer Plant.

Ken Ferguson invited the Council to attend a demonstration on Monday, October 29th, at 1:00 p.m. on N.W. 6th Avenue between Grant and Holly Streets of a Vac-All machine.

Mr. Ferguson also informed the Council that DEQ no longer issues "Gold Stars".

Mayor Rapp adjourned the Special Meeting at 9:50 p.m.


Robert E. Rapp, Mayor


Marilyn K. Perbett, Pto Tem City Recorder

October 24, 1979

CANBY CITY COUNCIL

REGULAR MEETING

OCTOBER 17, 1979

Mayor Robert E. Rapp presiding. Councilmembers present: Beryl Brown, Beauford Knight, Robert Westcott, William Pulver, Richard Nichols and Robert Swayze.

Also present: Attorney Wade P. Bettis, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Public Works Supervisor Bud Atwood, Treasurer Myra Weston, Secretary Marilyn Perkett, Canby Herald Editor Jeff Durham, Lee Engineering, Inc. Duane Lee and Walter Mintkeski, Crown Zellerbach Kenneth Fischer and John R. Saari, David Bury, Howard Giger, Earl Oliver, Bill and Margaret Hinckley, Gary Sowles and Marv Dack.

Mayor Rapp called the meeting to order at 7:30 p.m., followed by the flag salute and roll call.

Councilman Westcott moved to approve as distributed for Regular Meeting of October 3, 1979, and Special Meeting October 8, 1979, the minutes. Seconded by Councilman Swayze and approved 6-0.

CITIZENS IN-PUT ON NON-AGENDA ITEMS, nothing was brought forth from the audience.

At this time, Mayor Rapp postponed the Public Hearings to later in the meeting and proceeded to other agenda items.

NEW BUSINESS - Planner Lashbrook read a letter from the American Legion Post #122 Commander Darwin Zuern requesting 1½ inches onto City property in order to make improvements on their building. Staff felt there was no problem with this, but what was the best method. Attorney Bettis suggested that they could find an alternative. After Council discussion, Councilman Swayze moved that due to the fact the American Legion Post #122 does considerable good for the community and this request is not a substantiate alteration, that their request as per their letter of October 3, 1979, and Ordinance No. 413, be granted the permit. Councilman Pulver seconded, Councilmen Pulver and Swayze both commented that they were members of the Post #122, but this did not affect their decision. Motion was passed 6-0.

PUBLIC HEARING - Mayor Rapp recessed Regular Meeting at 7:47 p.m. and immediately opened the Public Hearing on the Oliver-Hinckley Zone Change Request. Planner Lashbrook gave the staff report on the proposed rezoning of five tax lots from R-2 (medium density residential) to a C-2 (highway commercial). The property is located on the north side of S.W. 2nd Avenue, between S. Knott and S. Locusts Streets, the entire half-block is included in the proposed zone change and the surrounding properties are zoned C-2 to the north and west, and R-2 to the south and east.

APPLICANT - Earl Oliver, speaking as an applicant, noted that there were no alleys in the area and the set backs are quite far back, also, most of the houses were quite old and shouldn't be used for housing but felt it should be used commercially. PROPONENTS - Bill Hinckley, one of the applicants, noted that since we could not park on 99E anymore there is a need for parking and a great need for C-2 property.

Margret Hinckley, emphasized the need for parking.

OPPONENTS - David Bury, felt this should be an R-1 with restricted parking and said he'd like to see what they plan to build first before the zone is changed.

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REBUTTAL - Mr. Oliver, added they had no plans for building yet. Mayor Rapp adjourned the Public Hearing at 7:55 p.m. and immediately reconvened the Regular Meeting. Both Councilmen Nichols and Westcott noted they had done business with one or the other of the applicants but said this would not affect their decision on the proposed zone change. Councilman Swayze moved that the Planning Commission decision on the Oliver-Hinckley Zone Change be upheld and their findings of fact become part of our findings of fact, and those are: 1) there is a public need for more C-2 property in Canby because of the shortage of undeveloped C-2 property; 2) the applicant has addressed the four goals requested by the City Planner as follows: Goal 9 - no impact at the present time; Goal 10 - no adverse impact on available local housing; Goal 11 - easily met because public facilities and services are already available; and Goal 12 - there will be transportation benefits as the zone change will allow for adequate off-street parking for existing business and the zone change would also be best met for the property. Seconded by Councilwoman Brown. Councilman Westcott noted that he felt the timing was now and it should be done now. Motion passed on roll call vote 6-0.

