



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/17/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Canby Plan Amendment
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, December 31, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Angie Lehnert, City of Canby
Gordon Howard, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative
Gary Fish, DLCD Transportation Planner

<paa> YA/ph



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DATE STAMP

DEPT OF

DEC 11 2012

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: City of Canby

Local file number: TA 12-01/ZC 12-02

Date of Adoption: 12/5/12

Date Mailed: 12/6/12

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 6/12 & 8/12

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached". Text amendment/zone change to alter the boundary of two subareas within the downtown overlay zone and amending its corresponding figure in the text.

Does the Adoption differ from proposal? Yes, Please explain below:
The wording describing the boundary is slightly different.

Plan Map Changed from: DT Overlay Zone CC

to: DT Overlay Zone OHC

Zone Map Changed from: DT Overlay Zone CC

to: DT Overlay Zone OHC

Location: 351, 369 & 391 SE 1st Ave. and 354 & 392 SE 2nd Ave; Tax lots 3S1E33DC00100, 00200, 00300, 02200 & 02300

Acres Involved: N/A

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☒	☐	☐	☐	☐	☐	☒	☒	☒	☒	☐	☒	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment 35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply? N/A

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption? N/A

☐ Yes ☐ No

DLCD file No. 002-12 (19376) [17268]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:
Clackamas County, Canby Telcom, Wave Broadband, Canby Utility, NW Natural, Canby School District,
Canby Fire District, ODOT

Local Contact person (name and title): **Angie Lehnert, Associate Planner**

Phone: **503-266-7006**

Extension:

Address: **111 NW 2nd Avenue**

City: **Canby**

Zip: **97013**

Fax Number:

E-mail Address: **lehnerta@ci.canby.or.us**

**BEFORE THE CITY COUNCIL
OF THE
CITY OF CANBY**

In Re:

Application of Great Basin Engineering,	)	FINDINGS, CONCLUSION &
for Text and Map Amendments	)	FINAL ORDER
	)	
	)	TA 12-01/ZC 12-02/DR 12-03
	)	

NATURE OF THE APPLICATION

Great Basin Engineering (“Applicant”) seeks three consolidated approvals from the City of Canby (“City”) for (1) Text Amendment #TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone (“DCO”) from Core Commercial (“CC”) to Outer Highway Commercial (“OHC”) (“Text Amendment”); (2) Zoning Map Amendment #ZC 12-02 corresponding to the requested Text Amendment (“Map Amendment”); and (3) Site Design Review #DR 12-03 for construction of the six unit fuel-dispensing station (“SDR”). The approvals involve property described as Tax Lots 100, 200, 300, 2200, and 2300 in Section 33 of Township 3 South, Range 1 East, Clackamas County, Oregon (the “Property”). The Property is zoned Highway Commercial (“C-2”) under the Canby Municipal Code (“CMC”).

HEARINGS

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. These findings and conclusions support the City Council’s decision on TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02, and will be heard by the Planning Commission at a later date.

CRITERIA AND STANDARDS

CMC 16.88.160(D) Amendments to Text of Title

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

1. The Comprehensive Plan of the City, 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.
2. A public need for the change.

3. Whether the proposed change will serve the public need better than any other change which might be expected to be made.
4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community.
5. Statewide planning goals.

CMC 16.88.180(D) Comprehensive Plan Map Amendments

In judging whether quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments.
2. Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area.

CMC 16.54.040 Zoning Map Amendments

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

1. The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, 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.
2. 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.

FINDINGS AND CONCLUSIONS

After hearing testimony on November 7, 2012 and taking into consideration the Planning Commission's recommendation, the City Council voted to approve the Applicant's request for ZC 12-02 and TA 12-01. In support of its decision, the City Council adopts the findings set forth in this document and incorporates as additional findings the text amendment staff report for File TA 12-01, Supplemental Recommendations and Findings dated July 12, 2012, and the letters containing findings proposed by Stoel Rives LLP dated September 4, 2012, and October 15, 2012. The City Council adopts the findings and reasons set forth in the above-referenced materials to the extent that they do not conflict with the following supplemental findings contained within this document.

The criteria set forth below require the City Council to consider and weigh certain factors when making its decision. These factors are matters for consideration as part of making the land use approval decision. After considering these factors, the City Council approves TA 12-01 and ZC 12-02 as further discussed below.

The City Council makes the following findings and conclusions:

Findings for Compliance with CMC 16.88.160(D) (Text Amendment):

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

1. *The Comprehensive Plan of the City, 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.*

The proposed amendment is limited in scope. The proposal would make the transition from the CC subarea of the DCO to the HC subarea of the DCO approximately 950 feet east of the Ivy Street intersection with Oregon State Highway 99E rather than 1,100 feet. This is a difference of approximately 150 feet over the length of the entire DCO. In the context of the overlays, the amendments are de minimis. It is also located in an area remote from the core of the DCO and thus justifies the amendment. This minor change has a positive effect upon the City's ability to preserve functions and local aspects of land conservation and development and in addition, furthers the objectives of the DCO. To further elaborate, the following findings are made with respect to the City's Comprehensive Plan:

Citizen Involvement: The acknowledged Comprehensive Plan and Zoning Code contain procedures for review and approval of the proposed text and map amendments. The City conducted its review process in accordance with those procedures, including required notices and public hearings, which constitutes compliance with the citizen involvement element. This proposal does not involve any attempt to alter the approved procedures for citizen involvement.

