

## PLANNING COMMISSION

### Meeting Agenda

Monday – October 13, 2014

7:00 PM

City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

Commissioner Tyler Smith (Chair)

Commissioner John Savory

Commissioner John Serlet

Commissioner (Vacant)

Commissioner Shawn Hensley

Commissioner Larry Boatright

Commissioner (Vacant)

- 
1. CALL TO ORDER
  2. CITIZEN INPUT ON NON-AGENDA ITEMS
  3. MINUTES
    - a. *Planning Commission Minutes, September 22, 2014*
  4. PUBLIC HEARING
    - a. *Consider a request from Will Snyder, White River Homes for approval of a Minor Land Partition application proposing to create two lots at 103 NE 9<sup>th</sup> Avenue. (MLP 14-02)*
    - b. *Consider a request from Robert & Mary Lane for approval of a Conditional Use Permit application to construct a detached accessory dwelling in their rear yard at 1350 N Birch Street. (CUP 14-02)*
  5. NEW BUSINESS - None
  6. FINAL DECISIONS  
*(Note: These are final, written versions of previous oral decisions. No public testimony.)*
    - a. *DR 14-02/CUP 14-01 Verizon Wireless*
    - b. *MLP 14-02 Will Snyder, White River Homes*
    - c. *CUP 14-02 Mary & Robert Lane*
  7. ITEMS OF INTEREST/REPORT FROM STAFF
    - a. *Next Regular Planning Commission meeting scheduled for Monday, October 27, 2014*
  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](http://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.*

## PUBLIC HEARING FORMAT

The public hearing will be conducted as follows:

- **STAFF REPORT**
- **QUESTIONS** (If any, by the Planning Commission or staff)
- **OPEN PUBLIC HEARING FOR TESTIMONY:**
  - APPLICANT** (Not more than 15 minutes)
  - PROPONENTS** (Persons in favor of application) (Not more than 5 minutes per person)
  - OPPONENTS** (Persons opposed to application) (Not more than 5 minutes per person)
  - NEUTRAL** (Persons with no opinion) (Not more than 5 minutes per person)
  - REBUTTAL** (By applicant, not more than 10 minutes)
- **CLOSE PUBLIC HEARING** (No further public testimony allowed)
- **QUESTIONS** (If any by the Planning Commission)
- **DISCUSSION** (By the Planning Commission)
- **DECISION** (By the Planning Commission)

All interested persons in attendance shall be heard on the matter. If you wish to testify on this matter, please step forward when the Chair calls for Proponents if you favor the application; or Opponents if you are opposed to the application; to the microphone, state your name address, and interest in the matter. You will also need to sign the Testimony sheet at the microphone with your name and address. You may be limited by time for your statement, depending upon how many people wish to testify.

**EVERYONE PRESENT IS ENCOURAGED TO TESTIFY, EVEN IF IT IS ONLY TO CONCUR WITH PREVIOUS TESTIMONY.** All questions must be directed through the Chair. Any evidence to be considered must be submitted to the hearing body for public access.

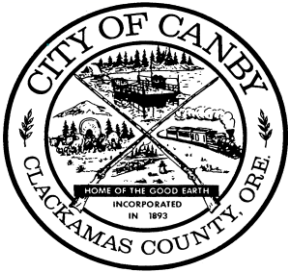
Testimony and evidence must be directed toward the applicable criteria listed on the wall.

Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and interested parties an opportunity to respond to the issue, may preclude appeal to the City Council and the Land Use Board of Appeals based on that issue.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government to respond to the issue may preclude an action for damages in circuit court.

Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The Planning Commission shall grant such requests by continuing the public hearing or leaving the record open for additional written evidence or testimony. Any such continuance of extension shall be subject to the limitations of the 120-day rule, unless the continuance or extension is requested or agreed to by the applicant.

If additional documents or evidence are provided by any party, the Planning Commission may, if requested, allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any such continuance or extension of the record requested by an applicant shall result in a corresponding extension of the 120-day time period.