Attorney Bettis inquired whether a City Recorder Pro Tem had been appointed yet, and it should be done before we went any further. Mayor Rapp suggested that Mrs. Perkett be appointed City Recorder Pro Tem. Councilman Swayze moved that Mrs. Marilyn Perkett be appointed City Recorder Pro Tem in the absence of Mr. Wyamn, City Recorder. Seconded by Councilman Pulver and passed 6-0.

Mayor Rapp recessed the Regular Meeting at 8:00 p.m. and immediately opened the Public Hearing on the Driggers-Kraxberger Zone Change. Planner Lashbrook gave the staff report on the proposed zone change on recently annexed property from a County designation to City R-1. This would have been automatic but unfortunately this was annexed to the City before the new Zoning Ordinance took effect. Location of proposed property is east of N. Locust Street and north of N.E. Territorial Road and described as Tax Lot 900, Section 28DC, T3S, R1E. Staff recommended approval, but recommended not to follow the same procedure as we have in the past on other zone changes on annexation fees, not take final action on the Ordinance until the annexation fee is paid, however, no permits will be issued until the annexation fee is paid. Council discussed this and felt they wished to stick with the usual procedure as an "armor plate" and be sure we have the annexation fee. No one was present at the Public Hearing to speak either as the APPLICANT, PROPONENT or OPPONENT. Mayor Rapp noted that in the past at the Planning Commission level, this proposal was represented by Attorney Jon Henriksen, who is now our Municipal Judge. Public Hearing was closed at 8:10 p.m. and Regular Meeting was immediately reconvened. Councilman Westcott moved that the Council make findings the same as the Planning Commission, same as the findings of the letter, February 21, 1979 from Attorney Jon Henriksen, except for Goal 3 of that letter on page 4, in that it doesn't apply in this case. A) the Council finds there is a public need for the change in order to allow the property to be developed to conventional single family standards; B) that the public need is best met to this particular change; C) that the change conforms with the City's Interim General Plan; D) it complies with the state wide planning goals. Seconded by Councilman Swayze, roll call vote was requested and was 6-0 in favor.

ORDINANCES & RESOLUTIONS: Attorney Bettis read Ordinance No. 661 for second and final reading and the affidavit of posting was presented by the Pro Tem City Recorder. Councilman Swayze moved that Ordinance No. 661 AN ORDINANCE PERTAINING TO THE CONSTRUCTION, OCCUPANCY, ALTERATION, REPAIR AND MOVING OF BUILDINGS WITHIN THE CITY OF CANBY, OREGON; PROVIDING FOR PERMITS AND FEES THEREFORE; PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; REPEALING ORDINANCE NO. 634 AND ORDINANCE NO. 576 AND DECLARING AN EMERGENCY be approved and become part of the laws of the City of Canby. Seconded by Councilwoman Brown and approved 6-0 by roll call.

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Attorney Bettis presented Ordinance 664 for the second and final reading with the affidavit of posting presented by the Pro Tem Recorder. Councilman Swayze moved that Ordinance No. 664 AN ORDINANCE AUTHORIZING AN EMPLOYMENT CONTRACT WITH STRAMM ENGINEERS, INC. TO PROVIDE PROFESSIONAL SERVICES TO COMPLETE THREE ELEMENTS OF THE CITY'S COMPREHENSIVE PLAN be approved and become part of the laws of the City of Canby. Seconded by Councilman Westcott and approved by roll call vote 6-0.

Ordinance No. 666 was presented for second and final reading by Attorney Bettis with the proof of posting, the affidavit, presented by the Pro Tem Recorder. Councilman Westcott moved that Ordinance No. 666 AN ORDINANCE AUTHORIZING AN EMPLOYMENT CONTRACT WITH LEE ENGINEERING, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES TO UPGRADE THE CITY'S SEWERAGE SYSTEM be approved on final reading. Seconded by Councilman Swayze and approved 6-0 by roll call vote.

