

PLANNING COMMISSION

Meeting Agenda (**Revised**)

Monday – March 23, 2015

7:00 PM

City Council Chambers – 155 NW 2nd Avenue

Commissioner Tyler Smith (Chair)

Commissioner John Savory (Vice Chair)

Commissioner Shawn Hensley

Commissioner John Serlet

Commissioner Larry Boatright

Commissioner (Vacant)

Commissioner (Vacant)

1. CALL TO ORDER

a. Pledge of Allegiance and Invocation

2. CITIZEN INPUT ON NON-AGENDA ITEMS

3. MINUTES

a. Approval of Planning Commission Minutes, February 23, 2015

4. PUBLIC HEARING

a. None

5. NEW BUSINESS

*a. Proposed Amendments to Street Tree Regulations (Ordinance No. 1385 (CMC 12.32)
(Revised)*

- *Staff Report, Street Tree Ordinance, Code Chapter 12.32, Exhibit A Redlined Version, Exhibit B City of Canby Tree Planting & Maintenance Policy, Exhibit C Street Tree List,*

6. FINAL DECISIONS

(Note: These are final, written versions of previous oral decisions. No public testimony.)

a. Approval of Final Findings for Bristol/Minor Land Partition (MLP 15-02- 486 S Knott St)

7. ITEMS OF INTEREST/REPORT FROM STAFF

a. Next Regular Planning Commission meeting scheduled for Monday, April 13, 2015

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001.

A copy of this agenda can be found on the City's web page at www.ci.canby.or.us City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503-263-6287.

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MINUTES
CANBY PLANNING COMMISSION
7:00 PM – February 23, 2015
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Commissioners Tyler Smith (Chair), John Savory (Vice Chair), Shawn Hensley, John Serlet, and Larry Boatwright

STAFF: Bryan Brown, Planning Director, and Laney Fouse, Planning Staff

OTHERS: Jason Bristol and Clint Coleman, Council Liaison

1. CALL TO ORDER

Chair Smith called the meeting to order at 7:00 pm.

2. CITIZEN INPUT – None.

3. MINUTES

a. *Planning Commission Minutes, February 9, 2015*

Motion: A motion was made by Commissioner Savory and seconded by Commissioner Boatright to approve the February 9, 2015 minutes as written. Motion passed 5/0.

4. PUBLIC HEARINGS

a. *Consider a Minor Land Partition request from Jason Bristol to partition an existing 1.22 acre developed parcel located at 486 S Knott St into two parcels.*

Chair Smith read the public hearing format and opened the public hearing.

Commissioners Serlet, Smith, Savory and Boatright had no ex parte contacts. Commissioner Hensley said he drove by the property. No Commissioner had any conflicts of interest to declare.

Bryan Brown, Planning Director, entered the staff report into the record. This was an application for a minor land partition to create two lots out of a 1.22 acre parcel. Parcel 2 would be redeveloped to its R-2 high density potential in the future and Parcel 1 would retain the existing home. There would be a new driveway to Parcel 1 off of Knott Street to serve the existing single family home on the lot. There is an existing gravel drive on Parcel 2, and an ordinance provision that require a paved drive within 150 feet of the farthest point of a home or structure to satisfy fire protection access. However, Canby Fire stated to staff that they accept the provision of an all-weather surface which the existing drive provides. Canby Utility indicated there was an existing overhead electric line serving the parcel and had requested a 12 foot easement on the new property line. It was not currently listed as a required condition of approval in the staff report, and that the developer has voiced that keeping an overhead service within the requested easement location could be problematic for his future redevelopment plans. Mr. Brown suggested adding a condition of approval giving flexibility for alternative ways to serve the properties and still satisfy Canby Utility.

One written comment had been received from Vivian Carpenter who had no objections, but was curious as to how Parcel 2 would be redeveloped.

The applicant proposed to put in a sidewalk across the frontage of Parcel 1, but was requesting a waiver of the sidewalk requirement for Parcel 2 due to the long term redevelopment plans and not knowing where the new paved driveway approach would be placed. Mr. Brown suggested requesting a sidewalk easement on the private property frontage for the partition since the eventual curb-tight sidewalk would not fit within the public right-of-way. There were sidewalks on the other side of the street and two properties to the north of this parcel on the same side of the street with curb tight sidewalks.

Staff recommended approval of this partition request with conditions.

Applicant: Jason Bristol said he intended to sell Parcel 1. The rest of the property was underutilized and needed to be redeveloped. He would be required to build 15 units minimum, and the road would not be a driveway but a paved access road and utilities would have to be brought in. Any of the improvements on the frontage of Parcel 2 now would have to be ripped out and he did not want to waste money. He also planned to add the adjoining property which was owned by his mother, which would provide about 30 units minimum. He showed pictures of the lot, existing homes, and driveway. He explained how the electricity was currently brought in to the site and his desire to avoid the electric easement if he can work out an alternative with Canby Utility.

Chair Smith asked about adding a condition that for Parcel 2 if the redevelopment wasn't done in 10 years there would be a non-remonstrance to require sidewalks be put in.

Mr. Bristol would agree to that. He had talked with the Fire Department and they felt comfortable with the current access and he requested the requirement for paving the driveway be waived. He was agreeable to a sidewalk easement on both parcels. He thought there were enough trees on the property that street trees were not needed.

Proponents: None

Opponents: None

Rebuttal: None

Chair Smith closed the public hearing at 8:02 pm.

Deliberation:

Mr. Brown suggested amending Conditions #6 and #7 regarding the street trees. There needed to be a brand new condition, possibly substituted for Condition #1, which requested the sidewalk easement, or Condition #7 could be changed to sidewalk and street tree easement. Condition #1 and #4 were very similar. To address the easement need from Canby Utility, Condition #1 or #4 could be altered, or they could be deleted and a new condition dealing with utilities could be written. The shared access maintenance agreement contained in one of the conditions was unnecessary verbiage from a previous staff report and didn't apply here because they had their own separate driveways – so should be removed. He clarified that both proposed Conditions #1 and #4 may not be needed, and neither was Condition #6 if they chose to waive the street tree

requirements. Condition #7 was needed to get the street tree easement, especially across Parcel 2 if it was going to be redeveloped and they still needed Condition #5.

Chair Smith suggested Condition #4 be changed to read, “Any utility easement to service Parcel 1 and Parcel 2 shall be approved by Canby Utility and be shown on the recorded partition plat.”

Mr. Brown said Condition #1 was a generalized catch-all that was in the Code that talked about the applicant being responsible, not the City, if there were any private easements necessary to protect lines that might cross the proposed property boundary. The City did not know exactly where those utilities serving those existing houses are. He suggested keeping Condition #1.

Chair Smith thought they should amend Condition #2. He thought they should require sidewalks on Parcel 1, although it would mostly be driveway, and also do a 10 year non-remonstrance agreement so that if there was a development of Parcel 2 during that time it could be done in conjunction with whatever design they had, otherwise after 10 years the sidewalk would have to be constructed there.

Motion: Commissioner Savory moved to approve MLP 15-02 with the following amended conditions: Condition #2, “If sidewalk installation was required, a minimum 36” wide clear path behind any mailboxes was required to meet ADA standards and execute a non-remonstrance for Parcel 2 if a sidewalk was not constructed by the applicant within 10 years of the date the partition plat was recorded”; Condition #4 “Any utility easement to serve Parcel 1 and Parcel 2 shall be approved by Canby Utility and shown on the partition plat”; and eliminate Condition #6. The motion was seconded by Commissioner Hensley.

Amendment to the Motion: Chair Smith moved to amend the motion and direct staff to draft new findings to reflect the changes to the conditions and bring them back to the next Commission meeting for approval. The motion was seconded by Commissioner Savory and passed 5/0.

There was consensus that the driveway to Parcel 2 did not need to be paved and that sentence was stricken from Condition #5.

Vote on the Motion: Motion passed 5/0.

5. **NEW BUSINESS** – None.
6. **OLD BUSINESS** – None.
7. **ITEMS OF INTEREST FROM STAFF** – None.
8. **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

Commissioner Hensley asked if there could be review of the Street Tree Ordinance.

There was consensus to appoint Commissioner Hensley to be the liaison to the City Council to present a summary of the difficulties the Planning Commission was having with the Street Tree Ordinance.

9. **ADJOURNMENT**

Chair Smith adjourned the meeting at 7:45 pm.

The undersigned certify the February 23, 2015 Planning Commission minutes were presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 23rd day of March, 2015

Bryan Brown, Planning Director

Laney Fouse, Minutes Taker

Assisted with Preparation of Minutes – Susan Wood



City of Canby

Planning & Development Services

TO: *Chair Smith and Planning Commission*
FROM: *Bryan Brown, Planning Director*
DATE: *March 12, 2015*

ISSUE: *Proposed Amendments to Tree Regulations (Ordinance No.1385 (CMC 12.32))*

Background:

The Planning Commission has reviewed several minor partition applications in the past year and has experienced some unique situations with regard to the application of the City's current Street Tree requirement for new development which is triggered with partition and subdivision applications. The Planning Commission has been called upon to use discretion based on staff's recommendation on whether to require new street trees in whole or part to these applications without any specific exceptions noted in the adopted Street Tree provisions of the Tree Regulations.

The Street Tree requirement originates in CMC Chapter 12.32 Tree Regulations. It is reinforced as a requirement within two references as indicated below within CMC Chapter 16 Land Development and Planning Ordinance.

There are currently two references to Street Trees within the Land Development and Planning Ordinance (CMC Chapter 16). They are in Section 16.64 Subdivisions – Design Standards as follows: Section 16.64.010(M) Streets/Planting Easements. The Planning Commission may require additional easements for planting street trees or shrubs; and Section 16.64.070(C) (3) Improvements/Streets/Street Trees. Street trees shall be provided consistent with the provisions of Chapter 12.32 (Tree Regulations) and (K) Other Improvements – Street tree planting is required of the subdivider and shall be according to city requirements.