**MINUTES**  
**PLANNING COMMISSION**  
September 22, 2014 7:00 PM  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Tyler Smith, Shawn Hensley, John Savory, John Serlet, and Larry Boatright

**STAFF:** Bryan Brown, Planning Director

**OTHERS:** Randy Tessman, Shirley Tessman, Ray Lawrence, Laney Fouse, Jim Jagers, Konrad Hyle, Job Cacka, Valerie Kraxberger, Lindasue Spencer, Doug Spencer, and Councilor Ken Rider

**1. CALL TO ORDER**

Chair Smith called the meeting to order at 7 pm.

**2. CITIZEN INPUT ON NON-AGENDA ITEMS - None**

**3. MINUTES**

- a. *Planning Commission Minutes, August 11, 2014*

**Motion:** *A motion was made by Commissioner Savory and seconded by Commissioner Hensley to approve the August 11, 2014 Planning Commission minutes as written. Motion passed 4/0/1 with Chair Smith abstaining.*

**4. PUBLIC HEARING**

- a. *Consider a Site and Design Review & Conditional Use Permit from Verizon Wireless to construct a 100' Monopole with 12 – 8' panel antennas with the tip of antennas at a height of 104', ground equipment installed on a 22' x 3.5' concrete pad, with a 30kW backup generator installed on a 10' x 5' concrete pad, all within a 50' x 50' lease area surrounded by a secure chain link fence with screen slats topped with barbed wire at this unmanned site. (DR 14-02/CUP 14-01)*

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

The Commission had no conflicts of interest and no ex parte contacts to declare. Commissioner Savory had driven by the site. There were no objections from the audience.

Bryan Brown, Planning Director, entered the staff report into the record. He explained the nuances in the cell phone tower ordinance for preferred locations. It was easier to gain approval the closer the site was to a preferred location and this site was in the preferred zone. Also if a cell phone tower was less than 100 feet tall and 660 feet away from the nearest residential zone, all they had to do was get a building permit. If the proposed pole was lowered to less than 100 feet, it was currently proposed at 104 feet, the applicant would not need a Conditional Use Permit. Because the pole was not 660 feet away from the nearest residential zone, it had the Site and Design Review requirement. Cell towers were a necessity today and were guided by the FCC. The area was a light industrial

zone and he showed pictures of what the cell tower would look like and discussed the site plan. The gates proposed to the leased area required the property owner to close an existing gate to the property a few feet to the north so there were not too many driveways close together. There would only be a once a month visit to maintain the tower. Staff recommended a fully paved driveway and approach as one of the conditions of approval. There were no setback requirements. The structural safety of the facility would be checked before a building permit was issued. The applicant held a neighborhood meeting and several issues were discussed. Some of the concerns were trucks from the nearby business running into the cell tower, the tower would interfere with television or radio service, and concern about emissions of radio waves. He then gave an application feature summary and reviewed the recommended site related requirements.

There was discussion regarding how Mr. Brown did not think the application was thorough enough in why they did not site the facility on the public property behind the police building. There was further discussion regarding stealth designs and the applicant's concern about long term maintenance and that the condition regarding color was only needed if there was a concern.

### **Applicants:**

Konrad Hyle and Jim Jagers were representing the applicant, Verizon Wireless. Mr. Hyle discussed the zoning map of the location and the search parameter they had used. There were not many sites that fit the 660 foot requirement, so they had to do a Site and Design Review. The height of the tower was over 100 feet because of the antenna tip height. Since it was over the 100 feet, it was a Conditional Use. The 660 foot radius study was entered into the record. The public property near the police station was lower topographically and near a flood plain and was deemed to have less valuable characteristics than the proposed site. There was an agreement with the property owner of the proposed site and the site was in a preferred industrial location. The FCC would issue a license to Verizon for the structure. It would offer communication to customers as well as emergency services. An interference study had been done and found they were in compliance with FCC regulations. The tower was designed to handle two additional carriers. Regarding color, typically these towers were natural finish galvanized steel, but they were open to any color the Commission requested. Regarding landscaping, it was possible to provide irrigation, but they preferred a solid opaque fence to satisfy the screening condition instead of landscaping.