Urban Growth Element: The amendments have no effect upon the urban growth element. The proposal does not redesignate any agricultural or forest land and it simply constitutes an amendment as to the way in which land that is already urbanized is regulated.

Land Use Element: The proposed amendments are consistent with the land use element since they contribute to the orderly and efficient regulation of land. The amendments do not change the underlying zone but simply change the design standards under which development can take place on the Property.

Environmental Concerns Element: The amendments have no effect upon identified natural resources, historical resources or natural hazard areas. They make no change to

the underlying zone and allow for development which is contemplated at the Property by the underlying zone.

Transportation Element: The proposed amendment has no impact upon the transportation demand created by the base zone. It simply regulates the design of the uses that are already allowed within the Property's base zone designation. The CMC provides guidance as to consideration of transportation issues:

CMC 16.08.150(A)

The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

The amendments do not trigger analysis under the Transportation Planning Rule ("TPR"). The TPR (OAR 660-012-0060) requires analysis and mitigation "[i]f an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility." Here, the amendments do not change the underlying base zone or the overlay zone, but rather simply adjust the boundaries between two design subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change the standards implementing the City's functional classification system for roadways.

It also would not change the trip generation potential in the C-2 zone (the underlying base zone), so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the Property from CC to OHC. Thus, the proposed change from CC to OHC (both of which are design subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation facility.

Applicant provided a Transportation Impact Analysis ("TIA") for the amendments. The requirements of CMC 16.08.150 have been addressed and are satisfied, and in doing so, the City Council has adequately addressed the Transportation Element.

Public Facilities and Services Element: The amendments have no effect upon public facilities and services. The Property is presently served by adequate public facilities and services, including transportation facilities as described above.

Economic Element: The amendments will make the Property more attractive to development and thereby diversify and improve the economy of the City. This element is met.

Housing Element: The amendments have no effect upon the housing element.

Energy Conservation Element: The DCO fosters energy conservation by concentrating pedestrian-oriented uses within the CC subarea; however, the Property is located far enough from the center of the commercial core to be dilutive rather than contributory as a pedestrian destination. The DCO supports the CC design objectives uses by fostering complementary, but more auto-oriented design features in the OHC subarea. The proposed change conserves energy by bringing such complimentary development conveniently adjacent to the CC subarea, reducing travel distances for vehicle trips to meet the needs of the public.

Since the City's Comprehensive Plan is in compliance with the statewide planning goals, the statewide policies have also been satisfied. See also the statewide planning goal findings set forth below. There are no identified county and local district, service district, or school district policies that are applicable to the proposed amendments. The City Council finds that the 99E Corridor and Gateway Design Plan is not yet adopted and is therefore not a criterion for this application.

2. *A public need for the change.*

The public need for the change is evidenced by the fact that development has not occurred on the Property over many years. The Property is located away from the core area of the City and is on the edge of the OHC. The amendments will make development and private investment on the Property more attractive, and through private investment and redevelopment of the Property, the downtown core will be enhanced. Without the amendments, the attractiveness for the Property is diminished and the parcels are more likely to remain undeveloped within the DCO, which will diminish the ability of the downtown core to prosper. Accordingly, there is a public need for the change.

3. *Whether the proposed change will serve the public need better than any other change which might be expected to be made.*

The amendments make a minor modification to the existing design subareas within the DCO. It is a small change to facilitate development of underutilized land and it responds to a public need. It is the most appropriately-scaled change to facilitate the Property's development. Thus, the amendments will serve the public better than any other change that might be expected to be made.

4. *Whether the change will preserve and protect the health, safety and general welfare of the residents in the community.*

The Property is located in the DCO, which was adopted to, among other things, promote the health, safety, and welfare of the residents in the community. The amendments make the simple change of allowing for the possibility of additional development on the Property by adjusting the boundaries of the OHC and CC design subareas, which will be to the benefit of the citizens. The change is minor and does not change the underlying uses allowed on the Property, consequently the amendments will have no greater impact than what is already allowed on the land. Therefore, the amendments will preserve and protect the health, safety, and general welfare of the residents of the community. See also the findings for the Statewide Planning Goals and the City's Comprehensive Plan.

5. *Statewide planning goals.*

The City Council has considered the statewide planning goals in making its decision when it addressed the goals and policies of the City Comprehensive Plan. However, to further elaborate, the following findings are made with respect to the statewide planning goals.

Goal 1 Citizen Involvement: The acknowledged Canby Comprehensive Plan and Zoning Code contain procedures for review and approval of the amendments. Conduct of the review process in accordance with those procedures, including required notices and public hearings, constitutes compliance with Statewide Goal 1. This proposal does not involve any attempt to alter the approved procedures for citizen involvement.

Goal 2 Land Use Planning: Applicant has analyzed the amendments against the applicable approval criteria, the mechanism for ensuring that the proposed changes maintain consistency with State and City policy frameworks for land use management. The Property is located in an urban area, within the City Urban Growth Boundary and City Limits. No resource land designations are affected, and so there is no need for an Exception to Statewide Goal 2. The proposal is consistent with Statewide Goal 2.

Goal 3 Agricultural Lands and Goal 4 Forest Lands: Goals 3 and 4 are not applicable because the Property is not designated for resource use. The Property is located in an urban area, within the City Urban Growth Boundary and City Limits.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces: No significant Goal 5 resources have been identified within the Property or its immediate vicinity. The proposed amendments will have no impact with respect to Goal 5 resource protections or policies.