Ordinance No. 1385 - adopted in October, 2013 – established the latest ordinance provisions contained in Chapter 12.32. It also adopted Exhibit "B" which is the City of Canby Tree Planting & Maintenance Policy, and Exhibit "C" which is the adopted Street Tree List from which new street trees must be chosen in accordance with the location conditions present. The Street Tree requirement for new developments is specified within Section VII of the Canby Tree Planting & Maintenance Policy under the heading of Development Required Street Trees. Item #1 establishes a developer fee based upon a requirement for one tree per 30 lineal feet of street

frontage. The City then becomes responsible for using the developer paid fee to contract in getting the required street trees planted.

The Planning Commission has voiced concern about the lack of code direction for some of the situations that have arisen with recent partition applications. Staff has suggested below some situational exceptions where Street Trees would clearly not be required by adding an Exception section either in the Tree Planting & Maintenance Policy under Section VII or in 16.64 Subdivision – Design Standards. These proposed amendments are indicated in conceptual form under the discussion section below.

Discussion:

Proposed Tree Regulation Amendments (Exact placement within the tree regulations TBD along with final wording:

Exceptions to New Street Trees

New Street Trees shall not be required in instances where:

1. A partition results in a flag lot having no public street frontage
2. A partition involves a lot which are already developed
3. A partition involves a lot planned for redevelopment where the street tree requirement can be applied later when the redevelopment occurs either through further partitioning or as a landscape plan requirement through a Site & Design Review application.
4. Development of a vacant or partially developed parcel whether, existing or part of a partition, that has an equal number of ordinance required existing trees whose proximity to the public street is within the bounds of a usual 12-foot wide street tree easement and whose species are included on the official City street tree list.

Implementation Guidance on the 30-foot Frontage Spacing Standard and Street Tree Easements

1. A street tree planting plan for a partition or subdivision may be accepted by the City in place of using the “1 tree for every 30-foot of public street frontage standard” to calculate the street fee due when such plan is utilized by the developer in a manner that satisfactorily takes in the tree separation standards outlined in the adopted Canby Tree Planting & Maintenance Policy. The street tree planting plan shall consider the spacing standards between trees based on type and from various infrastructure features such as street intersections, fire hydrants, street lights, traffic signs, and utility lines indicated in the Tree Planting & Maintenance Policy.
2. Twelve foot wide street easements parallel and adjacent to the public rights-of-way on private property shall be provided on all lots resulting from a partition or subdivision in which no public right-of-way planter strip of at least 4 feet in width exists or is planned unless subject to one of the exceptions noted.

Options:

1. Review the proposed amendments and modify, delete or add additional standards deemed appropriate and direct staff to incorporate into the Tree Regulations documents and bring back as a formal Text Amendment to forward to the City Council.

2. Decide that the suggested street tree amendments are not needed and can continue to be handled through discretionary consideration as has been done with each application that is reviewed.
3. Continue to work with staff to identify other broader areas of concern associated with the latest Tree Regulations amendments adopted.

Attachments:

Ordinance No. 1385 including Exhibit A, Exhibit B & Exhibit C

ORDINANCE NO. 1385

AN ORDINANCE AMENDING CANBY MUNICIPAL CODE (CMC) CHAPTER 12.32 REGARDING TREE REGULATIONS; ADOPTING A STREET TREE PLANTING AND MAINTENANCE POLICY; AND ADOPTING AN OFFICIAL STREET TREE LIST.

WHEREAS, Chapter 12.32 of the Canby Municipal Code is outdated, and

WHEREAS, the City of Canby's Street Tree List is outdated, and

WHEREAS, the Council finds that the public welfare requires a clear statement of the City's policy as to responsibility for maintaining trees in the public right of way, and desires to implement a companion policy whereby the City will plant and establish such trees in areas of new development, and

WHEREAS, the Council finds it necessary and desirable to adopt standards for maintaining such trees according to accepted trade practices, to publish and distribute those standards to City residents and to enforce compliance with such standards, now, therefore,

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Chapter 12.32 of the Canby Municipal Code is amended to read as noted in Exhibit "A" attached hereto.

Section 2. The City of Canby Tree Planting and Maintenance Policy, which contains a Street Tree Fee for New Development, is attached hereto and marked as Exhibit "B" and by this reference incorporated herein.

Section 3. Exhibit "C", attached hereto is hereby adopted as the official street tree list for the City of Canby.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 2, 2013 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 October 16, 2013 commencing at the hour of 7:30 PM in the Council Meeting Chambers located at 155 NW 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 October 16, 2013 by the following vote:

YEAS 6 NAYS 0



Brian Hodson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder

CHAPTER 12.32: TREE REGULATIONS

Section

- 12.32.010 Definitions.
- 12.32.020 Purpose and scope
- 12.32.030 City Forester
- 12.32.040 Creation of a Tree Committee
- 12.32.050 Planting and maintenance of trees
- 12.32.060 Maintenance and removal of trees
- 12.32.070 City may act on notice
- 12.32.080 Interference with the city.
- 12.32.090 Service of orders.
- 12.32.100 Compliance.
- 12.32.110 Appeal.
- 12.32.120 Failure to comply
- 12.32.130 Special assessment.
- 12.32.140 Penalty.

§ 12.32.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Bush means a low growing and densely branched woody plant.

City Forester means the Director of Public Works of the city or his or her authorized agent.

Drip Line means the outermost extension of the tree canopy

Immediate Danger means a situation that represents a hazard to life or property without interval of time.

Noxious Species means one that is physically harmful or destructive to living beings or public utilities and public investments.

Park Tree means a tree, shrub or bush located in public parks or other area owned by the city having an individual name, and all other areas owned by the city, or to which the public has free access as a park.

Private Tree means a tree, shrub or bush located on private property other than a dedicated right-of-way, utility easement or public parks and grounds.

Pruning means cutting or removing less than 20 percent of the branching structure of a plant in either the crown, trunk or root zones.

Public Improvement means a change made with public money or by public employees. It can also happen with private money or private employees then be dedicated for public ownership or use.

Public Places means a location owned by the public, a dedicated right-of-way or public way and easement generally dedicated for utilities.

Public trees are defined as those trees which are located within the public right-of-way or on land under the jurisdiction of the City.

Removal means cutting or removing 20 percent or more of the crown, trunk or root system of a *plant*.

Shrub means a low-growing, usually several-stemmed woody plant.

Street Tree. A tree that is located within the public right of way for vehicular access, or associated public utility easement.

Top or Topped means cutting or removing the terminal leaders in the crown of an ornamental shade or flowering tree or conifer to an extent that removes the normal canopy and disfigures the tree.

Tree means a woody perennial plant having a single elongated main stem from which the branches extend.

Utility means a service such as sewer, electricity, water, storm drainage, gas, telephone or television provided by either a publicly owned company or privately owned company. If publicly owned, it is a Public Utility and if privately owned, it is a Private Utility.

§ 12.32.020 Purpose and Scope.

The purpose of § 12.32 is to preserve trees in the public right of way or on public property as an important natural resource, to enhance the appearance of the City and private property values, to clearly define responsibility for the maintenance of trees in the public right of way and City property and to adopt professional standards for planting and maintenance for use by the City and by private property owners alike, all for purposes of the general public welfare.

§ 12.32.030 City Forester.

A. Established. There is established in the Department of Public Works of the city the Office of City Forester. The Director of Public Works, or his or her authorized agent, shall serve as City Forester in the administration and enforcement of this chapter.

B. Scope. The City Forester shall have exclusive jurisdiction and supervision over all trees and other plants planted or growing in public places and authority over all trees and other plants planted or growing in private places as hereinafter set forth.

C. Preserve or Remove. The City Forester shall have the authority to oversee the planting, trimming, spraying with general notice, preservation and removal of trees and other plants in public places to ensure safety or preserve the symmetry and beauty of the public places.

D. Order to Preserve or Remove. The City Forester shall have the authority to order the spraying with general notice, trimming, preservation or removal of trees or other plants upon private property when it is found that that action is necessary to protect the public safety or to prevent the spread of disease or insects to public trees and places.

E. Supervision. The City Forester shall have the authority to supervise all work done under the terms of this chapter.

§ 12.32.040 Creation of a Tree Committee.

A. Established. There is hereby established a Tree Committee and it is the same as the Site and Design Review Board established by Ord. 848.

B. Scope. The Committee shall study, investigate and develop, and/or update annually and administer a written plan for the care, preservation, pruning, replanting, removal or disposition of street trees and park trees. The plan shall be presented to the City Council, and upon its acceptance and approval, shall constitute the official comprehensive city tree program of the city. The Committee, when requested by the City Council or the City Forester shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

C. Tree List. The official Canby Tree List of acceptable species of trees, shrubs and bushes shall be maintained by the Committee and made available to the public as set forth by resolution. No person, without the written permission of the City, shall plant a street tree of a species other than those included on the list or approved by the City Forester.

§ 12.32.050 Planting and Maintenance of Trees.

A. No person shall plant or remove any tree in the public right-of-way or on City property except As allowed by this ordinance.

B. The owner or occupant, or an agent for the owner or occupant, of property abutting the right of way may plant, treat, prune or replace any tree in that portion of the right-of-way abutting the property only in accordance with current tree maintenance standards established by the National arborist Association, International Society of Arboriculture, or under the supervision of a person having a current, valid certification as an arborist by the International Society of Arboriculture.

C. The owner of property abutting the public right-of-way shall be responsible for maintenance of all trees planted in the right-of-way between the edge of the roadway and the property line in accordance with the standards issued under this ordinance. As to trees planted in the right-of-way in conjunction with new development of property, the obligation imposed by this section shall commence after the City determines, and notifies the abutting owner, that the tree(s) is/are established.