First reading of Ordinance No. 670 was read by Attorney Bettis. Councilman Swayze moved that Ordinance No. 670 AN ORDINANCE AUTHORIZING CONTRACT FOR LIGHTING FIXTURES AND MATERIAL FOR BALLFIELDS AND TENNIS COURT IN MAPLE STREET PARK PHASE III; AND DECLARING AN EMERGENCY be approved on first reading and the proper postings be made for second and final reading on November 7, 1979, after 7:30 p.m. Seconded by Councilman Westcott and unanimously approved.

Ordinance No. 671 was read by Attorney Bettis for first reading. Councilman Westcott moved that Ordinance No. 671 AN ORDINANCE AUTHORIZING CONTRACT FOR DOUGLAS FIR POLES REQUIRED FOR BALLFIELDS LIGHTING PROJECT IN MAPLE STREET PARK PHASE III PROJECT; AND DECLARING AN EMERGENCY be approved and posted for second and final reading on November 7, 1979, after 7:30 p.m. Seconded by Councilman Swayze and approved 6-0. Ken Ferguson, Public Works Director, was given Council permission to go ahead and order the poles.

Mayor Rapp called for a 5 minute recess at 8:31 p.m. Regular Meeting was reconvened at 8:47 p.m.

NEW BUSINESS - Councilman Westcott moved that accounts payable in the amount of \$11,703.77 be paid. Seconded by Councilman Nichols and approved by roll call, 6-0. Councilman Westcott moved that the amount of \$4,462.60 be paid on the water bond and a warrant be drawn from Clackamas County. Seconded by Councilman Nichols and approved 6-0 by roll call vote.

City Planner Lashbrook read a letter from Marv Dack requesting agenda time regarding problems with his apartments on 2nd and Knott, in reference to a County Court decision. At this point, Mr. Dack proceeded with his presentation. Shortly after Mr. Dack started, Councilman Westcott attempted to ask a question. However, Attorney Bettis advised the Council as to the following, "Gentlemen, I advise that no member respond to Mr. Dack, this matter is completely within the jurisdiction of the Clackamas County Court and Judge Dale Jacobs. Now it is courteous then to listen." Mr. Dack did not proceed and the Mayor advised him to contact the City Attorney's office and we would reschedule him for the November 7th meeting.

Planner Lashbrook read a letter from Gary and Diane Sowles and Robert and Sharon Westcott requesting a change order on the LID #9 for their property known as Baker Drive Industrial Park. This consists of 12 small industrial lots on approximately 1.9 acres. The developers will be totally responsible for all costs associated with the N.W. Fifth Place development. (NOTE: Councilman Westcott stepped down from the Council during this item.) Councilman Swayze moved that N.W. Fifth Place in the Baker Drive Industrial Park, owners Gary and Diane Sowles, Robert and Sharon Westcott,

be included in LID #9 and that an appropriate change be executed and all costs associated with N.W. Fifth Place be the total responsibility of Sowles and Westcott. And no additional cost to adjacent property owners be incurred. Also, a copy of the Sowles-Westcott letter of October 11, 1979, become part of the minutes of this meeting. Seconded by Councilwoman Brown. Councilman Nichols inquired whether the other property owners in the LID #9 must be notified of this? Attorney Bettis informed Council it was not necessary since the Council could approve a change order. A roll call vote was requested and the motion passed 5-0.

Robert Westcott (still not sitting in the chair as a part of the Council) spoke to the Council in regards to his request for a Quit Claim Deed on an old water easement line going through his property and has long since been abandoned and not used. Attorney Bettis had prepared a Resolution regarding this matter and read it for the Council, Resolution No. 273. Councilman Swayze moved that Resolution 273 A RESOLUTION AUTHORIZING QUIT CLAIM DEED OF CITY EASEMENTS TO GARY H. SOWLES AND DIANE M. SOWLES, HUSBAND AND WIFE; AND ROBERT D. WESTCOTT AND SHARON J. WESTCOTT, HUSBAND AND WIFE; AND MARTIN CLARK CONSTRUCTION, INC. AND GLYNN RICHKOFF BECAUSE OF ABANDONMENT OF EASEMENT be approved. Seconded by Councilman Pulver and approved unanimously, 5-0.