Goal 6 Air, Water and Land Resources Quality: The proposed amendments will affect only the 0.75 acre Property and will not alter the range of commercial uses allowed in the Property's C-2 base zoning. Instead, the amendments will primarily affect the set of design and development standards with which the Property must comply when urban

development occurs. No greater impacts will occur than those allowed under the base zone and therefore, the proposed amendments will have no significant impact on air, water and land resources quality.

Goal 7 Areas Subject to Natural Hazards: The Property is not located in an area with known natural hazards. This Goal is not applicable to the Property and is not affected by the proposed change.

Goal 8 Recreational Needs: The Property does not have suitable characteristics for recreational use or destination resort siting. This Goal is not applicable to the Property and is not affected by the proposed change.

Goal 9 Economic Development: The Property is suitable, and is zoned for, urban commercial use. It is adjacent to the primary road through the City, SE 1st Avenue (Oregon State Highway 99E) at the eastern edge of the designated CC design subarea of the DCO. However, development of the 0.75-acre Property has yet to occur. The proposed amendments to place the Property in the OHC design subarea of the DCO can reasonably be expected to spur development and commercial use of the Property, which will contribute to economic development in the Canby community as well as the State of Oregon.

Goal 10 Housing: This Goal is specifically applicable to urban areas zoned for residential use. It is not applicable to the Property and will not be affected by the proposed change.

Goal 11 Public Facilities and Services: Public services are available to serve the Property. Because the proposed change will primarily affect the design requirements that will apply to development of the Property, rather than altering the set of land uses to which it may be put, it will not alter demand for public facilities and services. The amendments will therefore not affect the City of Canby's compliance with this Goal.

Goal 12 Transportation: The Property is located on the south side of Oregon Highway 99E, at the eastern edge of the City CC design subarea of the DCO. Auto-oriented development, including a fuel station, is located to both the east and west of the Property. It is located approximately 1,700 feet east of the City's designated Primary Gateway intersection (Highway 99E and Grant Street), and over 900 feet east of the nearest City-designated Secondary Gateway intersection (Highway 99E and Ivy Street). The Property is relatively far from these critical pedestrian activity centers. Given the nature of development moving farther east and away from the gateway intersections, it seems unlikely for the Property to be able to support pedestrian-oriented uses. Thus, allowing development of the 0.75-acre Property under OHC design requirements will enable the Property to serve the commercial needs of the public, including motorists, without compromising or diluting the City's aspirations for the CC design subarea. The proposed amendments will have no significant effect on transportation network safety or capacity. As additional findings, see the findings under the Transportation Element of City's Comprehensive Plan above, and the findings for CMC 16.88.190.

Goal 13 Energy Conservation: The 0.75-acre Property is located within a designated urban commercial corridor along busy Oregon State Highway 99E. The amendments will affect its design/development standards rather than the set of land uses allowed in its base zone. Therefore, due to its small size and corridor location, the amendments will positively impact patterns of energy consumption or conservation.

Goal 14 Urbanization: The Property is not designated as an Urban Reserve or as a Rural Reserve. It is located within the urban area of the City of Canby.

Goal 15 Willamette River Greenway: This Goal is not applicable because the Property is not located within or near the Willamette River Greenway.

Goals 16-19 are not applicable because the Property is not located in a coastal or estuarine area.

Findings for Compliance with CMC 16.88.180(D) (Comprehensive Plan Map Amendment):

In judging whether quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. *The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments.*

The City Council incorporates the City Comprehensive Plan and Statewide Planning Goals findings set forth above, as well as the findings for CMC 16.88.160(D), to demonstrate that the proposed amendments satisfy CMC 16.88.180(D).

2. *Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area.*

The Property is served by municipal sewer and water services and is supported by an adequate transportation system, as described above in response to CMC 16.18.160 and CMC 16.08.150(A). The proposal does not change the allowed use, only the design standards that apply to the Property. Thus, with the same base zone, the amendments do not impact required public facilities, all of which are available. Appropriate extensions of the public facilities, to the extent necessary, will be required at the time of development.

Findings for Compliance with CMC 16.88.190 (Conformance with Transportation System Plan)

The City finds that CMC 16.88.190 does not apply to the amendments because the proposed amendments would not significantly affect a transportation facility. The City provides the following under CMCM 16.88.190(A) to support its finding.

- A. *A plan or land use regulation amendment significantly affects a transportation facility if it:*
1. *Changes the functional classification of an existing or planned transportation facility;*
 2. *Changes standards implementing a functional classification system;*
 3. *Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or*
 4. *Would reduce the level of service of the facility below that minimum acceptable level identified in the Transportation System Plan.*

As described under the City's findings for CMC 16.88.160(D)(1) and 16.08.150(A), the amendments would not significantly affect an existing or planned transportation facility. The amendments do not change the underlying base zone or the overlay zone, but rather simply adjust the boundaries between two design subareas of the overlay zone. The proposal does not change any functional classifications of existing or planned transportation facilities nor does it change the standards implementing the City's functional classification system for roadways.

It also would not change the trip generation potential in the C-2 zone (the underlying base zone), so it would not cause any change in the performance of existing or proposed facilities. Further, the City's findings supporting the adoption of the DCO noted that "all required public facilities and services either exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted in the new [DCO]." This means that there was no change in transportation impact caused by implementing the DCO, meaning there would be no impact in changing the Property from CC to OHC. Thus, the proposed change from CC to OHC (both of which are design subareas of the DCO) will not result in increased traffic potential and therefore will not significantly affect the transportation corridors. Therefore, the City finds that the amendments are not subject to CMC 16.88.190(B) or (C) and no further analysis is required.