D. The City shall be responsible for maintenance of trees located in the right of way along that portion of property which abuts a major arterial, minor arterial or major collector street as designated on the City's Transportation System Plan, if the abutting portion of such right-of-way:

1. Is separated from the property by a permanent barrier (such as a sound wall or fence) at least four feet in height; and,
2. Does not have direct pedestrian or vehicular access (such as a driveway) to the property; and,
3. Does not allow parking along the property allowing safe access for private maintenance; and,
4. Abuts property used for single-family residential purposes and not commercial, industrial, multi-family, and homeowner or unit owner common area uses.

E. The obligation to maintain those trees as well as trees planted in the median of such roadway shall remain with the governmental unit which is obligated to maintain such roadway arterial or major collector.

F. Except as otherwise allowed under a tree preservation or landscape plan submitted as part of a development or subdivision application, any person desiring for any purpose to plant a tree in or upon any right of way shall perform such work according to the standards of the City's Tree Planting and Maintenance Policy.

§ 12.32.060 Standards for Maintenance and Removal of Trees.

A. Trees within the public right of way or on City property shall be pruned, damaging insects shall be controlled, disease shall be treated and the trees otherwise shall be maintained following the procedures and according to the standards of the City's Tree Planting and Maintenance Policy. Trees within and without the public right of way shall be maintained so as not to obstruct the vision clearance area at intersections provided for in Title 16 of the Canby Municipal Code.

B. Trees within the public right of way shall be maintained so that no part of the tree occupies any portion of the area that is 14 feet or less above the surface of an arterial roadway as designated on the

Transportation System Plan, or 12 feet or less above the surface of any roadway not designated on the Transportation System Plan as an arterial, or 8 feet or less above the surface of a sidewalk or bicycle or pedestrian path.

C. No tree within the public right of way or on City property shall be topped unless the tree interferes with overhead utility wires or street lights as determined by the owner of the utility or street lights, or unless topping is necessary to limit further damage to a tree already damaged by other causes as determined by the City Forester.

D. A tree within the public right of way or on City property that presents an imminent risk of bodily injury or property damage may be removed on order of any public official having authority to enforce motor vehicle laws or fire or life safety codes at the location of the risk. As to emergency removal by any other person, it is an affirmative defense that a person removed or caused to be removed a tree within the right of way without obtaining permit or direction to do so from an appropriate public official, because such removal was necessary as an emergency measure to avoid an imminent public or private injury; and the threatened injury was of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweighed the desirability of protecting the public's interest in the tree.

E. Except as provided by subsection D of this section, no person shall remove or destroy a tree within the public right of way without a permit issued by the City upon the person's application, on a form prescribed by the City, and payment of the required fee. Such permits shall obligate the person to replace the removed tree with a species approved by the City Forester and to plant and maintain same according to the City Tree Planting and Maintenance Policy, unless the City Forester upon request by the permittee determines it would not be in the public interest to do so. The City may require a person seeking a permit to remove or destroy a tree within the public right-of-way to give security for the cost of replacement and establishment.

F. No person shall excavate, place fill or compact the soil within the drip line of any tree in the public right-of-way except as expressly allowed by the City Forester.

G. No person or firm shall engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring permission from the city.—Before permission is granted, an arbor culturist shall file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as described in this section. Bonding and insurance are not required of city employees or utility employees in pursuit of

§ 12.32.070 City may act on notice

A. Upon notice to the City Forester that any tree within the public right-of-way or on City property is infected with disease or infested with damaging insects or otherwise presents an imminent risk of personal injury or property damage or threatens the health of other trees, the City shall inform the abutting property owner responsible for maintenance of the tree(s), if any, of the person's obligation to take appropriate measures under the City's Tree Planting and Maintenance Policy to limit or remove the risk, including but not limited to destruction or removal of the tree under the terms of a permit to be issued by the City upon the measures under the same Policy with regards to trees that it maintains as provided by this ordinance.

B. Public or private trees that present a risk of personal injury or property damage or that threaten the health of other trees, as described in subsection A of this section, and that are not maintained, or the risk or threat is not remedied, according to the Tree Planting and Maintenance Policy are declared to be a public nuisance and are subject to the provisions of Sections 12.32.080 through 12.32.140 of this Chapter. Trees that present an unreasonable risk of such injury or damage or an immediate threat to the health of other trees may be summarily abated without prior notice to the abutting property owner.

C. No permit fee shall be charged for permits to remove trees as required by subsection A of this section.

D. The City in its discretion may, from time to time, cause the maintenance, destruction, removal or replanting of trees within the public right-of way that are a nuisance partially or wholly at the City's not the abutting property owner's, initiative and expense when it deems that the public interest so requires.

§ 12.32.080 Interference with the city.

No person shall prevent, delay or interfere with the city, a utility or any of their agents, while engaging in the planting, cultivating, mulching, pruning, spraying or removal of any street trees, park trees or private trees as authorized by this chapter.

§ 12.32.090 Service of orders.

A. When the City Forester shall find it necessary to order the spraying with general notice, trimming, preservation or removal of trees or plants upon *public* or private property, as authorized in this chapter, he or she shall serve a written order to the owner, operator, occupant or other person responsible for its existence to correct the dangerous condition.

B. The order required in this section shall be served in 1 of the following ways:

1. By making personal delivery of the order to the person responsible;
2. By leaving the order with some persons of suitable age and discretion upon the premises;
3. By affixing a copy of the order to the door of the entrance of the premises in violation;
4. By mailing a copy of the order to the last known address of the owner of the premises by certified mail; or
5. By publishing a copy of the order in the Canby Herald once a week for 2 successive weeks.

§ 12.32.100 Compliance.

The order required in this chapter shall set forth a time limit for compliance dependent upon the hazard and danger created by the violation. In case of immediate danger to persons or public property, the City Forester shall have the authority to require compliance upon service of the order.

§ 12.32.110 Appeal.

A person to whom an order under this chapter is directed shall have the right within 14 days of the service of the order to appeal to the City Council, which shall review the order at its next regular meeting or special meeting called for that purpose. Unless the order is revoked or modified by the City Council, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with the order within 30 days after an appeal shall have been determined.

§ 12.32.120 Failure to comply.

When a person to whom an order is directed fails to comply within the specified time, the City Forester shall remedy the condition or contract with others for that purpose and charge the cost thereof to the person

to whom the order is directed. The person remedying the condition under a contract made under this chapter shall be authorized to enter premises for that purpose.

§ 12.32.130 Special assessment.

If the cost of remedying a condition is not paid within 90 days after receipt of a statement therefor from the City Recorder, the costs shall be levied against the property upon which the hazard exists as a special assessment. The levying of the assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as provided in this chapter. This special assessment shall be certified by the City Forester to the City Recorder, and shall thereupon become and be a lien upon the property, and shall be recorded in the city lien docket by the City Recorder.

§ 12.32.140 Penalty.

Any person convicted of violating any provision of this chapter shall be punished by a fine of not more than \$500.

EXHIBIT “A”

Canby, OR Code of Ordinances

CHAPTER 12.32: TREE REGULATIONS

Section

12.32.010	Definitions.
12.32.020	Purpose and scope.
12.32.020	City Forester
12.32.030	City Forester.
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12.32.040	Removal of trees
12.32.040	Creation of a Tree Committee.
12.32.050	Planting of trees
12.32.050	Planting and maintenance of trees.
12.32.060	Care of trees
12.32.060	Maintenance and removal of trees.
12.32.070	Duties of private property owners
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12.32.120	Failure to comply.
12.32.130	Special assessment.
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Immediate Danger means a situation that represents a hazard to life or property without interval of time.

Noxious Species means one that is physically harmful or destructive to living beings or public utilities and public investments.

Park Tree means a tree, shrub or bush located in public parks or other area owned by the city having an

individual name, and all other areas owned by the city, or to which the public has free access as a park.

Private Tree means a tree, shrub or bush located on private property other than a dedicated right-of-way, utility easement or public parks and grounds.

Pruning means cutting or removing less than 20 percent of the branching structure of a plant in either the crown, trunk or root zones.

Public Improvement means a change made with public money or by public employees. It can also happen with private money or private employees then be dedicated for public ownership or use.

Public Places means a location owned by the public, a dedicated right-of-way or public way and easement generally dedicated for utilities.

Public trees are defined as those trees which are located within the public right-of-way or on land under the jurisdiction of the City.

Removal means cutting or removing the crown, trunk and root system of a plant.

Shrub means a low-growing, usually several-stemmed woody plant.

~~Street Tree means a tree, shrub or bush on land lying within a dedicated right of way along either side of a street, avenue or otherwise within a dedicated utility easement.~~ ***A tree that is located within the public right-of-way for vehicular access, or associated public utility easement.***

Top or Topped means cutting or removing the terminal leaders in the crown of an ornamental shade or flowering tree or conifer to an extent that removes the normal canopy and disfigures the tree.

~~Tree means a woody perennial plant having a single elongated main stem generally with few or no branches on its lower part~~ ***from which the branches extend.***

Utility means a service such as sewer, electricity, water, storm drainage, gas, telephone or television provided by either a publicly owned company or privately owned company. If publicly owned, it is a Public Utility and if privately owned, it is a Private Utility.

§ 12.32.020 Purpose and Scope.

The purpose of § 12.32 is to preserve trees in the public right-of-way or on public property as an important natural resource, to enhance the appearance of the City and private property values, to clearly define responsibility for the maintenance of trees in the public right-of-way and City property and to adopt professional standards for planting and maintenance for use by the City and by private property owners alike, all for purposes of the general public welfare.

§ 12.32.030 City Forester.

A. Established. There is established in the Department of Public Works of the city the Office of City Forester. The Director of Public Works, or his or her authorized agent, shall serve as City Forester in the administration and enforcement of this chapter.

B. Scope. The City Forester shall have exclusive jurisdiction and supervision over all trees and other plants planted or growing in public places and authority over all trees and other plants planted or growing in private places as hereinafter set forth.

C. Preserve or Remove. The City Forester shall have the authority to oversee the planting, trimming, spraying with general notice, preservation and removal of trees and other plants in public places to ensure safety or preserve the symmetry and beauty of the public places.