Commissioner Savory was concerned about how the 104 foot tower would affect the nesting bald eagles in the area. Mr. Hyle said all cell towers under federal law were required to submit an environmental report and if there was a habitat issue it would be addressed. Mr. Jagers said no issues were identified through the due diligence that had been done to date. The construction company nearby had 120 foot cranes on their property and a tall flag pole was nearby also.

Commissioner Serlet was concerned about the back-up generator and if it would be muffled. Mr. Jagers said typically they were muffled. It could be a condition that it was muffled. They were required to comply with State DEQ standards for noise emissions. The fuel tank would be a contained double wall steeled self-contained unit.

### **Opponents:**

Randy Tessman, resident of Canby, lived on Baker Drive. He said trucks continually came through his neighborhood and had taken out his security fence three times. There were many trucks around the site since Johnson Controls was nearby. There was a residential property 350 feet away from the site. This was 25 feet from the Baker Drive property line and if the cell tower toppled it would interfere with traffic and could cause injuries or property damage. He had seen large trees fall over

in Canby's sandy loam soil and wanted to make sure the tower had a firm foundation that could handle the wind and earthquakes. Placing the cell tower so close to the street added another eyesore to an industrial park that was not very well kept up.

Job Chocka, resident of Canby, lived on Baker Drive. He said the proposed cell tower location had Canby's sandy loam soil and he was concerned what might happen in an earthquake as it was close to the street. The landscape barrier proposed by staff would not screen it from the neighborhood due to its height. There was a buffer zone between the Industrial Park and the neighborhood, however it was not being maintained and there was nothing to screen the neighborhood from the industrial site. The cranes next to the proposed site came and went, they were not permanent structures. He was also concerned about blinking lights that might be on the cell tower that could be seen by the houses at night. There was not enough research into the long term effects of radio waves on people's health. He thought the further away from the street and residents, the better it would be for all.

Commissioner Savory clarified the applicant had agreed that there would be no lights on the tower.

Laney Fouse and Ray Lawrence, residents of Canby, also live on Baker Drive next door to the proposed site. Their biggest concern was the visual blight. They had dust issues with the proposed site, and were in favor of paving the driveway to the cell tower. They were also concerned that property values would suffer. Mr. Lawrence suggested arborvitae be put in for screening.

Linda Spencer, resident of Canby, lived a block away, but was still within visual distance. The City put in a pedestrian/bike path in the area and she was concerned about traffic issues with the tower.

**There were no proponents or neutral testimony.**

**Rebuttal:**

Mr. Hyle said there would be trucks during construction, but after that there would only be one vehicle trip per month to the site by a technician. Very little traffic would be generated by the cell tower. Regarding the structural integrity and soil, a geotechnical report had already been done and the foundation would be designed in accordance with the soils. Cell towers were designed to withstand heavy storms and earthquakes. Regarding dust, construction procedures would be followed for dust control. He said, there was no evidence that it would be detrimental to property values. He thought property values would increase over time.

Commissioner Savory wanted effort made to determine whether there would be any adverse effect on the bald eagles. Mr. Hyle thought this concern could be satisfied along with the building permit submittal. It was not a City Code requirement.

Chair Smith closed the public hearing.

**Commissioner Deliberation:**

Chair Smith thought the color issue as well as comparing other options for the location had been adequately addressed. He did not think the cell tower would be in compliance with the low impact design standard for landscaping and irrigation while there was grass there. He suggested a condition that they resolve their landscape watering issue. He was not concerned about the site location. He thought there should be another condition about the blinking lights.

Commissioner Savory also had concerned about the watering issue. He thought the blinking lights were already addressed.

Commissioner Hensley agreed with the watering issue as well. Commissioner Serlet thought that by using native plants that were used to dry periods in the summer they could get around the issue. He thought a natural galvanized metal was preferable to paint.

There was discussion regarding whether or not arborvitae was an option for screening.

Chair Smith suggested some amendments to the conditions and revised findings. Condition 10 should be amended to say the screening slats within the fencing shall be a color agreed to by the applicant and Planning Department. For the final findings, he suggested striking General Findings 1 and 2 that listed all of the exhibits but did not contain the testimony of the applicant and public testimony. Instead the findings should say the record on file and as presented at the public hearing as what the decision was based upon. Staff should also write different findings to be reviewed at the next Planning Commission meeting to address the topic that the applicant did not have adequate responses on other locations. He thought there were other alternative locations discussed and there was adequate consideration of other locations. There should also be a condition regarding no solid or blinking lights would be on top of the tower unless it was required by the FAA.

