

Memorandum Of Understanding

PARTIES:

CANBY URBAN RENEWAL AGENCY and CITY OF CANBY, and Oregon Municipal Corporation (collectively, the “City”)
and
THOSE PROPERTY OWNERS signatory hereto listed in attached Exhibit A and collectively referred to as “Owners,” except as individually noted.

RECITALS:

A. The City, through its City Council and Board of Directors of the Canby Urban Renewal Agency, believes that the immediate development of properties within and adjacent to the Canby Logging Road Industrial Park (the “Industrial Park”) is important and essential for the effective and balanced growth of the City. Likewise, the City believes that it is vital to City residents, as well as important to the development of such properties, that a further extension of Sequoia Parkway occur as soon as possible. In order to accomplish these objectives, both of which are beneficial to the City and are consistent with the City economic, land use and transportation plans, it is necessary for the properties identified in attached Exhibit A to be annexed to the City and that the owners of such properties support, financially and otherwise, Sequoia Parkway’s further extension. The City recognizes that without such actions, development of the Industrial Park and Sequoia Parkway’s extension will be delayed and will become more expensive. This, in turn, will be detrimental to the City’s welfare. The property owners believe that the timing is appropriate for all such actions to occur as soon as possible. The City and the property owners agree that a concerted effort to attempt to accomplish the above objectives is presently warranted. This Memorandum of Understanding documents the various understandings previously reached among the parties on these subjects and implements the methods and strategies which they agree will be used to achieve the above objectives.

B. The City desires that the Owners’ properties develop, consistent with the City’s adopted Master Plan and zoning (collectively, “the Master Plan”) for those properties and consistent with the City’s objectives to create employment opportunities within the City, broadening the City’s tax base and helping make the City a complete community.

C. Extension of Sequoia Parkway is an important element in assuring development of the Industrial Park consistent with the City’s Master Plan and zoning. The first segment of Sequoia Parkway has been constructed but additional segments will need to be constructed to implement the Master Plan. Extension of Sequoia Parkway is also a key element in the City’s transportation plan and is among the priority capital improvement projects for the City. Sequoia Parkway’s extension will generate significant public benefit to City residents and businesses in the form of improved safety, street capacity and connectivity.

D. Presently, the City has no capital improvement funds to construct further segments of Sequoia Parkway, despite Sequoia Parkway’s priority as a needed capital improvement. The City has initiated conversations with the Oregon Economic and Community Development Department (OECDD) concerning a loan which would allow immediate construction of the second segment of Sequoia Parkway. Application for that loan needs to occur immediately. Several Owners have previously indicated their opposition to the loan based upon certain loan repayment and construction-related issues. Right-of-way for the next Sequoia Parkway segment is presently owned by certain of the Owners and would need to be acquired by the City in order for the next segment to be constructed.

E. Discussions between the City and the Owners has culminated in a consensus between those parties as to how the objectives of the Master Plan and the construction of the next segment of Sequoia Parkway can be

implemented. Based on such discussions, the Owners are willing to withdraw their opposition to the proposed Sequoia Parkway construction loan and to indicate their support for a financing plan for construction of Sequoia Parkway 's next segment.

F. The financing plan for the second segment of Sequoia Parkway is premised upon contributions of right-of-way, construction of improvements at private expense, and the generation of system development charges ("SDCs") resulting from development of Owners' properties. Therefore, the estimated cost of the Sequoia Parkway segment is heavily dependent upon contributions and the financial considerations arising from development of Owners' properties. In order for such properties to be developed, consistent with the Master Plan, the properties must be annexed into the City.

G. The Owners have indicated their willingness to proceed as described in this Memorandum of Understanding and the City, likewise, is prepared to undertake actions consistent with these recitals, consistent with this Memorandum of Understanding ("MOU").