D. Order to Preserve or Remove. The City Forester shall have the authority to order the spraying with general notice, trimming, preservation or removal of trees or other plants upon private property when it is found that that action is necessary to protect the public safety or to prevent the spread of disease or insects to public trees and places.

E. Supervision. The City Forester shall have the authority to supervise all work done under the terms of this chapter.

§ 12.32.040 Creation of a Tree Committee.

A. Established. There is hereby established a Tree Committee and it is the same as the Site and Design Review Board established by Ord. 848.

B. Scope. The Committee shall study, investigate and develop, and/or update annually and administer a written plan for the care, preservation, pruning, replanting, removal or disposition of street trees and park trees. The plan shall be presented to the City Council, and upon its acceptance and approval, shall constitute the official comprehensive city tree program of the city. The Committee, when requested by the City Council or the City Forester shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

C. Tree List. The official Canby Tree List of acceptable species of trees, shrubs and bushes shall be maintained by the Committee and made available to the public as set forth by resolution. No person, without the written permission of the City, shall plant a street tree of a species other than those included on the list or approved by the City Forester. ~~As much as possible, street tree plantings for any 1 street will be restricted to a single species.~~

§ 12.32.050 Planting and Maintenance of Trees.

A. No person shall plant or remove any tree in the public right-of-way or on City property except as allowed by this ordinance.

B. The owner or occupant, or an agent for the owner or occupant, of property abutting the right-of-way may plant, treat, prune or replace any tree in that portion of the right-of-way abutting the property only in accordance with current tree maintenance standards established by the National Arborist Association, International Society of Arboriculture, or under the supervision of a person having a current, valid certification as an arborist by the International Society of Arboriculture.

C. The owner of property abutting the public right-of-way shall be responsible for maintenance of all trees planted in the right-of-way between the edge of the roadway and the property line in accordance with the standards issued under this ordinance. As to trees planted in the right-of-way in conjunction with new development of property, the obligation imposed by this section shall commence after the City determines, and notifies the abutting owner, that the tree(s) is/are established.

D. The City shall be responsible for maintenance of trees located in the right-of-way along that portion of property which abuts a major arterial, minor arterial or major collector street as designated on the City's Transportation System Plan, if the abutting portion of such right-of-way:

- 1. Is separated from the property by a permanent barrier (such as a sound wall or fence) at least four feet in height; and,*

2. *Does not have direct pedestrian or vehicular access (such as a driveway) to the property; and,*
3. *Does not allow parking along the property allowing safe access for private maintenance; and,*
4. *Abuts property used for single-family residential purposes and not commercial, industrial, multi-family, and homeowner or unit owner common area uses.*

E. The obligation to maintain those trees as well as trees planted in the median of such roadway shall remain with the governmental unit which is obligated to maintain such roadway arterial or major collector.

F. Except as otherwise allowed under a tree preservation or landscape plan submitted as part of a development or subdivision application, any person desiring for any purpose to plant a tree in or upon any right-of-way shall perform such work according to the standards of the City's Tree Planting and Maintenance Policy.

§ 12.32.060 Standards for Maintenance and Removal of Trees.

A. Trees within the public right-of-way or on City property shall be pruned, damaging insects shall be controlled, disease shall be treated and the trees otherwise shall be maintained following the procedures and according to the standards of the City's Tree Planting and Maintenance Policy.

Trees within and without the public right-of-way shall be maintained so as not to obstruct the vision clearance area at intersections provided for in Title 16 of the Canby Municipal Code.

B. Trees within the public right-of-way shall be maintained so that no part of the tree occupies any portion of the area that is 14 feet or less above the surface of an arterial roadway as designated on the Transportation System Plan, or 12 feet or less above the surface of any roadway not designated on the Transportation System Plan as an arterial, or 8 feet or less above the surface of a sidewalk or bicycle or pedestrian path.

C. No tree within the public right-of-way or on City property shall be topped unless the tree interferes with overhead utility wires or street lights as determined by the owner of the utility or street lights, or unless topping is necessary to limit further damage to a tree already damaged by other causes as determined by the City Forester.

D. A tree within the public right-of-way or on City property that presents an imminent risk of bodily injury or property damage may be removed on order of any public official having authority to enforce motor vehicle laws or fire or life safety codes at the location of the risk. As to emergency removal by any other person, it is an affirmative defense that a person removed or caused to be removed a tree within the right-of-way without obtaining permit or direction to do so from an appropriate public official, because such removal was necessary as an emergency measure to avoid an imminent public or private injury; and the threatened injury was of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweighed the desirability of protecting the public's interest in the tree.

E. Except as provided by subsection D of this section, no person shall remove or destroy a tree within the public right-of-way without a permit issued by the City upon the person's application, on a form prescribed by the City, and payment of the required fee. Such permits shall obligate the person to replace the removed tree with a species approved by the City Forester and to plant and maintain same according to the City Tree Planting and Maintenance Policy, unless the City Forester upon request by the permittee determines it would not be in the public interest to do so. The City may require a person seeking a permit to remove or destroy a tree within the public right-of-way to give security for the cost of replacement and establishment.

F. No person shall excavate, place fill or compact the soil within the drip line of any tree in the public right-of-way except as expressly allowed by the City Forester.

G. No person or firm shall engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring permission from the city.—Before permission is granted, an arboriculturist shall file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as described in this section. Bonding and insurance are not required of city employees or utility employees in pursuit of similar services requested of them as employees of the city or the utility.

~~§ 12.32.040 — Removal of trees.~~

~~—A. Permission. No person shall remove trees from public places without first obtaining written permission from the City Forester. Permission to remove trees from private property is not required unless otherwise provided in this Municipal Code. It is, however, advisable and prudent in many cases.~~

~~—B. Approval. The City Forester shall issue written permission provided he or she finds that the desired action or treatment is necessary and that the proposed method and workmanship is satisfactory.~~

~~—C. Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The costs of removing stumps shall be borne by the abutting property owner, and the costs shall be a lien against the abutting property. In the event the city or utility removes the tree, the city or utility will also be responsible for removing the stump.~~

~~—D. Dangerous or Nuisance Trees.~~

~~——1. The city or utility may prune a private tree when it interferes with the proper spread of light along the street from a street light, interferes with the visibility of any traffic control device or sign, or interferes with the safe and continued function of overhead and underground utilities.~~

~~——2. The city or utility may cause the removal of all or part of any dead, dangerous or diseased park, private or street tree when the tree constitutes a hazard to life, property or harbors insects or disease which constitutes a potential threat to other trees within the city.~~

~~——3. The city or utility may remove or trim a tree described in this section or may require the property owner to remove or trim a tree on private property, or in a dedicated right-of-way or utility easement~~

~~abutting upon the owner's property. Failure of the property owner to remove or trim the tree within 30 days after receiving notice by the City Forester is a violation of this chapter, and the city or utility may then remove or trim the tree and assess the costs as a lien against the property.~~

~~**§ 12.32.050 — Planting of trees.**~~

~~— A. — Replacement. The city may require the replacement by the abutting land owner, at the landowner's expense, of a new tree after permission has been granted for the removal of an existing street tree.~~

~~— B. — Permission.~~

~~— 1. — No person shall plant or set out any tree in a public place without first obtaining written permission from the City Forester.~~

~~— 2. — Before permission is granted to plant, the applicant shall state the number of trees to be planted or set out; the location, grade and variety of each tree; the method of planting, including the supplying of suitable soil; and other information as the City Forester shall find reasonably necessary to a fair determination of whether permission should be granted.~~

~~— C. — Spacing. The spacing of street trees shall be in accordance with the species, size, classes listed in the official Canby Street Tree List of this chapter, and no trees shall be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet measured trunk to trunk, except in special plantings approved by the City Forester.~~

~~— D. — Distance from Curb and Sidewalk. The distance the trees may be planted from curbs, or curb lines and sidewalks, shall be in accordance with the official Canby Street Tree List.~~

~~— B. — Distance from Corners, Fireplugs, and Street Lights. No street trees shall be planted closer than 30 feet from any street corner, measured back from the point of the intersecting curbs or curb lines. No street trees shall be planted closer than 10 feet to any fireplug or 30 feet to any street light measured from the base of the street light. Vision clearance shall be provided as described in the city's Land Development and Planning Ordinance.~~

~~— F. — Distance from Utilities. No street trees other than those species listed as small trees in the list of acceptable species may be planted under or within 10 lateral feet of any overhead utility wire, and no street tree may be planted over or within 6 lateral feet of any underground water line, sewer line, transmission line or other private utility. All digging, even for planting trees, must be preceded by underground locates.~~

~~— G. — Soil. No tree shall be planted where the soil is too poor to ensure the growth of the tree unless the owner excavates a suitable hole of not less than 36 inches and replaces the material removed with suitable loam or soil.~~

~~— H. — Noxious Species. In no case shall any tree which is deemed to be a noxious species be permitted to be planted anywhere in the city or grow in a manner which damages utilities or creates any hazard to life or property.~~

~~**§ 12.32.060 — Care of trees.**~~

~~— A. — Authority. The city may plant, prune, maintain and remove park and street trees as may be necessary to ensure public safety, or to preserve or enhance the appearance of public lands. The city may remove or cause to be removed, at the expense of the abutting landowner, a tree or part of a tree which is in~~

~~an unsafe condition, which by reason of its nature is injurious to public improvements, or is affected with any injurious fungus, insect or pest. This section does not prohibit the planting of street trees by abutting property owners, provided that the selection, location and planting of the trees is in accordance with the list of acceptable species and the other sections of this chapter.~~

~~— B. — Topping. Except as provided by this section, it shall be unlawful as a normal practice of any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs or stubs larger than 3 inches in diameter within the tree crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this chapter, by the determination of the city.~~

~~— C. — Clearance. The property owner adjacent to a tree overhanging a street right-of-way within the city shall prune the branches so that the branches do not obstruct the light from a street lamp or constrict the view of any street intersection. The owner shall maintain a clear space of 12 feet above the surface of the street, and 10 feet above the surface of any sidewalk. The owner shall remove all dead, diseased, dangerous or broken or decayed limbs which constitute a threat to the public safety.~~

~~— D. — Cuts. All cuts above 1 inch in diameter must be waterproofed if current arborist practice calls for it to protect the viability of the particular tree.~~

~~— E. — Disturbance. It is a violation of this chapter to dig in or otherwise injure or impair the natural beauty or usefulness of any public area.~~

~~— F. — Abuse. It is a violation of this chapter to damage, cut, carve, injure the bark, transplant or remove any tree or plants in any public place, unless otherwise allowed in this chapter.~~

~~— G. — Mutilation. No person shall abuse, destroy, or mutilate any street tree in a dedicated public right-of-way or any other public place, or attach or place any rope or wire (other than one used to support the tree itself), sign, poster, handbill or other thing to or on any tree growing in a public place, or to allow any gaseous liquid or solid substance which is harmful to the trees to come into contact with their roots or leaves unless otherwise allowed in this chapter.~~

I. Arborist. No person or firm shall engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring permission from the city.—Before permission is granted, an arboriculturist shall file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as described in this section. Bonding and insurance are not required of city employees or utility employees in pursuit of similar services requested of them as employees of the city or the utility. (This section moved to Section 12.32.060 (G))

§ 12.32.070 — Duties of private property owners.