***Motion:** A motion was made by Commissioner Savory and seconded by Commissioner Serlet to approve DR 14-02/CUP 14-01 with the conditions that an adequate water supply for the landscaping be installed, the issue of a blinking light was confirmed as not necessary, Condition 10 would be amended to say the color of the slats would be agreed upon by the applicant and Planning Department, and staff's findings would be amended to say the explanation of other site locations was considered. Motion passed 5/0.*

Chair Smith said the findings would be brought back to the next Planning Commission meeting.

**5. NEW BUSINESS – None**

**6. FINAL DECISIONS – None**

**7. ITEMS OF INTEREST/REPORT FROM STAFF**

a. *Next Regular Planning Commission meeting scheduled for Monday, October 13, 2014*

Mr. Brown discussed what was on the October 13 meeting agenda.

b. *Copies of Text Amendments for Chapter 16 Planning & Development Code*

Mr. Brown said the City Council did not approve the text amendments for the Type 2 process in the industrial zone district, but they did approve the other modifications and clarifications except the 12 employees per acre which the Planning Commission recommended to delete. The Council added that back in to the Code as it was an ideal they wanted staff to strive for.

c. *LUBA update*

Mr. Brown said regarding the Fred Meyer fuel station, the City prevailed on the second appeal to LUBA. That decision was appealed to the Court of Appeals and the hearing would be held in October.

d. *Employee update*

Ms. Lehnert had her baby and decided not to come back to work. Mr. Brown would be reviewing applications for the Associate Planner position that week.

- e. *Will the Planning Commission ever utilize large format hardcopy site plan drawings?*

Mr. Brown asked if the Planning Commission wanted a full hardcopy roll of plans for Site and Design Review applications. Currently the information was being sent electronically and it was costly for applicants to provide the plans. He asked if the number of hardcopies from the applicant could be reduced since they were not being used.

Chair Smith thought they should only be provided if there was so much detail that the writing would be too small on 8.5 x 11 paper.

Commissioners Savory and Hensley liked getting the larger plans. Commissioner Serlet did not think it was necessary.

Chair Smith thought they should require 3 to 4 copies of the plans.

**8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None**

**9. ADJOURNMENT**

Chair Smith adjourned the meeting at 8:32 pm.

The undersigned certify the September 22, 2014 Planning Commission minutes were presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this 13<sup>th</sup> day of October, 2014