Findings for Compliance with CMC 16.54.040 (Zoning Map Amendment):

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 therefore, 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.*

The goal of the City's Land Use Element is "to guide the development and uses of land so that they are orderly, efficient, aesthetically pleasing, and suitably related to one another." Policy 6 of the Land Use Element requires that the City "recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas." The City identified "Areas of Special Concern" to implement Policy 6. Development proposals, even those that appear to conform with the existing zoning, will be considered to conform with the City Comprehensive Plan only if the proposal also meets the applicable Area of Special Concern requirements. The Property is not located in an Area of Special Concern, therefore only the requirements of the underlying zone control. See Attachment 1 containing the Areas of Special Concern Map from the Comprehensive Plan.

The City incorporates by reference the findings in response to CMC 16.88.160 and 16.88.180 to demonstrate that the amendments comply with the goals and policies of the Comprehensive Plan and Statewide Planning Goals. There are no identified county and local district, service district, or school district policies that are applicable to the proposed amendments. The City Council finds that the 99E Corridor and Gateway Design Plan is not yet adopted and is therefore not a criterion for this application.

- 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.*

The amendments would not result in a new zoning designation: the Property would remain within the C-2 base zone and subject to the DCO overlay zone. The proposed change would modify the boundaries of the CC and OHC design subareas to include the Property within the OHC design subarea. Regardless, the City finds, as described in CMC 16.88.180(B), that the Property is served by municipal sewer and water services and is supported by an adequate transportation system. With the same base zone, the amendments do not impact required public facilities, all of which are available. Any extension of public facilities, to the extent necessary, will be required at the time of development.

Findings regarding CMC 16.54.060 Improvement Conditions

- A. In acting on an application for a zone change, the Planning Commission may recommend and the City Council may impose conditions to be met by the proponents of the change before the proposed change takes effect. Such conditions shall be limited to improvements or physical changes to the property which are directly related to the health, safety or general welfare of those in the area. Further, such conditions shall be limited to improvements which clearly relate to and benefit the area of the proposed zone change. Allowable conditions of approval may include, but are not necessarily limited to:*

- 1. Street and sidewalk construction or improvements;*

2. *Extension of water, sewer, or other forms of utility lines;*
3. *Installation of fire hydrants.*

The City finds that no conditions are warranted under CMC 16.54.060(A) because the amendments will not impact required public facilities, all of which are available to the Property. To the extent that such improvements or extensions may be required, the SDR will address whether conditions for the Property's future development is warranted.

DECISION AND CONDITIONS OF APPROVAL

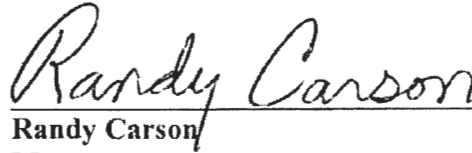
The Text Amendment and Map Amendment, as described in TA 12-01 and ZC 12-02, are approved as proposed. No conditions of approval are imposed.

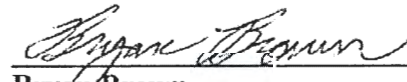
ORDER

IT IS ORDERED BY THE CITY COUNCIL of the City of Canby that TA 12-01 and ZC 12-02 is approved with no conditions of approval and is implemented through Ordinance 1365.

I CERTIFY THAT THIS ORDER for TA 12-01 and ZC 12-02 was presented to and **APPROVED** by the City Council of the City of Canby.

DATED this 5th day of December, 2012.


Randy Carson
Mayor


Bryan Brown
Planning Director

ATTEST:

ORAL DECISION - November 7, 2012

AYES: Ares, Hensley, Hodson, Parker, Dale

NOES: Daniels

ABSTAIN: None

ABSENT: None

WRITTEN FINDINGS - December 5, 2012

AYES: Ares, Hensley, Hodson, Daniels, Parker, Dale

NOES: None

ABSTAIN: None

ABSENT: None

ORDINANCE NO. 1365

AN ORDINANCE AMENDING TITLE 16, CHAPTER 16.41 OF THE CANBY MUNICIPAL CODE CONCERNING THE SUBAREA BOUNDARY OF THE CANBY DOWNTOWN OVERLAY ZONE

WHEREAS, Great Basin Engineering, representing Fred Meyer Stores, Inc., applied for a text amendment and zone change to alter Chapter 16.41, Downtown Canby Overlay Zone (DCO) in order to change the subarea boundary of the Downtown Overlay Zone on taxlots 3S1E33DC00100, 00200, 00300, 02200 & 02300 from Core Commercial (CC) to Outer Highway Commercial (OHC), as shown in Exhibits "A" and "B", and

WHEREAS, the Planning Commission held public hearings on July 23, 2012, September 24, 2012, and October 22, 2012 during which the citizens of Canby and their representatives were given the opportunity to present testimony on these proposed changes; and

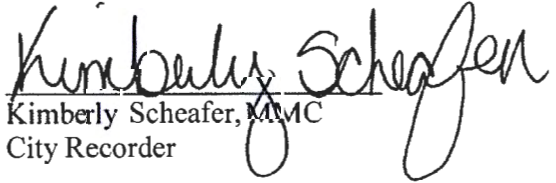
WHEREAS, the Planning Commission found that the standards and criteria of the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance concerning text amendments and zone changes were not satisfactorily met, and therefore recommended by a vote of 3-1 to forward a recommendation of denial to the City Council, and

WHEREAS, the City Council, after reviewing the text amendment and zone change applications, supporting materials, and testimony on November 7, 2012, found that the proposed amendment complies with the Canby Comprehensive Plan and the Canby Land Development and Planning Ordinance, and the plans and policies of the county, state, and local districts and will preserve the function and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

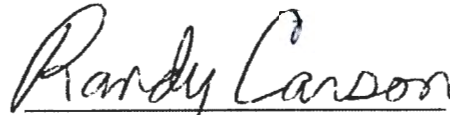
- 1) The City Council hereby approves Text Amendment and Zone Change files TA 12-01 and ZC 12-02; and
- 2) Title 16, Chapter 16.41 of the Land Development and Planning Ordinance of the City of Canby, is modified as detailed in Exhibit "A."