~~— A. — In consideration of the value and benefits derived from the beauty and enjoyment of the street trees, the property owners abutting dedicated rights-of-way and utility easements, shall have the responsibility, control and shall bear the cost of maintenance and care of the street trees abutting their property, and shall regularly inspect and remove defective conditions as necessary.—~~

~~— B. — For example, it shall be their duty to:~~

- ~~1. Trim and maintain the trees consistent with this chapter;~~
- ~~2. Treat any trees or plant so diseased or insect ridden as to constitute a hazard to other trees or plant materials; and/or~~
- ~~3. Refrain from planting or be compelled to remove any kind or type of street trees or plants which do not appear on the official Street Tree List.~~

§ 12.32.070 City may act on notice

A. Upon notice to the City Forester that any tree within the public right-of-way or on City property is infected with disease or infested with damaging insects or otherwise presents an imminent risk of personal injury or property damage or threatens the health of other trees, the City shall inform the abutting property owner responsible for maintenance of the tree(s), if any, of the person's obligation to take appropriate measures under the City's Tree Planting and Maintenance Policy to limit or remove the risk, including but not limited to destruction or removal of the tree under the terms of a permit to be issued by the City upon the measures under the same Policy with regards to trees that it maintains as provided by this ordinance.

B. Public or private trees that present a risk of personal injury or property damage or that threaten the health of other trees, as described in subsection A of this section, and that are not maintained, or the risk or threat is not remedied, according to the Tree Planting and Maintenance Policy are declared to be a public nuisance and are subject to the provisions of Sections 12.32.080 through 12.32.140 of this Chapter. Trees that present an unreasonable risk of such injury or damage or an immediate threat to the health of other trees may be summarily abated without prior notice to the abutting property owner.

C. No permit fee shall be charged for permits to remove trees as required by subsection A of this section.

D. The City in its discretion may, from time to time, cause the maintenance, destruction, removal or replanting of trees within the public right-of way that are a nuisance partially or wholly at the City's, not the abutting property owner's, initiative and expense when it deems that the public interest so requires.

§ 12.32.080 Interference with the city.

No person shall prevent, delay or interfere with the city, a utility or any of their agents, while engaging in the planting, cultivating, mulching, pruning, spraying or removal of any street trees, park trees or private trees as authorized by this chapter.

§ 12.32.090 Service of orders.

A. When the City Forester shall find it necessary to order the spraying with general notice, trimming, preservation or removal of trees or plants upon **public** or private property, as authorized in this chapter, he or she shall serve a written order to the owner, operator, occupant or other person responsible for its existence to correct the dangerous condition.

B. The order required in this section shall be served in 1 of the following ways:

1. By making personal delivery of the order to the person responsible;

2. By leaving the order with some persons of suitable age and discretion upon the premises;
3. By affixing a copy of the order to the door of the entrance of the premises in violation;
4. By mailing a copy of the order to the last known address of the owner of the premises by certified mail; or
5. By publishing a copy of the order in the Canby Herald once a week for 2 successive weeks.

§ 12.32.100 Compliance.

The order required in this chapter shall set forth a time limit for compliance dependent upon the hazard and danger created by the violation. In case of immediate danger to persons or public property, the City Forester shall have the authority to require compliance upon service of the order.

§ 12.32.110 Appeal.

A person to whom an order under this chapter is directed shall have the right within 14 days of the service of the order to appeal to the City Council, which shall review the order at its next regular meeting or special meeting called for that purpose. Unless the order is revoked or modified by the City Council, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with the order within 30 days after an appeal shall have been determined.

§ 12.32.120 Failure to comply.

When a person to whom an order is directed fails to comply within the specified time, the City Forester shall remedy the condition or contract with others for that purpose and charge the cost thereof to the person to whom the order is directed. The person remedying the condition under a contract made under this chapter shall be authorized to enter premises for that purpose.

§ 12.32.130 Special assessment.

If the cost of remedying a condition is not paid within 90 days after receipt of a statement therefor from the City Recorder, the costs shall be levied against the property upon which the hazard exists as a special assessment. The levying of the assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as provided in this chapter. This special assessment shall be certified by the City Forester to the City Recorder, and shall thereupon become and be a lien upon the property, and shall be recorded in the city lien docket by the City Recorder.

§ 12.32.140 Penalty.

Any person convicted of violating any provision of this chapter shall be punished by a fine of not more than \$500.

EXHIBIT “B”

CITY OF CANBY TREE PLANTING & MAINTENANCE POLICY

GOAL:

To establish a set of workable specification standards for activities affecting our Urban Forest resources. By developing these standards and guidelines for working around public trees, the City will be able to assist responsible parties in maintaining this valuable resource, and to help those parties minimize public safety hazards presented by trees. City staff will work with others to achieve the purposes stated below, while making every effort to require responsible parties to maintain the integrity of our existing trees.

PURPOSE:

- To contribute to the livability of the Canby community, and to enhance the appearance and overall attractiveness of Canby for continued prosperity and growth.
- To improve air quality, reduce noise pollution, reduce surface runoff, and to reduce surface and ground water contamination.
- To continually strive to identify all suitable locations for tree planting throughout Canby, and selection of suitable trees for those sites, with an emphasis on species diversity.
- To identify what services the City can supply to assist persons responsible for maintaining public trees.
- To provide an equitable distribution of resources and services based on priority needs and to ensure the maintenance of public safety when the public interest requires that the City intervene in tree maintenance.
- To address the public’s request for assistance with this policy in a timely fashion.
- To outline how the City and public will participate in the maintenance of public trees.

Public trees are defined as those trees which are located within the public right-of-way or on land under the jurisdiction of the City.

City Forester means the Director of Public Works of the city or his or her authorized agent.

I. HAZARDOUS CONDITIONS

PURPOSE:

The City of Canby has limited resources to assist property owners with the maintenance demands of trees planted within and extending into the public rights-of-way and other public properties. The City limits its maintenance to work on trees within the public rights-of-way, public properties and private trees that pose an immediate threat to the life/safety of the public.

1. When the City receives notice that a tree or part thereof constitutes or creates a hazardous condition to public health or safety, the City will either remedy the hazard or will permit the adjacent property owner to effect a remedy approved by the City.
2. Hazards to public health or safety may include, but are not limited to obstruction of traffic

control devices and obstructions to illumination by street lights by limbs and foliage.

3. Use of City forces to remedy such hazards will be done on a priority basis as determined by the City relative to the hazard posted to the public and the City's available funds. Nothing in this policy is intended to nor shall relieve the adjacent property owner from the owner's primary obligation to maintain trees in the adjacent right-of-way.
4. Public requests for service shall be recorded by the City Forester. The City Forester will report back to the requester the nature of the inspection, the intended action, and whether the City will perform the necessary work relative to maintenance

II. ARBORIST CERTIFICATION

Arborist Certification. To be qualified to prune, treat, and remove street or public trees maintained by the City, a contractor retained by the City shall have on staff an Arborist certified by the International Society of Arboriculture. The certified Arborist must oversee all pruning, treatment and tree removal work and certify that all the work meets the City's standards and conditions placed on permits. Before permission is granted, an arboriculturist shall file evidence of possession of liability insurance in the minimum amounts of \$100,000 for bodily injury and \$300,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of the endeavors as described in this section. Bonding and insurance are not required of city employees or utility employees in pursuit of similar services requested of them as employees of the city or the utility.

Nothing in this section shall prevent the employees of public agencies who are not certified Arborists from removing trees on the grounds of those public agencies. Nothing in this section shall prevent an owner or property or an agent for the owner from pruning, treating or removing trees with someone who is not a certified Arborist. However, the City encourages all property owners to use contractors who have this certification.

III. RESPONSIBILITY OF INDIVIDUAL PROPERTY OWNERS

All resource material for maintenance standards referenced in this section are available at the Public Works Department and the Planning Department upon request.

A. Maintenance Responsibilities

1. The City will assume the responsibility of the maintenance of trees located in the right-of-way along that portion of property which abuts an arterial, or collector street as designated on the City's Transportation System Plan, if the abutting portion of such right-of-way: 1) is separated from the property by a permanent barrier (such as a sound wall or fence) at least four feet in height; 2) does not have direct pedestrian or vehicular access (such as a driveway) to the property; 3) does not allow parking along the property allowing safe access for private maintenance; 4) abuts property used for single family residential purposes and not commercial, industrial, multi-family, and home owner or unit owner common area uses. The streets which have been identified for maintenance by subject to the above criteria are as follows:
 1. N Territorial Rd east of N Holly to OR99E
 2. S. Ivy south of OR 99E to City Limits
 3. N Grant south of Knights Bridge Rd to OR 99E

4. N Redwood Street north of OR 99E to N Territorial Rd.
5. NE 4th Avenue east of Locust Street to OR 99E
6. S Pine south of OR 99E to S Redwood Street
7. SE 4th Avenue east of S Redwood Street to S Sequoia Parkway
8. S Sequoia Parkway south of OR 99E to City Limits
9. Hazel Dell east of S Sequoia Parkway to NE 1st Avenue

The Obligation to maintain those trees as well as trees planted in the median of such roadway shall remain with the governmental unit which is obligated to maintain such roadway arterial or collector.