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Sequoia Parkway Extension 1.1 The parties agree to support the second phase of the Sequoia Parkway extension as shown in the map attached hereto as Exhibit B. Specifically, the alignment for the Phase 2 segment of Sequoia Parkway shall incorporate two elements representing modifications to the preliminary alignment initially suggested by the City. These two elements are: (i) a realignment of the curve located on the Zimmer (Tax Lot 800) and Burden (Tax Lot 700) parcels which will bring the curve further south into the Zimmer and Burden properties and (ii) creating an intersection break allowing access into the central portion of the Burden parcel (Tax Lot 1700) at an appropriate point 20-feet west of the current proposed terminus of the Phase 2 segment.

1.2 The Sequoia Parkway Phase 2 segment will consist of approximately 2300 lineal feet between the current terminus of the parkway adjacent to Canby Market Center (Fred Meyer) to the common property line of the Parsons parcel (Tax Lot 1800) and the Burden parcel (Tax Lot 1700), with appropriate allowance for the intersection and access into the Burden parcel (Tax Lot 1700), as described in paragraph 1.1 above. The Phase 2 segment shall have a 74-foot right-of-way with a 50-foot curb-to-curb paved travel section, without any center median planter strip at this time.

1.3 In consideration for the City proceeding as described in this MOU, the Owners of Tax Lot 800 (Zimmer parcel) and Tax Lots 700, 400, and 1700 (Burden parcels) will dedicate right-of-way necessary to permit construction of the Sequoia Parkway Phase 2 segment consistent with paragraphs 1.1 and 1.2 above. The City understands that such dedications, themselves, may be the subject of an exchange of properties between the Zimmer and Burden interests. Should such exchange occur, both parties agree that owners of the portion of the resulting Zimmer parcel are encouraged to apply for a zone change to Commercial-Manufacturing (CM), consistent with the commercial designation for the adjoining Canby Market Center property.

1.4 The right-of-way dedications for the Phase 2 Sequoia Parkway segment shall be valued at not less than \$2.82 per square foot for an aggregate estimated value of \$480,000 based upon a 74-foot right-of-way at 2300 lineal feet. The City agrees that no property Owner is required to make such dedication and that each such dedication is a charitable contribution to the City made voluntarily by the affected Owners.

1.5 Similar to the right-of-way dedication, and in consideration for the City's performance under this MOU, the affected Owners will voluntarily assume financial and construction responsibility for sidewalks and adjoining planter strips along the Sequoia Parkway Phase 2 segment at such time as their respective properties develop. At an Owner's election, the Owner may regard the construction of sidewalks and planter strips as a

contribution to the City. The value ascribed to such improvements shall be not less than \$43.48 per lineal foot, or an aggregate estimated amount of \$100,000. Such amount shall be adjusted based upon actual square footage of improvements and actual cost for such improvements. The City agrees that construction of such improvements is voluntary on the Owners' part.

1.6 The City agrees that in order for the Industrial Park to develop consistently with the City-approved Master Plan and zoning, Sequoia Parkway will need to be extended from its Phase 2 terminus southerly to Township Road (Phase 3) and an additional southerly segment through the Weygandt parcel (Phase 4). The parties recognize that the specific alignment, financing and construction of the Phase 3 and Phase 4 segments of Sequoia Parkway are not the subject of this MOU.

2. Financing of Sequoia Parkway -- Phase 2 Segment 2.1 Other than the contributions of right-of-way and sidewalk and planter strip construction by the Owners (as described in paragraphs 1.4 and 1.5, above) the City shall be responsible for constructing the Sequoia Parkway Phase 2 segment to the standards described in paragraph 1.2 above, at the City's exclusive expense. The anticipated cost to construct the Phase 2 segment is \$1,360,000, which the City anticipates will be funded through a loan from OECDD. With the exception of the City's standard SDCs, none of the Owners shall have any obligation nor shall they be required in any respect to contribute to the cost of any Phase 2 segment improvements, whether directly or through any financing mechanism, special systems development charge, or any fees or assessments whose purpose is to fund construction of such improvements. The City anticipates that loan repayment will come from approximately \$935,000 in Urban Renewal District funds and \$425,000 in SDC funds. But in any event none of the Owners shall be responsible for re-payment of the loan, directly or indirectly, in whole or in part.