\_\_\_\_\_  
Bryan Brown, Planning Director

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Laney Fouse, Minutes Taker

Assisted with Preparation of Minutes – Susan Wood







# City of Canby

## MINOR PARTITION STAFF REPORT

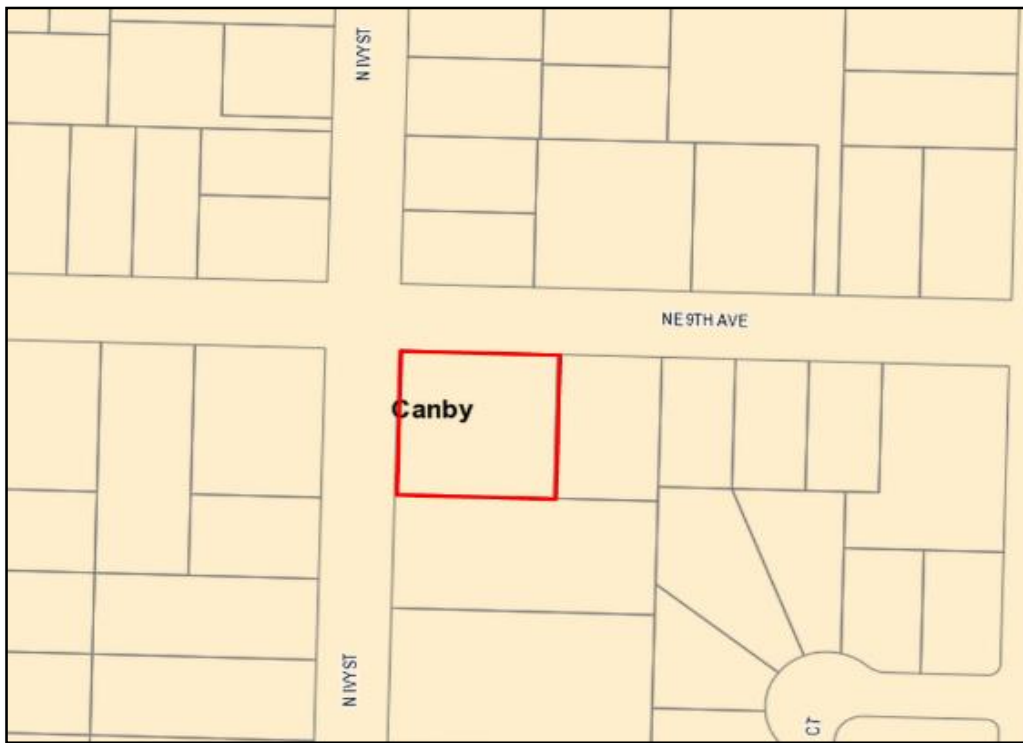
FILE #: MLP 14-02

Prepared for the October 13, 2014 Planning Commission Meeting

**LOCATION:** 103 NE 9<sup>th</sup> Avenue

**ZONING:** R-1 Low-Density Residential

**TAX LOT:** 31E33BD06600 (Bordered property in map below)



**LOT SIZE:** 16,877 sf

**OWNER:** Snyder Construction, LLC

**APPLICANT:** Will Snyder, Snyder Construction, LLC

**APPLICATION TYPE:** Minor Partition (Type III)

**CITY FILE NUMBER:** MLP 14-02

### I. PROJECT OVERVIEW & EXISTING CONDITIONS

Snyder Construction, LLC intends to partition the subject property east and west creating a north lot (Parcel 1) that contains an existing dwelling which is intended to remain and a new south lot (Parcel 2) that contains an existing shop which the applicant proposes to also keep as a future assessor building to the new home that is planned to be built on this lot.

The existing parcel is nearly square. Besides the existing structures mentioned above, the site has several fences and quite a lot of vegetation, much of it planned to be removed in order to develop the new home site. The existing home has a single wide driveway onto 9<sup>th</sup> Avenue at the east boundary of the property. The proposed new home parcel is intended to utilize the existing curb opening to N. Ivy Street that leads to the existing shop building as the driveway location to serve the new home while closing another curb opening on N. Ivy Street closer to the intersection with NE 9<sup>th</sup> Avenue that is not necessary.

Parcel 1 with the existing dwelling is proposed to be approximately 9,088 square feet in size while Parcel 2 intended for a new home will be approximately 7,680 square feet.

All necessary utilities to serve the proposed new home site on Parcel 2 is available from the N. Ivy Street right-of-way according to the applicant who has made inquiries with agencies about their availability. Both water and sanitary sewer are located just east of the centerline of N. Ivy while electric power is along the west side of N. Ivy Street.

## **II.** ATTACHMENTS

- A. Application form – narrative and notification search radius map
- B. Citizen and agency comments/written testimony

## **III.** APPLICABLE CRITERIA & FINDINGS

Major approval criteria used in evaluating this application are the following chapters from the *City of Canby's Land Development and Planning Ordinance (Zoning Code)*:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.16 R-1 Zone
- 16.21 Residential Design Standards
- 16.43 Outdoor Lighting Standards
- 16.46 Access Limitations on Project Density
- 16.56 Land Division General Provisions
- 16.60 Major or Minor Partitions
- 16.64 Subdivisions-Design Standards
- 16.89 Application and Review Procedures
- 16.120 Parks, Open Space, and Recreation Land General Provisions

Excerpts from the code are highlighted below in **gray**, with findings and discussion after the citations. If not discussed below, other standards from the Code are either met fully, not applicable, and/or do not warrant discussion.