2. Where individual properties are responsible for maintaining street trees, the following requirements shall apply:
 - a) Inspect the tree for damaging insects, disease, defect or hazard yearly.
 - b) In the event of infestation by damaging insects which threaten the tree's health, or disease or evidence of defect or hazard, treat or repair the tree.
 - c) Trim or prune the tree so that no branch of the tree is less than fourteen feet (14') above any roadway or less than eight feet (8') above any sidewalk or bicycle path along an arterial roadway as designated on the Transportation System Plan. Trees along a roadway not designated as an arterial in the Transportation System Plan be pruned so that no branch of the tree is less than twelve feet (12') above the surface of the roadway or eight feet (8') or less above the surface of a sidewalk or bicycle or pedestrian path.
 - d) Except for trees which have been severely damaged by storms or other causes, or where trees are located under utility wires or other obstructions where other pruning practices are impractical as determined by the City, trees in the right-of-way shall not be topped.
 - e) If appropriate, and after a permit has been obtained from the City, remove and dispose of the tree.
 - f) Except in cases where the planting strip between the roadway and the improved sidewalk is narrower than recommended for the health of a tree listed on the City's street tree plan, or where otherwise excused by the City Forester, replace a tree that has been removed or severely damaged with an approved variety and sized tree.

B. Permit Requirements & Conditions

1. Any property owner desiring for any purpose to remove or destroy any tree in or upon any abutting right-of-way or other public lands maintained by the City, shall make application to the City on forms furnished by the City for a Public Tree Removal permit. Such application must state the number and kind of tree to be removed or destroyed, the name of the permittee and contractor, if any, the time by which the proposed work is to be done and such other information as may be required by the City. Any work done under such written permit must be performed in strict accordance with the terms and provisions of this Policy. In issuing or denying a permit, the City shall apply all the standards as set forth in this Tree Maintenance and Planting Policy.

2. The Council may establish, by resolution, inspection and permit fees as part of the tree permit process.
3. This work shall be done in accordance with the City of Canby Tree Planting and Maintenance Policy and the current tree maintenance standards (A-300) established by the National Arborist Association (NAA), International Society of Arboriculture (I.S.A.) Tree Pruning Guidelines, and those found in (OAR 437, division 2, subdivision R, Ornamental Tree and Shrub Services) by the Oregon Occupational Safety and Health Administration (OR-OSHA). As indicated, copies of the NAA, I.S.A. and OR-OSHA standards are available from the Public Works Department and the Planning Department.
4. Stumps from removed trees shall be removed from the right-of-way. Mechanical grinding or other methods may be used to accomplish this task.

IV. PUBLIC TREE PRUNING STANDARDS

All resource material for pruning standards referenced in this section are available at the Public Works Department and Planning Department upon request.

PURPOSE:

To develop and preserve tree structure and health. These guidelines are presented as working guidelines, recognizing that trees are individually unique in structure, form and growth response, not only between, but also within species and cultivars. Pruning activities should be chosen and/or modified depending on the species, the landscape site, intended function of the tree, the present age and condition of the tree, and the desired severity of pruning.

STANDARDS:

1. All pruning work shall be in accordance with the current tree maintenance standards, (A-300), I.S.A. Pruning Guidelines, and (ORA 437, division 2, subdivision R, Ornamental Tree and Shrub Services).
2. All pruning activities affecting any tree within the right-of-way, shall be done in accordance with City of Canby code and policies.
3. Pruning cuts should be clean and smooth with the bark at the edge of the cut firmly attached to the remaining limb.
4. Large or heavy branches that cannot be thrown clear should be lowered by ropes to prevent injury to the tree or other property.
5. Climbing and pruning practices should not injure the tree and therefore, the use of spurs or gaffs are not allowed.
6. Spurs may only be used to reach an injured climber.
7. Rope injury to thin barked trees from loading out heavy limbs should be avoided by installing a block in the tree to carry the load. This technique may also be used to reduce injury to a branch crotch from a climber's line.
8. All pruning work within ten feet of an overhead energized conductor shall be referred to the appropriate utility.

V. STREET TREE PLANTING SPECIFICATIONS

All resource material for planting standards and plant material referenced in this section are

available at the Public Works Department and Planning Department upon request.

PURPOSE:

1. To help assure that quality planting materials receive an acceptable establishment in their new environment in order to minimize potential maintenance problems and safety related issues in the future.
2. To contribute to the livability of the Canby community, and to enhance the appearance and overall attractiveness of Canby for continued prosperity and growth
3. To improve air quality, reduce noise pollution, reduce surface runoff, and to reduce surface and ground water contamination. To continually strive to identify all suitable locations for tree planting throughout Canby, as well as suitable trees for those sites, with an emphasis on species diversity.

SPECIFICATIONS:

A. Suitability Of Planting Sites:

1. Planting shall be restricted to appropriate areas within the public rights-of-way and to City owned and controlled property.
2. All planting shall meet the standards of the Canby Code including the Development Code relating to street trees.

B. Procedure For Handling Requests For Tree Planting Relative To Tree Replacement and Special Funded Projects

1. Requests for assistance with tree planting will be evaluated in the order in which they are received.
2. Requests for tree planting in unirrigated areas must be received by the City between November 1st, and the following March 1st, to be included in the work program for the current planting season. Requests received after March 1st will be considered for planting in the following season after November 1st.
3. If the site is considered appropriate for planting under this policy, the City Forester will make species recommendations chosen from the City recommended tree list and discuss them with the requester.
4. Planting and parking strips under three feet in width will not be approved for planting unless sufficient unpaved or pervious surface exists or may be established to allow the tree to grow.
5. Trees shall be planted according to City tree placement standards, which will be made available to the public by the Public Works Department and Planning Department.

C. Plant Materials

1. Plant materials shall conform to the latest version of the American Standard for Nursery Stock (ANSI Z60.1-1990). Plant materials shall be of standard quality or better, true to name and type of their species or cultivar.
2. Plants shall have normal, well-developed branches and root systems. They shall be healthy, vigorous plants free from decay, defects, sunscald injuries, abrasions of the bark, insect pests,

and all forms of infestations or objectionable disfigurements.

3. Balled and burlapped plants shall have solid balls of size at least meeting the American Standard, the balls securely wrapped with burlap or canvas, tightly bound with rope or twine. Plastic wrapping material or twine is not permitted.
4. A minimum of one and a half inch caliper plant required of all stock planted. The City has the authority to require larger trees to be planted if the planting is a result of a tree replacement due to a removal of an existing tree or destroyed through negligence or accidents.
5. The City Forester shall be notified and have the right to inspect any trees or shrubs before they are planted, or at any time during the term of a contract. The City reserves the right to reject any materials at any time for nonconformance to the specifications of this policy. The contractor will replace rejected materials with specified plants at the contractor's expense.
6. All street trees shall be of an approved species and variety from the recommended Street Tree Planting list, approved by the City.
7. Plant materials pruned at, or directly before, the time of planting will be rejected.
8. Tree material originating within the state shall have the Oregon inspection certificate attached. Nursery stock imported from other states shall be accompanied by a certificate of inspection from the place of origin as required by Oregon law. All certificates shall be given to and reviewed by the Director of Public Works or his or her designee prior to tree approval. The contractor shall be responsible for making all arrangements with the Oregon Department of Agriculture for inspection of tree materials shipped from out of state directly to the contractor of the project.

D. Planting Method

1. All planting work shall be performed using sound horticultural practices approved by the National Arborist Association and/or the International Society of Arboriculture.
2. Plants shall be set plumb. All plants shall be set so that, after settlement, they are at the same level as when growing in the nursery. Plants shall be watered in at the time of planting to eliminate air pockets. Excess soil shall be removed by the Contractor.
3. Balled and burlapped plants may be placed with the wrapping in place if all materials are untreated and biodegradable. When burlap is left around plants, any string shall be removed and the burlap folded down from the top half of the root ball.
4. No plant pit shall be dug or approved until all underground utilities have been marked.
5. Tree spacing must conform to the "Minimum Street Tree Planting Distances" of this Policy. The spacing will be approved by the City Forester before planting will proceed.
6. Every planting pit shall be at least 50% wider and at least the depth of the soil ball or the full extent of the root system of bare-rooted trees. In the process of digging the hole "glazing" the sides of the hole will not be accepted.
7. For all balled-and-burlapped, bare-rooted, and container grown plants, the backfill will be of desirable structure, texture, and pH to support vigorous plant growth. The City Forester will approve any proposed use of the existing soil as backfill.
8. A watering berm in unirrigated areas shall be constructed around every tree or shrub.
9. Planting sites will be mulched with an approved mulch material with four inches of wood chips, fibrous bark, or composted wood debris after planting is completed. The mulch will be extended

beyond the drip zone of the tree, and cover an area no less than the width of the planting hole.

- 10. All trees must be staked with materials as approved by the Director of Public Works or his or her designee. The tree will be secured to the stakes with an approved rubber, adjustable, chain lock "tree tie"; no less than one inch wide and secured at no less than two points along the tree trunk.
- 11. Excavated plant pits that will be left open when work is not in progress (nights, holidays, and weekends) or which pose hazards at any time to pedestrians or vehicles shall be adequately barricaded with qualified warning devices as per Oregon Department of Transportation and Oregon OSHA standards.
- 12. Trees will be protected at all times during handling, shipping, storage, and planting. Trees shall be protected from windburn during transit, extreme weather conditions, and drying of roots or root balls. Any trees showing substantial damage, as determined by the Director of Public Works or his or her designee will be rejected and replaced by the contractor at the contractor's own expense.
- 13. If required, root barriers will be approved by City Forester before installation.