2.2 Under no circumstances shall any of the Owners be required to participate or have their properties included within any advance finance district, local improvement district or similar special financing mechanism for construction of the Sequoia Parkway Phase 2 segment. The City also agrees that the decision not to utilize an advance finance district, local improvement district or similar financing mechanism for the Sequoia Parkway Phase 2 segment shall not defer or require that future Sequoia Parkway segments be financed, in whole or in part, through the use of such mechanisms. The determination of financing methods for subsequent Sequoia Parkway segments shall be determined at the time appropriate for construction of such segments.

2.3 The City and the Owners recognize that their respective commitments and contributions as described in this Agreement are based upon the City seeking and obtaining OECDD loan approval for construction of the Sequoia Parkway Phase 2 segment. If the City is unable to obtain OECDD approval, the Owners may, at each Owner's individual discretion, withdraw from this MOU if loan approval is not granted within one (1) year from the date of this MOU.

2.4 The Owners agree to support the City's OECDD loan application for Sequoia Parkway Phase 2 construction. Such support is based upon the City's reciprocal commitments as stated in this MOU.

3. Annexations 3.1 The City, subject to appropriate application and public hearings, encourages the annexation of those Owners' properties identified in attached Exhibit A, in order to achieve the objectives of this MOU and to foster development of Owners' properties consistent with the Master Plan. By annexing the Owners' properties and encouraging their development, the City provides itself opportunity to generate urban renewal funds and SDCs permitting the efficient and effective repayment of the OECDD loan for the Sequoia Parkway Extension -- Phase 2.

3.2 While the City recognizes the importance of annexing the Owners' properties, consistent with the purposes of this MOU and the necessity of annexing the Zimmer (Tax Lot 800) and Burden (Tax Lots 700, 400 and 1700) parcels, the City lacks funds to initiate and process annexation applications and is not in a position to

grant a fee waiver for such annexation applications. Consequently, the Owners listed in attached Exhibit 2 will need to initiate the annexation process consistent with City direction by filing the proper application, and paying the standard filing fee. Such annexations may be done in one application; however, individual Owners may file separate applications at their discretion. The City will consolidate all such applications to the greatest extent practicable, for processing.

3.3 The parties agree that all annexation applications must be filed by September 30, 2002 so that required public hearings may be held and any approved annexations may be voted upon by the citizens of Canby at the May, 2003 general election. The parties recognize that annexation to the City is subject to popular vote.

4. Recognition of Parties This MOU is executed by the City pursuant to affirmative vote of the City Council and the Board of Directors of the City's Urban Renewal District. For purposes of additional discussion and implementation of this MOU, the Owners continue to designate the officers of the Industrial Area Association ("IAA") as their spokespeople and clearinghouse for information.

5. Reciprocal Commitments Both the City and the Owners recognize and agree that the commitments, promises and agreements stated in this MOU are mutual and reciprocal. Should a party not perform as specified in this MOU, including the failure to annex the properties listed in attached Exhibit A, the other party shall be relieved of its obligations to perform. The parties shall undertake all reasonable and necessary steps to implement this MOU, consistent with the objectives stated in the Recitals. Should the Owners identified in paragraphs 1.3 and 1.5 fail to dedicate right of way for construction of the Phase 2 Sequoia Parkway segment or fail to construct sidewalks and planter strips upon development of their properties, the City is relieved of its obligation not to impose other means of financing for those improvements, but such action shall be subject to all legal rights and processes available to any Owner.

CITY OF CANBY

By: _____
Terry L. Prince, Mayor

Dated: _____, 2002

CANBY URBAN RENEWAL AGENCY

By: _____
Terry L. Prince, Chair

Dated: _____, 2002

OWNERS:

Roy and Betty Zimmer

Jacque E. Parsons, Trustee
and/or Jacque and Cecilia Parsons

Margaret J. (Peggy) Madeira

Ron Palmer Estate, Paula Palmer, Trustee

Keith S. Guisinger

Jean Rover

Ray Burden

Thomas Fitzpatrick

Kay Lewelling

Gilbert and Adelyn Borg

Roy Zimmer for the Zimmer family interests

Philip and Millie Borg

Philip A. and Tammy Parsons

John and Irene Dewar

Weygandt LLC by Lisa Weygandt