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, November 7, 2012 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on December 5, 2012, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.,


Kimberly Scheafer, MMC
City Recorder

PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on December 5, 2012 by the following vote:

YEAS 4 NAYS 2


Randy Carson
Mayor

ATTEST:

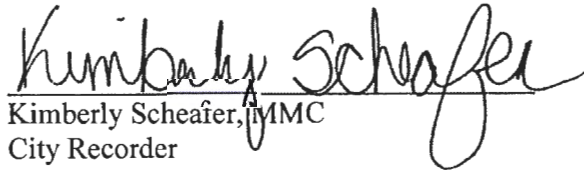

Kimberly Scheafer, MMC
City Recorder

Exhibit A:
Proposed Canby Land Development and Planning
Ordinance/Zoning Map Changes

Chapter 16.41 DOWNTOWN CANBY OVERLAY (DCO) ZONE

Sections

- 16.41.010 Purpose.
- 16.41.020 Applicability.
- 16.41.030 Uses permitted outright.
- 16.41.040 Conditional uses.
- 16.41.050 Development standards.
- 16.41.060 DCO site and design review guidelines.
- 16.41.070 DCO site and design review standards.
- 16.41.020 Applicability.

A. It is the policy of the City of Canby to apply the DCO zone to all lands located within the boundaries illustrated on the Downtown Canby Framework Diagram; the boundaries of the overlay district, and boundaries of the three sub-areas, are as shown in this chapter, Figure 11. The three sub-areas are established as follows:



Figure 6
Example of high-quality screening design



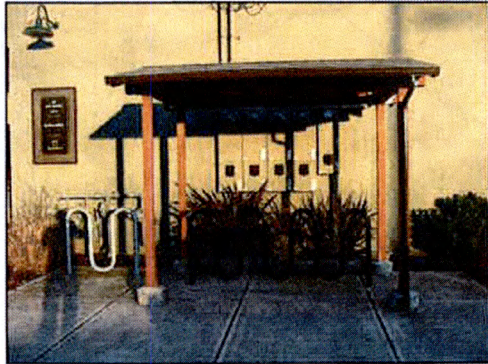
1. Core Commercial Area. This area straddles Highway 99E and includes portions of both the C-1 and C-2 zones and forms the densest commercial area of the city, as well as the city's primary community facilities – city hall, police station, library, etc.

2. Transitional Commercial Area. This is the transitional area that lies between the more intense Downtown Core Commercial area and the established single-family neighborhoods to the north and northeast. The two Transitional Commercial nodes are tucked between 3rd and 4th and Fir and Douglas on the west side of Downtown, and 3rd and 4th and Holly and Knott on the east side.

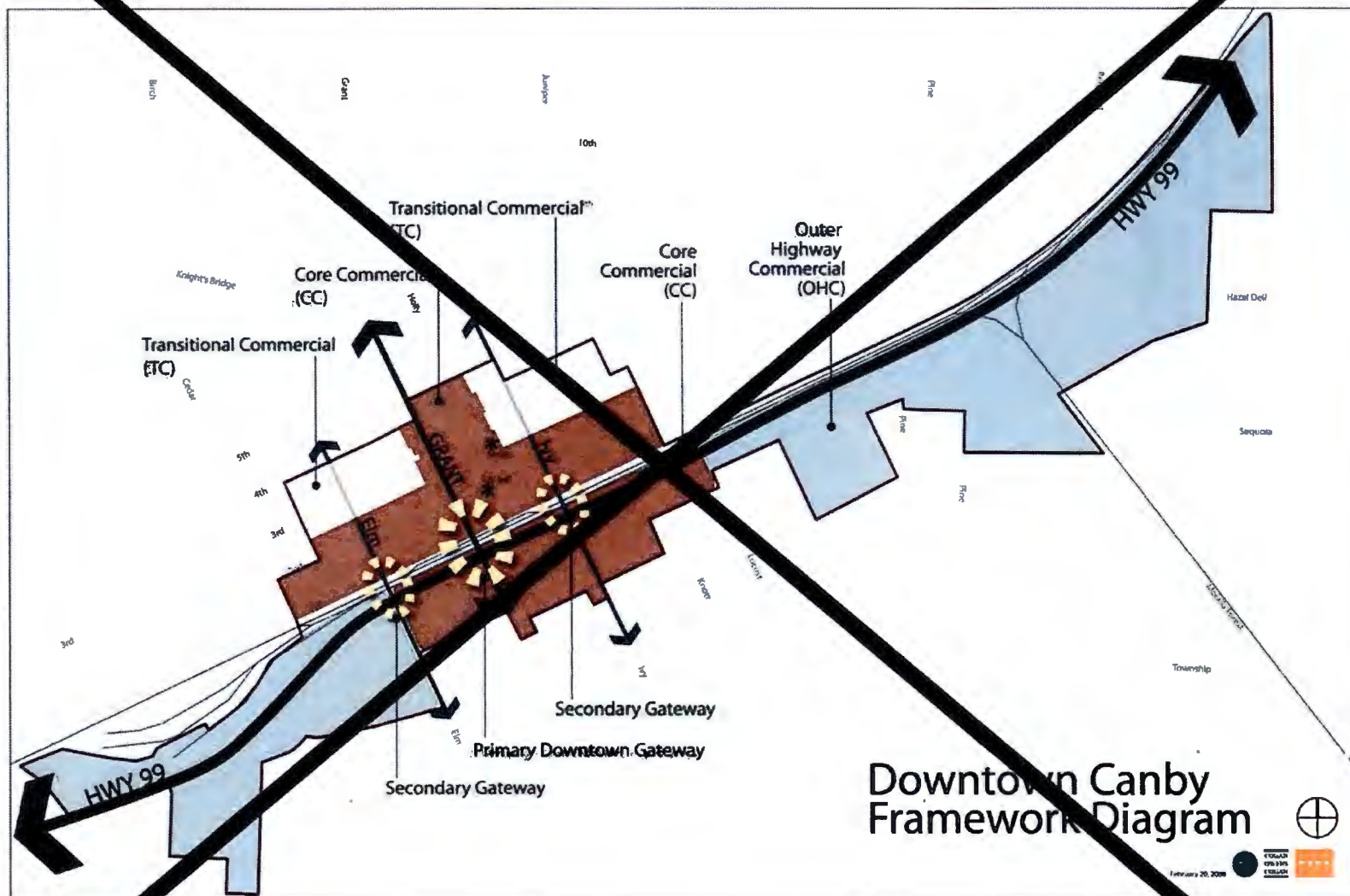
3. Outer Highway Commercial Area. The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and mid-block between Knott and north-of Locust Streets. This area is quite different from the Core Commercial and