IV. LOCATION STANDARDS

All resource material for location standards and definitions referenced in this section area available at the Canby Public Works Department and Canby Planning Department upon request.

A. Trees Planted In The Street side Right-Of-Way:

- 1. On public streets without sidewalks or on major thoroughfares with no or one sidewalk, trees will be located to accommodate future sidewalk placement.
- 2. Trees will be located in the street right-of-way taking into account current and future utility line corridors.

B. Minimum Street Tree Planting Distances

- 1. Minimum distances from intersections, alleys, and driveways shall conform to the City of Canby's Land Development and Planning Ordinance as outlined in Title 16. Exceptions for allowing trees to be placed within the sight clearance areas may be granted by permission of the City.

Definitions for shade trees:

Spreading Crown	Trees with a mature crown which is 30' or more
Global, Pyramidal	Trees with a mature crown which is 20' to 30'
Fastigate, Columnar	Trees with a mature crown which is 10' to 20'

Minimum spacing for tree planting are as follows:

Spreading Crown	30' apart
Global, Pyramidal	25' apart
Fastigate, Columnar	20' apart

- 2. Minimum distance between the trunk of a tree from walks, curbs and utilities:

Sidewalk	1.5'
Access or Courtesy Walk	5'
Face of Curb	1.5'
Manholes and Catch Basins	10'
Fire Hydrants	10'
Water Meters and other Utility Boxes	5'

3. Minimum distances from buried utility lines shall be determined on an individual, case-by-case basis.

4. Minimum distance from structures:

Shade Trees	10'
Ornamental Trees	6'
Shrubs	3'

5. Minimum distance from streetlights: 20'

(Shade trees are those trees that will grow to over 15' in height. Ornamental trees are those trees that will grow to less than 15' in height.)

6. Any tree planted ten feet (10') or closer to an above ground structure shall have an impenetrable root barrier installed near the above ground structure. The root barrier shall run the length of the planting area or the above ground structure, and reach a depth of 18".

C. Overhead Utility Lines

No tree with the potential of reaching a mature height of more than thirty feet (30') shall be planted in the right-of-way under "primary" overhead wires (as defined in ANSI A300).

D. Vehicular Area

In or adjacent to any vehicular area and parking lot which abuts the right-of-way, provisions shall be made to prevent any parts of the vehicles from touching trees and plants; in addition provision shall be made to protect trees and plants from noxious fumes or chemicals, by providing sufficient distance between the vehicle and the plants by use of wheel stops.

VII. DEVELOPMENT REQUIRED STREET TREES

The following are the procedures to be used for the planting of trees along street frontages within a public or private right-of-way or easement for vehicular access as part of a subdivision or partition, as required by the City of Canby's Code:

1. Prior to final plat approval, the developer shall pay fees to the City based upon a requirement for one tree per 30 lineal feet of street frontage. These fees shall be deposited in the City's Urban Forestry Program Fund and used to plant and establish trees within the public rights-of-way or public lands maintained by the City within or abutting the specified subdivision or partition. Any extra revenues received through interest earnings or discounts received from volume may be used for other trees in the public rights-of-way. Interested citizens and other parties may also contribute to this program.
2. The fee amount shall be established and may be amended by a resolution of the City Council and shall be sufficient to cover all costs associated with the planting and initial maintenance of

the trees. The fees may be adjusted upon approval by the City Council.

3. The City Forester will prepare an appropriate bid document in accordance with public contracting requirements on an annual (or semi-annual) basis and the City will contract for planting and establishing the street trees. The contractor shall be responsible for both the planting and establishment of street trees on specific developments. Contractors shall be paid from the [Urban Forestry Program Fees](#) account. The City Forester shall manage the planting and maintenance contracts.
4. Trees are to be planted during winter and early spring after occupancy permits are issued, or as otherwise approved by the City Forester within one year after final certificates of occupancy are issued. The City Forester shall inspect the trees for correct number planted and type and health. Contractor establishment responsibilities shall include watering at least weekly through either one or two summers. (More often in times of severe heat.) The City Forester shall inspect the newly planted trees for health. All contracts shall include replacement and subsequent maintenance of any trees which have died or are diseased within the warranty period. The City shall determine when the trees are established and thereafter tree maintenance responsibilities shall be in accordance with City Ordinances and this Policy.
5. After the City Forester determines that the trees are established, he/she shall notify the adjoining property owner thereof and include information on the care, maintenance and pruning of such trees and the process for removal or replacement of trees. Periodic seminars on tree care and maintenance may be conducted by the Public Works Department.



STREET TREE LIST

A. Trees permitted in minimum 3-foot planting area with no overhead utility wire conditions:

1. Dogwood, Cornelian Cherry, *Comus mas*
2. Dogwood, Eastern, *Comus florida*
3. Dogwood, Kousa, *Comus kousa chinensis*
4. Hornbeam, Pyramidal European, *Carpinus betulus 'Fastigiata'*
5. Maple, Norwegian Sunset, *Acer truncatum x A. platanoides 'Keithsform'*
6. Maple, Pacific Sunset, *Acer truncatum x A. platanoides 'Warremed'*
7. Oak, Skyrocket English, *Quercus robur 'Fastigiata'*
8. Pear, Aristocrat Flowering, *Pyrus calleryana 'Aristocrat'*
9. Pear, Autumn Blaze Flowering, *Pyrus calleryana 'Chanticleer'*
10. Pear, Capital Flowering, *Pyrus calleryana 'Capital'*
11. Pear, Princess Flowering, *Pyrus calleryana 'Princess'*
12. Pear, Redspire Flowering, *Pyrus calleryana 'Princess'*
13. Plum, Krauter's Vesuvius Flowering, *Prunus cerasifera 'Krauter's Vesuvius'*
14. Plum, Newport Flowering, *Prunus cerasifera 'Newport'*

B. Trees permitted in minimum 4-foot planting area with no overhead utility wire conditions:

1. Ash Flowering, *Fraxinus ornus*
2. Ash, golden Desert, *Fraxinus oxycarpa aureaefolia 'Golden Desert'*
3. Cherry, Shubert Select Flowering or Canada Red Chokecherry, *Prunus virginiana 'Shubert'*
4. Chokecherry, Red Canada or Shubert Select Flowering, *Prunus virginiana 'Shubert'*

5. Crabapple, Profusion, Malus 'Profusion'
6. Crabapple, Red Baron, Malus 'Red Baron'
7. Crabapple, Royalty, Malus 'Royalty'
8. Crabapple, Spring Snow, Malus 'Spring Snow'
9. Crabapple, Sugar Tyme, Malus 'Sugar Tyme'
10. Ginkgo, Mayfield, Ginkgobiloba 'Mayfield'
11. Glorybower, Harlequin, Clerodendrum trichotomum
12. Goldenrain, Koelruteria paniculata
13. Goldenrain, Columnar, Koelruteria paniculata 'Fastigiata'
14. Hawthorn, Columnar, Crataegus monogyna 'Stricta'
15. Hawthorn, Lavalley, Crataegus x lavalley
16. Hawthorn, Washington, Crataegus phaenopyrum
17. Lilac, Japanese Tree, Syringa reticulata
18. Maple, Crimson Sentry Norway, Acer platanoides 'Crimson Sentry'
19. Maple, Doric Red, Acer rubrum 'Doric'
20. Maple, English Hedge, Acer campestre
21. Maple, Flame Amur, Acer ginnala 'Flame'
22. Maple, Paperbark, Acer griseum
23. Maple, Tatarian, Acer tataricum
24. Pear, Chanticleer Flowering, Pyrus calleryana 'Chanticleer'
25. Pear, Cleveland Select Flowering, Pyrus calleryana 'Cleveland Select'
26. Pear, Trinity Flowering, Pyrus calleryana 'Trinity'
27. Redbud, Eastern, Cercis canadensis
28. Serviceberry, Cumulus, Amelanchier laevis x grandiflora 'Cumulus'
29. Serviceberry, Pyramidal Shadblow, Amelanchier canadensis 'Pyramidalis'
30. Serviceberry, Robin Hill Apple, Amelanchier x grandiflora 'Robin Hill'
31. Snowball, Japanese, Styax japonica

C. Trees permitted in minimum 6-foot planting area with no overhead utility wire conditions:

1. Ash, Flame, Fraxinus osycarpa 'Flame'
2. Ash, Raywood, Fraxinus osycarpa 'Raywood'
3. Beech, Tricolor European, Fagus sylvatica 'Purpurea Tricolor'