### ***Chapter 16.08 General Provisions***

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#### **16.08.090 Sidewalks required.**

- B. *The Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews.*

**Findings:** The subject tract has sufficient existing curb tight sidewalks on both street frontages. The sidewalk along the NE 9<sup>th</sup> Street frontage was just installed this past year by the City as a capital improvement street project along this section of NE 9<sup>th</sup> Avenue. In discussion with the applicant, staff has noted that one of the two existing curb openings on the N Ivy Street frontage is not likely to be used in association with driveway service to the house to be built on the newly created parcel. By condition of approval this driveway curb opening shall be removed and regular sidewalk replaced. With this condition, this standard is met.

**Note:** The city's 2010 Transportation System Plan (TSP) calls for at least 6 foot sidewalks for all types of road classifications (Figures 7-4 through 7-6), however the existing 5 foot sidewalks matches all other sidewalks in the vicinity.

#### **16.08.110 A-D Fences**

**Findings:** There are several existing 6' tall fences on the existing parcel. The applicant has indicated to staff that several are planned to be removed. The fence located adjacent to the property line along the N. Ivy Street frontage should be removed as a condition of approval in the creation of the new buildable parcel since this becomes the front yard of the new home. Fencing no taller than 3 ½ feet are allowed within the 20' front yard of a newly created parcel. Any new fencing proposed by the applicant must comply with the fence regulations of 16.08.110 A-D. With the existing fence removal condition, this standard will be met.

#### **16.08.150 Traffic Impact Study (TIS).**

*Contains standards pertaining to traffic studies including purpose, scoping, determination, submittal requirements, content, methodology, neighborhood and through-trip studies, mitigation, conditions of approval, and rough proportionality determination*

**Findings:** A Traffic Impact Study was not required for this proposal because it was determined that this proposal did not meet the threshold requirements for a TIS as provided in CMC 16.08.150. A new home is generally expected to add approximately 9 new daily trips to the adjacent street. This is considered to be insignificant, thus no study is deemed necessary.

#### **16.08.160 Safety and Functionality Standards**

*The City will not issue any development permits unless the proposed development complies with the city's basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have the following:*

- A.** Adequate street drainage, as determined by the city.
- B.** Safe access and clear vision at intersections, as determined by the city.
- C.** Adequate public utilities, as determined by the city.
- D.** Access onto a public street with the minimum paved widths as stated in Subsection E below.
- E.** Adequate frontage improvements as follows:
  - 1.** For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.
  - 2.** For collector and arterial streets, a minimum paved width of 20 feet along the site's

- frontage.
3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.
  4. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies.

**Findings:**

- Evidence from utility service providers indicates that the existing public facilities are adequate to serve the new lot and its' intended use for a new home.
- No additional public improvements have been identified as needed in association with this application other than the removal of an existing curb opening and associated sidewalk segment replacement and the replacement of the sidewalk and street curb if necessary where the water and sewer lateral connections to main occur. This work must include notification of the Public Works department with a street opening permit and compliance with street and sidewalk standards. (See related condition of approval).
- Storm water runoff is required to be retained on-site in association with the construction of the new home, with roof drains typically directed to rear yard seepage swales or drain fields. (See related condition of approval). No change to street runoff is anticipated with the development of a new home other than the allowed driveway runoff into the public street.
- There may be existing clear vision violations due to extensive vegetation near the intersection of NE 9<sup>th</sup> Avenue and N Ivy Street that need to be corrected prior to issuance of any new development permit on the subject property. With a condition of approval to comply with clear vision requirements under Chapter 16.16 this standard will be met.
- The development must meet all city public works requirements and the requirements of applicable utility agencies (see related condition(s) of approval) prior to the issuance of a building permit and final partition plat recordation for applicable public improvements.
- The development will have access onto existing paved public streets that comply with code provisions (2) and (3) above.
- Staff is not aware of any existing mobility deficiency that exists in the street system adjacent to this partition.

## ***Chapter 16.10 Off Street Parking & Loading***

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### **16.10.030 General requirements**

- D. Off-street parking spaces for dwellings shall be located on the same lot, or adjacent lot, with the dwelling. Parking spaces located within an on-site garage shall count toward the minimum parking requirement for residential uses.