UNFINISHED BUSINESS - Ken Ferguson, Public Works Director, gave a staff report on the request of Crown Zellerbach for a permanent easement on the N.E. corner of Territorial Road and the Molalla Forest Road. Staff recommended a license of right-of-way instead of a permanent easement with certain footage stipulations. Mr. Kenneth Fischer, of Crown Zellerbach, spoke to the Council relaying their feeling of need for a permanent easement to be assured that they can move their logs around that corner to the log boom. He also felt a 50 foot radius is too small for the longer trucks with large loads and they needed up to 90 feet and preferably 110 feet radius. John Saari, Crown Zellerbach, felt this would be a public benefit due to safety reasons. Councilman Westcott inquired whether they'd pave the area. Mr. Fischer said it would depend upon the agreement. Councilman Nichols moved that all necessary signing and pavement marking should be the responsibility of Crown Zellerbach including Maintenance of such signing and marking, subject to City approval. All costs of preparing the easement including submittal to the City for approval should be the responsibility of Crown Zellerbach. That we grant a license for right of use. That the radius be 110 feet and the width of 12 feet subject to Clackamas County approval, and an oil mat base on the road. Several of the Council felt that the 12 foot width was too small. Councilman Westcott also felt the motion should include a stipulation concerning the upkeep of the road as to being dust free. Councilman Nichols withdrew his motion. Attorney Bettis explained the reasons for a license vs. permanent easement due to the fact that any future development may be affected and if a permanent easement or deed were granted the City would then have no control. However, with a license to use the area it would eliminate any problems if in fact, there is future development there. Councilman Westcott noted that we have denied others an easement that wanted to go underneath the property. Councilman Westcott moved to grant a license to Crown Zellerbach on N.E. Territorial Road and the Molalla Forest Road and that all necessary signing, including the "ONE WAY" and "DO NOT ENTER" signs on ingress, and pavement marking should be the responsibility of Crown Zellerbach including maintenance of such signing and marking. Signing and marking to be subject to approval by the City. All costs of preparing the license including submittal to the City for approval should be the responsibility of Crown Zellerbach. The radius shall be 110 feet and 20 feet width to the road and a dust free surface shall be provided and maintained. This will be subject to approval of Clackamas County and the license will be revocable on a six (6) months notice. Seconded by Councilman Swayze and approved 6-0. Mr. Fischer requested that the Council put this in letter form and send to Crown Zellerbach. Mr. Bettis will prepare the license.

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Attorney Bettis brought up the Koehler property and informed Council he would be contacting Mr. Rorabeck tomorrow on Council decision. Councilman Westcott moved that the City Attorney be advised that the Council feels at this time it's advantageous to hold up condemnation proceedings until the 16th of November to allow the Bank of California to obtain a separate fee appraisal from outside of their bank and come back to us with that appraisal. Seconded by Councilman Swayze and approved 6-0. (Note: At this time 9:55 p.m., Attorney Bettis was excused from the meeting.)

Duane Lee, Lee Engineering, presented from their firm Walt Mintkeski, who gave a summary of their proceedings and alternatives. Also, a history of the sewage treatment plant and some of the problems. A letter from DEQ, dated August 3, 1979, was a notice of violation to the City in that the plant has not been meeting discharge requirements and the City is subject to fines and/or moratoriums if this condition continues. The DEQ staff could do a study on this or we could use our own consultants, Lee Engineering. After Council discussion, it was felt it is best for our own representatives to work out this problem rather than having DEQ do their independent study. Councilman Westcott moved to authorize Lee Engineering to work with DEQ in establishing ultimate capacity of existing system and to answer DEQ questions regarding present violations of the discharge permit and be authorized to work on behalf of the City and not to exceed fee increase of \$2,000. Seconded by Councilman Swayze and approved 6-0.