4. Ginkgo, Ginkgo biloba
5. Ginkgo, Autumn Gold, Ginkgo biloba 'Autumn Gold'
6. Ginkgo, Fairmont, Ginkgo biloba 'Fairmont'
7. Ginkgo, Princeton Sentry, Ginkgo biloba 'Princeton Sentry'
8. Ginkgo, Shangri-la, Ginkgo biloba 'Shangri-la'
9. Honeylocust, Skyline, Gleditsia triacanthos 'Skyline'
10. Coffeetree, Kentucky, Gymnocladus dioicus
11. Cork Tree, Amur, Phellodendron amurense
12. Elm, Chinese or Lacebark Elm, Ulmus parvifolia
13. Elm, Homestead, 'Ulmus'Homestead'
14. Elm, Lacebark or Chinese Elm, 'Ulmus parvifolia'
15. Filbert, Turkish, Corylus
16. Hackberry, Common, Celtis occidentalis
17. Hophombeam, American, Ostrya virginana
18. Linden, Green Mountain Silver, Tilia tomentosa 'Green Mountain'
19. Linden, Redmond, Tilia americana 'Redmond'
20. Linden, Redmond Crimean, Tilia euchlora 'Redmond'
21. Linden, Sterling Silver, Tilia tomentosa 'Sterling'
22. Maple, Arrowhead Sugar, Acer saccharum 'Arrowhead'
23. Maple, Autumn Blaze, Acer rubrum x A. saccharinum 'Autumn Blaze'
24. Maple, Autumn Flame Red, Acer rubrum 'Autumn Flame'
25. Maple, Celebration, Acer x freemanii 'Celzam'
26. Maple, Cleveland Norway, Acer platanoides 'Cleveland'
27. Maple, Emerald Queen Norway, Acer platanoides 'Emerald Queen'
28. Maple, October Glory Red, Acer rubrum 'October Glory'
29. Maple, Red Sunset Red, Acer rubrum 'Red Sunset'
30. Maple, Schwedleri Norway, Acer platanoides 'Schwedleri'
31. Maple Spaethii Sycamore, Acer pseudoplatanus 'Atropurpurem'
32. Maple, Superform Norway, Acer platanoides 'Superform'
33. Mulberry, Kingan Fruitless, Morus alba 'Kingan'
34. Oak, Burr, Quercus macrocarpa
35. Oak, English, Quercus robur

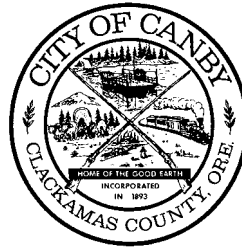
36. Oak, Forest Green Hungarian or Italian, *Quercus frainetto* 'Schmidt'
37. Oak, Northern Red, *Quercus rubra*
38. Oak, Pin, *Quercus palustris*
39. Oak, Sawtooth, *Quercus acutissima*
40. Oak, Scarlet, *Quercus coccinea*
41. Oak, Shingle, *Quercus imbricaria*
42. Oak, Shumard, *Quercus shumardii*
43. Oak, Swamp White, *Quercus bicolor*
44. Oak, Westminister Globe, *Quercus robur* 'Michround'
45. Rubber Tree, Hardy, *Eucommia ulmoides*
46. Sourgum, Black Tupelo, or Blackgum, *Nyssa sylvatica*
47. Tupelo, Black, Blackgum or Sourgum, *Nyssa sylvatica*
48. Yellow Wood, *Cladrastis kentuckia*
49. Zelkova, Green Vase, *Zelkova serrata* 'Green Vase'
50. Zelkova, Village Green, *Zelkova serrata* 'Village Green'

E. Trees permitted by Canby Utility and City of Canby for use under power wires:

1. Amur Maple, *Acer ginnala*
2. Hedge Maple, *Acer campstre*
3. Paper Bark Maple, *Acer griseum*
4. Apple Service Berry, *Amelanchier*
5. Shadblow Service Berry, *Amelanchier canadensis*
6. Eastern Redbud, *Cercis canadensis*
7. Glorybower, *Clerodendrum trichotomum*
8. Flowering Dogwood, *Comus florida*
9. Japanese Dogwood, *Comus kousa*
10. Washington Hawthorn, *Crataegue phaenopyrum*
11. Lauelle Hawthorn, *Crataegus x lavalleyi*
12. Globe-Headed European Ash, *Fraxinus excelsior globosum*
13. Flowering Ash, *Fraxinus omus*
14. Golden Desert Ash, *Fraxinus oxycarpa aureopolia*
15. Golden Rain Tree, *Koelreuteria paniculata*

16. Golden Chain Tree, *Laburnum x waterii*
17. Flowering Crabapple, 'Spring snow' or 'indian magic' *malus*
18. Flowering Cherry, 'Mt. fugi' *prunus*
19. Japanese Snowball, *Styrax japonia*

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF CANBY**



**A REQUEST FOR A MINOR LAND)
PARTITION)
486 S. Knott Street)**

**FINDINGS, CONCLUSION & FINAL ORDER
MLP 15-02
Jason Bristol**

NATURE OF THE APPLICATION

The Applicant has sought approval for a Minor Land Partition #MLP 15-02 creating 2 parcels with an access easement for an existing single-family home on Parcel 1 and retaining three existing homes on Parcel 2 on property located at 486 S. Knott Street and described as Tax Map/Lot 31E33DC 05000, Clackamas County, Oregon. The property is zoned High Density Residential (“R-2”) under the Canby Municipal Code (“CMC”).

HEARINGS

The Planning Commission considered application MLP 15-02 after the duly noticed hearing on February 23, 2015 during which the Planning Commission approved MLP 15-02. These findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not a Minor Land Partition application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated February 18, 2015 and presented at the February 23, 2015 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

The Staff Report was presented, and written and oral testimony was received at the public hearing. Staff recommended approval of the Minor Partition application and applied Conditions of Approval in order to ensure that the proposed development will meet all required *City of Canby Land Development and Planning Ordinance* approval criteria.

After accepting public testimony, the Planning Commission closed the public hearing and made the following additional findings beyond those contained in the staff report to arrive at their decision and support their recommended Conditions of Approval and the exact wording thereof:

- It was agreed that sidewalks were important and the applicant should move ahead with

installation immediately for Parcel 1. However, due to the redevelopment planned for Parcel 2 and the uncertainty as to the location of future access and density it was agreed that a non-remonstrance requirement would assure future installation in 10 years if not done before with planned redevelopment of this parcel.

- The Commission recognized that Canby Utility had requested a utility easement to protect its existing overhead electric service and that the applicant may want to work with CU for possible alternative service solutions so altered the wording of the required easement to assure Canby Utility still approves what is agreed upon and that it is shown on the partition plat.
- They accepted the removal of the “shared driveway maintenance agreement” mentioned in Condition #4 of the staff report when the director indicated it was included by mistake and was not needed since each resulting lot had its own driveway.
- They agreed the new driveway for Parcel 1 shall be paved and accepted the continued use of the existing gravel drive serving homes on Parcel 2 until the property is redeveloped since Canby Fire indicated for the record they had used it in the past and were satisfied it was adequate until redevelopment occurred so modified staff report recommended condition #5 to eliminate paving of the existing gravel drive.
- The Commission recognized that retaining the existing trees near the street satisfied the street tree planting requirement but did see merit in requiring the establishment of the standard street tree easement within the first 12’ of private property to allow for possible future street tree planting – especially on Parcel 2 - which is planned to be redeveloped.

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report along with the additional findings concluded at the public hearing and noted herein, concluding that the Minor Land Partition application meets all applicable approval criteria, and recommending that File #MLP 15-02 be approved with the Conditions of Approval reflected in the written Order below.

ORDER

The Planning Commission concludes that, with the following conditions, the application meets the requirements for Minor Land Partition approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **MLP 15-02** is approved, subject to the following conditions:

CONDITIONS OF APPROVAL

Minor Partition Conditions Unique to This Request:

1. The applicant is responsible for determining if existing utility service to all existing structures will need to be relocated or protected by private easement as a result of this partition.
2. A sidewalk shall be installed adjacent to the street curb along Parcel 1 providing the required minimum 36" wide clear path behind any mailboxes to meet ADA standards and execute a non-remonstrance for Parcel 2 if a sidewalk is not constructed by the applicant within 10 years of the date the partition plat is recorded.
3. All work associated with the new paved driveway access or utility installations shall secure a street construction permit and comply with City current Public Works Design Standards.
4. Any utility easement to serve Parcel 1 and Parcel 2 shall be approved by Canby Utility and shown on the partition plat.
5. The applicant shall pave the proposed driveway for Parcel 1 a minimum of 20 feet from the right-of-way of S. Knott Street.
6. A street tree easement 12 feet wide measured from the front property line shall be provided along the frontage of Parcel 1 and Parcel 2. This easement shall be designated on the Partition Plat.

Final Partition Plat Conditions:

7. A final surveyed partition plat shall be prepared by a licensed surveyor for recording the partition plat of record. Prior to recordation with Clackamas County, the plat shall be submitted to the city along with applicable fees for review by the city and other appropriate agencies. The final plat must be submitted to the city within one year of Planning Commission approval or the applicant must request, in writing, a one year extension from the Planning Commission. The applicant or county shall provide the city with a recorded copy of the plat in a timely manner.

Monumentation/Survey Accuracy Conditions:

9. The county surveyor shall verify that the survey accuracy and monumentation requirements set forth in Oregon Revised Statutes and CMC 16.64.070(M) are met prior to the recordation of the final plat. Installation of the front lot monumentation (along and within street rights-of-way) and the replacement of any existing monuments destroyed during improvement installation shall be confirmed by the city engineer or county surveyor prior to the recordation of the partition plat.

10. Monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92. The city engineer or county surveyor shall verify compliance with this condition prior to the recordation of the final plat.

Residential Building Permits Conditions:

11. Construction of all required public improvements and the recordation of the partition plat must be completed prior to the issuance of future building permits.

12. All public improvements shall comply with all applicable City of Canby Public Works Design Standards.

13. Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet and the maximum residential driveway widths shall be 24 feet with an allowed exception for 28 feet for a home with 3 or more garages.

I CERTIFY THAT THIS ORDER approving **MLP 15-02** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 23rd day of March, 2015

 Tyler Smith
 Planning Commission Chair

 Bryan Brown
 Planning Director

 Attest

ORAL DECISION: February 23, 2015

<i>Name</i>	<i>Aye</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
<i>Tyler Smith</i>	✓			
<i>John Savory</i>	✓			
<i>Shawn Hensley</i>	✓			
<i>John Serlet</i>	✓			
<i>Larry Boatright</i>	✓			
<i>Vacant</i>				
<i>Vacant</i>				

WRITTEN DECISION: March 23, 2015

<i>Name</i>	<i>Aye</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
<i>Tyler Smith</i>	✓			
<i>John Savory</i>	✓			
<i>Shawn Hensley</i>	✓			
<i>John Serlet</i>	✓			
<i>Larry Boatright</i>	✓			
<i>Vacant</i>				
<i>Vacant</i>				

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