Figure 7

Example of well-planned landscaping



Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible.



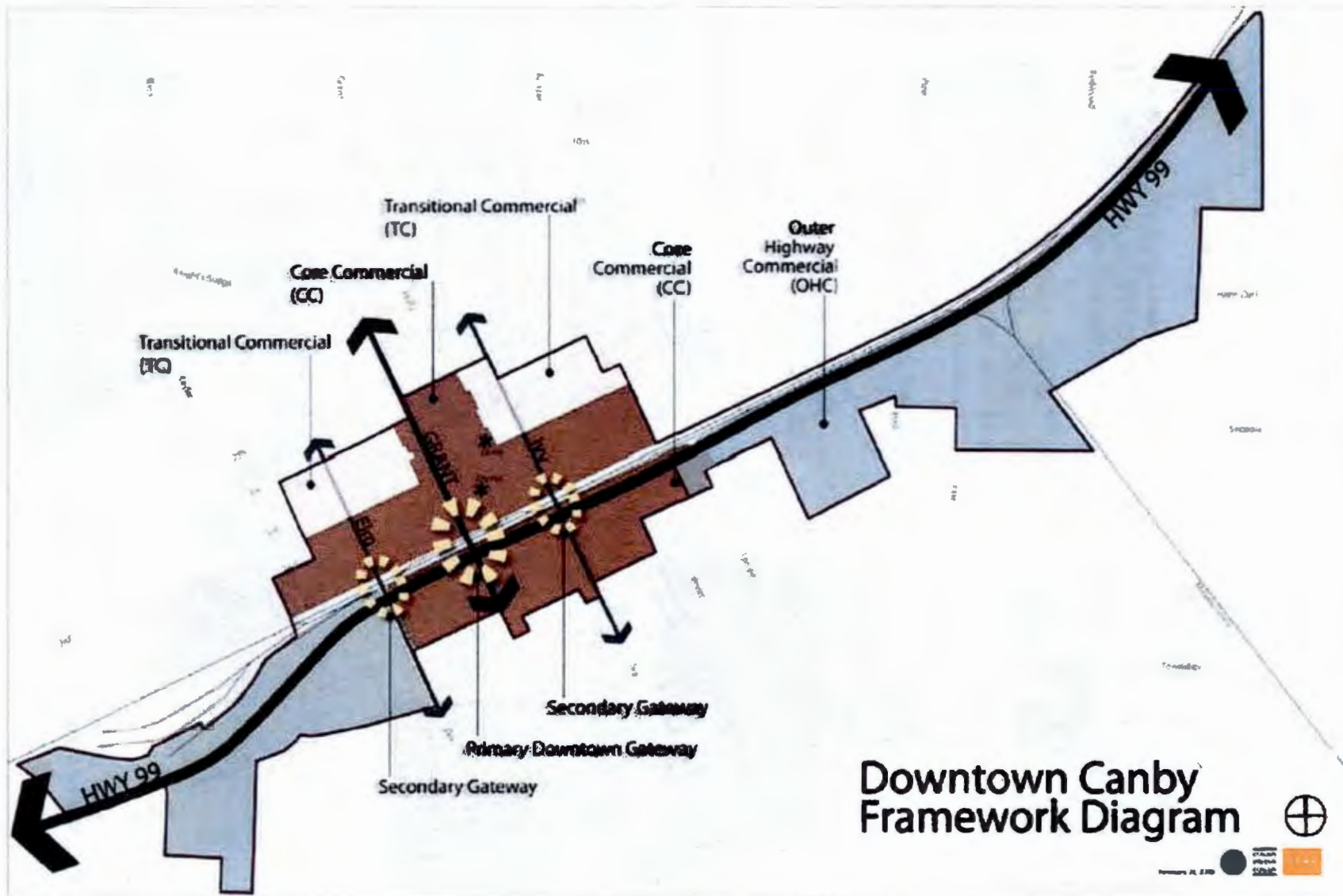


Figure 11 Downtown Canby Overlay Zone



Figure 21
The chamfered entry on this building reinforces the corner



Figure 22
Use of materials such as stone and stucco add to a feeling of permanence