### **16.10.050 Parking standards designated**

The parking standards set out in Table 16.10.050 shall be observed.

**TABLE 16.10.050**

*Off-street Parking Provisions - The following are the minimum standards for off-street vehicle parking:*

<b>USE</b>	<b>PARKING REQUIREMENT</b>
<b>Residential Uses:</b>	
a. Single-family dwellings	2.00 spaces per dwelling unit for new construction. (Existing single-family dwellings having only a single parking space shall not be considered to be nonconforming.)

**Findings:** The provision of 2 on-site parking spaces for the proposed new dwelling will be confirmed when the applicant applies for a building permit.

**16.10.070 Parking Lots and Access**

**A. Parking Lots.** A parking lot, whether as accessory or principal use, intended for the parking of automobiles or trucks, shall comply with the following:

1. Parking lot design shall comply with the dimensional standards set forth in Figure 1 of this section.

**TABLE 16.10.070**

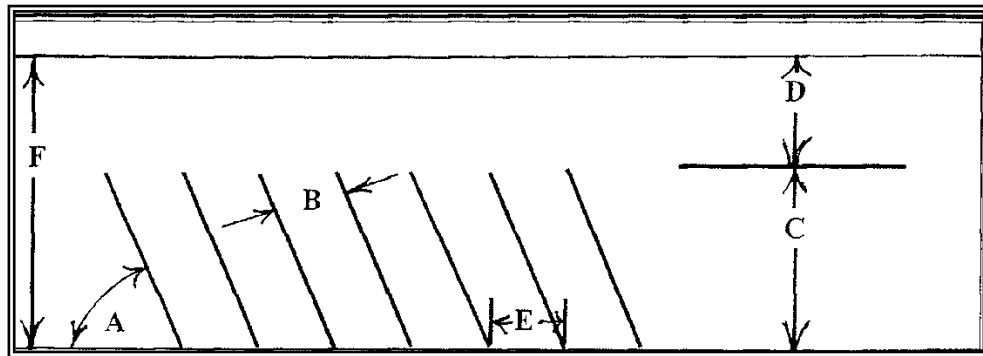
**Minimum dimensional Standard for Parking**

This table and Figure 16.10.070 provide the minimum dimensional standards for parking areas and spaces.

A = Parking angle in degrees  
 B = Minimum stall width  
 C = Minimum stall depth

D = Minimum clear aisle width  
 E = Minimum clear stall distance at bay side  
 F = Minimum clear bay width

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>
0 (parallel)	8'0"	-	12'0"	22'0"	20'0"
30	8'6"	16'4"	12'0"	17'0"	28'4"
45	8'6"	18'9"	12'6"	12'0"	31'3"
60	8'6"	19'10"	18'0"	9'10"	37'10"
90	8'6"	18'0"	24'0"	8'6"	42'0"



**Findings:** The minimum residential driveway width is 12 feet for a single car and 24 feet for a 2

car wide driveway as measured at the property line. The driveway dimensions will be verified when the applicant applies for a city Site Plan/County Building Permit and/or city Street Opening Permit.

3. Areas used for standing or maneuvering of vehicles shall have paved asphalt, concrete, solid concrete paver surfaces, or paved "tire track" strips maintained adequately for all weather use and so drained as to avoid the flow of water across sidewalks or into public streets, with the following exception:
4. The full width of driveways must be paved in accordance with (3) above:
  - a. For a minimum of 20 feet from the right-of-way line back into the private property to prevent debris from entering public streets, and
  - b. To within 150 feet of all portions of the exterior wall of the first story of any structure(s) served by the driveway to ensure fire and emergency service provision.

**Findings:** The proposed driveways are to be paved per above; exception standards are noted in this section; compliance with above will be verified when the applicant applies for a city Site Plan/County Building Permit and/or a city Street Opening Permit.

6. Groups of more than four (4) parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.

**Findings:** This standard is not applicable.

**B. Access.**

3. All ingress and egress shall connect directly with public streets.
4. Vehicular access for residential uses shall be brought to within fifty (50) feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.
5. Required sidewalks shall extend from the ground floor entrances or the ground floor landing of a stairs, ramps or elevators to the sidewalk or curb of the public street or streets that provide the required access and egress.