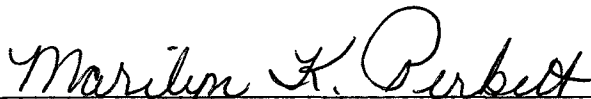
Mayor Rapp set a workshop for October 24th, Wednesday, to complete a couple items that were on the agenda: street excavation discussion and signs and advertisements in the City limits. Also, to discuss the possible reimbursement of monies on sewer charges for unannexed property. Mayor Rapp also mentioned the need for appointments to the Budget Committee, Building Board of Appeals and Planning Commission, this could be brought up on the 24th.

Mayor Rapp asked Council to be sure and make their reservations for the League of Oregon Cities Convention.

Regular Meeting was adjourned at 10:50 p.m. by Mayor Rapp.



Robert E. Rapp, Mayor



Marilyn K. Verkett, Pro Tem City Recorder

October 17, 1979

October 11, 1979

Honorable Mayor & City Council
City of Canby
P. O. Box 930
Canby, Oregon 97013

Re: Baker Drive Industrial Park

Dear Mayor and City Council:

We are the developers of a 1.9 acre tract known as Baker Drive Industrial Park. The subdivision consists of twelve separate small industrial lots ranging in area from approximately 5,000 to nearly 6,000 square feet. On October 10, 1979, the City Planning Commission unanimously approved the preliminary plat. On that same date, unanimous approval was also given to approve the final plat. The Planning Commission Chairman, Director of Public Works and Planning Department were authorized to sign the final plat once a development restriction was placed on the final plat, which we are complying with.

The purpose of this letter is to request that we be allowed to include the proposed development of N. W. Fifth Place with L.I.D. #9. As you are well aware, the Council has let the bids and it is our understanding that the Council will consider authorizing the construction of the improvements by ordinance within the very near future. We are requesting that the Council authorize a "change order" in the construction to allow the development of N. W. Fifth Place. The unit price for construction has already been established. The additional work on N. W. Fifth Place will in no way effect the construction costs to other affected property owners. We will be totally responsible for all costs associated with N. W. Fifth Place. There will be no additional cost to adjacent property owners. As you are also aware, the assessment has not been set pursuant to Section 8 and 9 of Ordinance No. 393, as amended. Therefore, you may consider the contents of this letter binding upon us when the assessment ordinance is adopted.

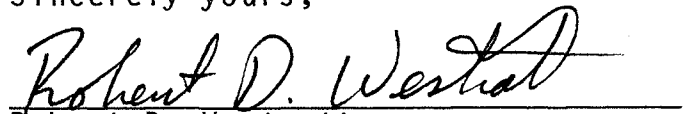
This "change order" will be of mutual benefit to both us as developers and the City of Canby. Of course, it will benefit us since we could develop the property by a more favorable means of financing and also more quickly because the equipment and workers are already on the job, ready to go to work. It would also bene-

Honorable Mayor and City Council
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fit the City of Canby since even if this change order is not allowed, we intend to develop the property as quickly as possible. If we are not part of L.I.D. #9, we will immediately have to rip up portions of N. W. Baker Drive to make the necessary utility connections. I am sure that you are aware of the criticisms of the City for "patch work roads caused by utility connections". We would like to avoid that. Furthermore, N. W. Fifth Place has a 52 foot radius at the end of the cul-de-sac. This is the only area in the whole industrial complex which provides for truck turn around without having to rely upon some type of backing movement on a public thoroughfare. This should be of extreme importance to the citizens of Canby to preserve the public health, welfare and safety.

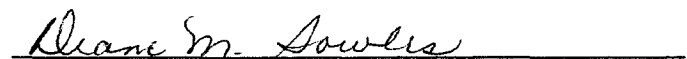
The engineer for the project, Tom Tye of Compass Corporation, has been in contact with the contractor of L.I.D. #9. It is my understanding that we, as the developers, and the City of Canby can be assured that the unit pricing of construction will remain the same. We see no reason whereby approval of our request would jeopardize any interests of the City of Canby or the adjacent property owners. We respectfully request that our request be approved so that we can commence construction of the development while the weather is still good and develop some industrial lots to attract industry, as the Council has been trying to do.

Sincerely yours,


Robert D. Westcott


Sharon J. Westcott


Gary H. Sowles


Diane M. Sowles