Figure 23
These buildings in the commercial core illustrate desired design features in

1. General applicability.

a. Subsection 16.41.060.C and section 16.41.070 define how and where different types of standards apply.

b. Design standards apply only to the following: (1) new developments; (2) remodels which represent 60 percent tax assessed or more of the value of the existing building; (3) façade improvements that would alter the exterior structure of the building.

c. Design standards do not apply to the following:

(1) Interior remodels not combined with exterior changes and valued at less than 60 percent of the total improvement value of the property;

(2) Repair and maintenance of buildings, accessory structures, parking lots and pedestrian areas that present an immediate or potential risk of public safety;

(3) Normal or routine maintenance and repair of existing structures;

(4) Any type of construction that does not require a building permit;

(5) Temporary structures and emergency structures permitted pursuant to applicable code standards.

2. Sub-Areas. Site and design review standards are applied differently within the three sub-areas described below (see Figure 11).

a. Core Commercial Sub-Area (CC). The “downtown” portion of this area extends primarily along 1st and 2nd Avenues between Cedar and Knott Streets, and extends northward, away from Highway 99E along Grant and Holly, past Wait Park



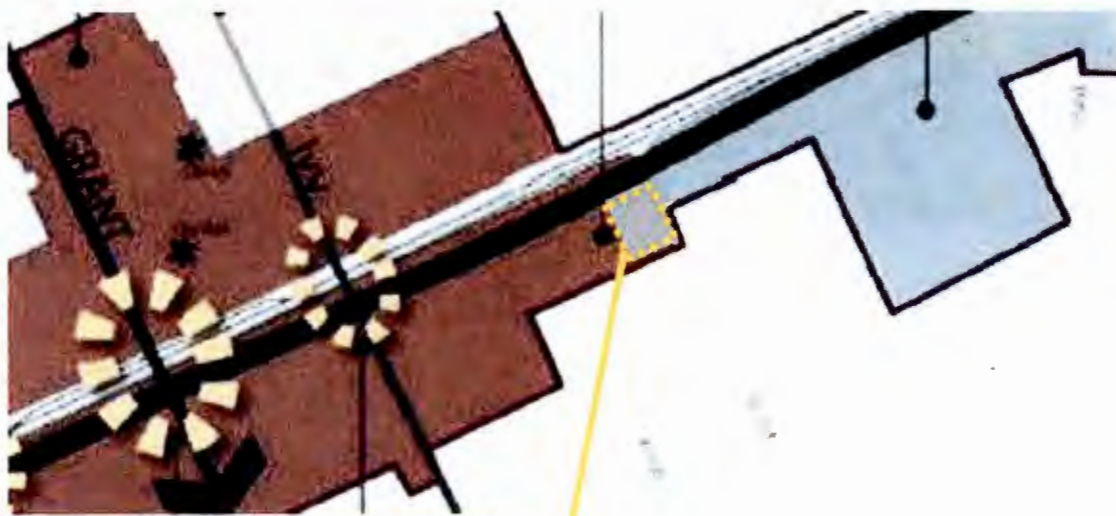
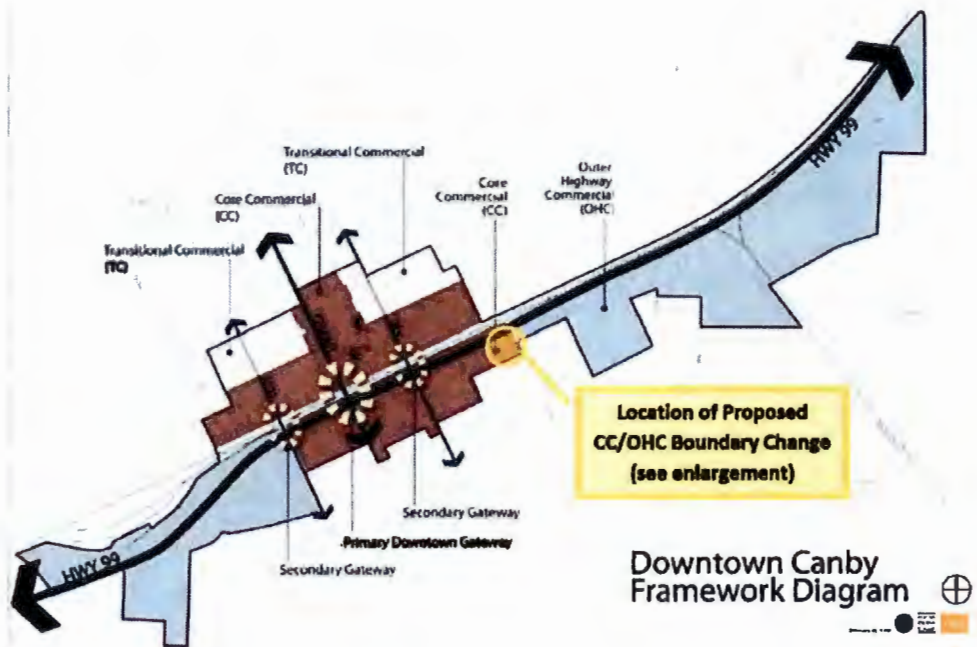
Figure 24

The Canby Herald Building in the commercial core incorporates many good design elements including a recessed entry, sign frieze, engaged



to 4th Avenue. This area is the “heart” of Canby. Here one will find the City’s more historic, traditional commercial structures. The built environment is characterized by one to two story buildings with commercial storefronts, built up to the sidewalk, and containing a more or less solid “building wall.” The result is a more active and vibrant street life than may be found elsewhere in the City. Future development in this area should continue this trend, designing commercial and mixed-use buildings that adequately address the sidewalk and create an engaging experience for pedestrians (see Figures 23 and 24).

The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and mid-block between Knott and Locust Streets. In many ways, it serves as an extension of the Downtown Core, just across the highway. Because this area serves as a “gateway” from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses, buildings here should be appropriately scaled, inviting to pedestrians, and demonstrate high-quality architectural design. As a result, architectural standards for this area and the downtown are identical, although some development standards differ as described in section 16.41.050.



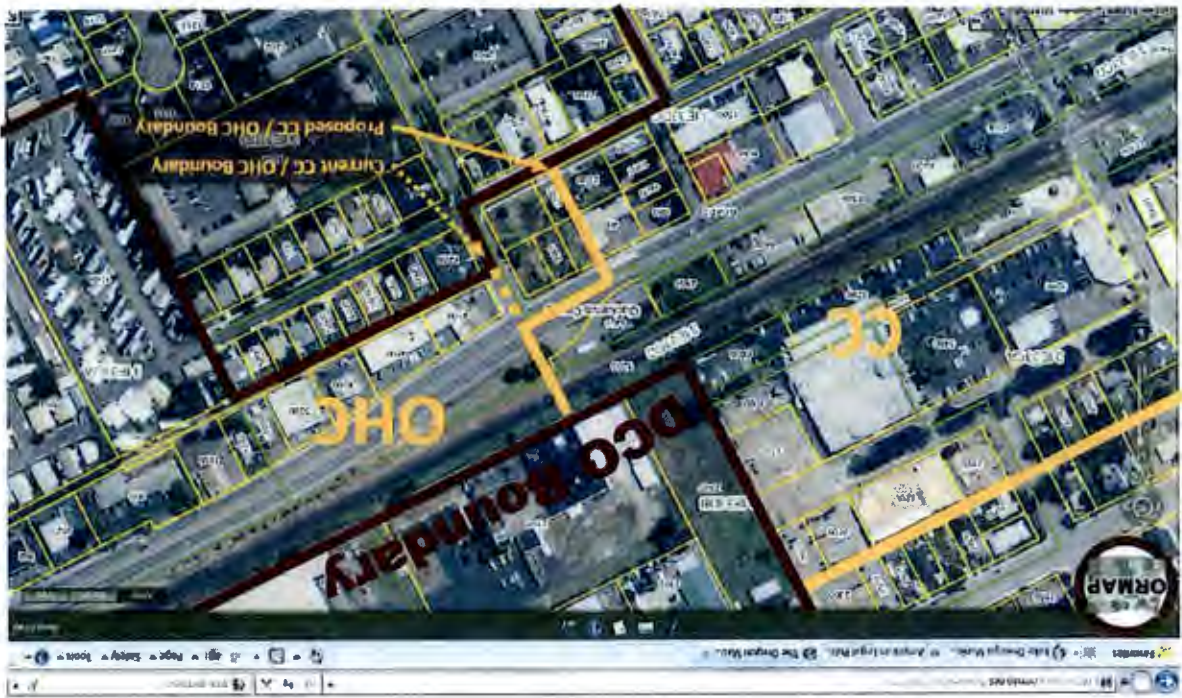
Proposed Action

Change the Downtown Canby Overlay (DCO) designation of 0.75 acres, from Core Commercial (CC) to Outer Highway Commercial (OHC), consisting of the following five tax lots:

Tax Map 3S 1E 33DC

Tax Lots

00100, 00200, 00300, 02200 & 02300



AFFIDAVIT OF POSTING

STATE OF OREGON)
)
County of Clackamas) ss:
)
CITY OF CANBY)

I, Kimberly Scheafer, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 7th of November 2012 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1365 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

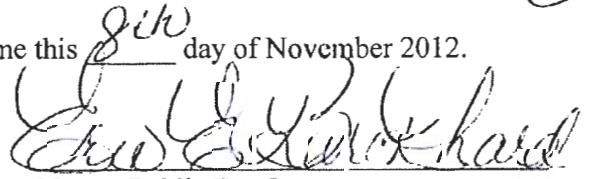
Thereafter, on the 8th day of November 2012, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

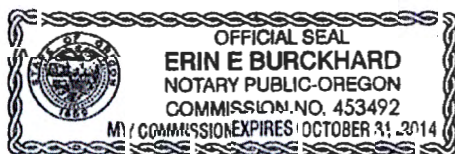
1. Canby City Hall Bulletin Board - outside
2. Canby Public Library Bulletin Board
3. Canby Post Office

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of five (5) days and until the very 5th day of December 2012.


Kimberly Scheafer, MMC
City Recorder

Subscribed and sworn to before me this 8th day of November 2012.


Notary Public For Oregon
My Commission Expires: 10/31/2014



City of Canb
111 NW 2nd Ave
Canby, OR 97013



DEPT OF

DEC 11 2012

LAND CONSERVATION
AND DEVELOPMENT

DEPT OF

DEC 11 2012

LAND CONSERVATION
AND DEVELOPMENT

ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL ST NE, SUITE 150
SALEM, OREGON 97301-2540