**Findings:** This standard will be verified for compliance when the applicant applies for a city Site Plan/County Building Permit and/or a city Street Opening Permit.

6. To afford safe pedestrian access and egress for properties within the city, a sidewalk shall be constructed along all street frontages, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to city standards except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design, and in a manner approved by the Site and Design Review Board. Sidewalks approved by Board may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grade and alignment established by the Site and Design Review Board.

**Findings:** The existing sidewalks meet this standard.

Minimum Access Requirements			
<b>16.10.070(B)(8): Minimum access requirements for residential uses - ingress and egress for residential uses shall not be less than the following (except that in the case of flag lots, section 16.64.0400) shall apply):</b>			
<i>Dwelling units</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks &amp; Curbs (in addition to driveways)</i>
1 or 2	1	12 feet	none required

**Findings:** This standard will be verified for compliance when the applicant applies for a city Site Plan/County Building Permit and/or a city Street Opening Permit.

**9. Maximum driveway widths and other requirements except for single-family dwellings [see subsection (d) below]:**

**d. The minimum distance between two driveways on one single-family residential lot shall be thirty (30) feet. There is no minimum setback distance between a driveway and the property line for driveways on single-family residential lots.**

**Findings:** The applicant has indicated that there are two existing driveway curb openings into the property on Ivy Street. He plans to eliminate one of these and use the other. The minimum driveway separation distance of 30’ for driveways on one single-family dwelling lot will be met if one of the existing driveways is removed. Public Works Design Standards also requires that driveways onto a collector street such as N Ivy Street be at least 100’ apart. This separation is not met considering the adjacent residential property has a driveway just on the other side of the southern property line which is likely to meet the 10’ driveway-to-driveway separation (Section 2.211(g)) for residences on local streets. Staff recommends that the Planning Commission approve an exception of the driveway separation requirement since it is one of two existing driveways with the one located closest to the street intersection being removed to better conform to standard as a necessary condition of approval of this minor partition application.

**10. Distance Between Driveways and Intersections- Except for single-family dwellings [see subsection (f) below] the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection:**

**f. The minimum distance between driveways for single-family residential houses and an intersection shall be thirty (30) feet. The distance shall be measured from the curb intersection point [as measured for vision clearance area (16.04.670)].**

**Findings:** The above standard applies to Parcel 2 where a new home site is to be available. The

30' separation standard from the street intersection is easily met. The Public Works Design Standards are more restrictive due to the collector classification of N Ivy Street requiring a 100' separation distance. The total existing lot frontage along N Ivy Street is 130'. If the southernmost existing driveway is utilized, the 100' separation distance will also be met for the existing driveway to be used to serve a new home located on Parcel 2.

## **16.16 R-1 Low Density Residential Zone**

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### **16.16.010 Uses permitted outright**

Uses permitted outright in the R-1 zone shall be as follows:

- A. Single-family dwelling; one single-family dwelling per lot;

**Findings:** The new use proposed is a permitted single family residential use.

### **16.16.030 Development standards**

The following subsections indicate the required development standards of the R-1 zone:

- A. Minimum and maximum lot area: seven thousand (7,000) square feet minimum, and ten thousand (10,000) square feet maximum, per single-family dwelling... the Planning Commission may approve smaller or larger lots in conformance with subsection B, below.

**Findings:** The above minimum and maximum lot size standard is met on both proposed parcels.

- B. Lot area exceptions:

- 1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.16.030.A as part of a subdivision or partition application when all of the following standards are met:
  - a. The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas shall be no less than seven thousand square feet and no greater than ten thousand square feet.

**Findings:** This standard is N/A.

- b. No lot shall be created that contains less than six thousand square feet;

**Findings:** This standard is N/A.

- 2. A public benefit must be demonstrated in order to allow more than ten percent of the lots to be outside of the minimum and maximum lot areas in subsection 16.16.030.A.

**Findings:** This standard is N/A.

- C. Minimum width and frontage: sixty feet, except that the Planning Commission may approve lots having less frontage subject to special conditions to assure adequate access.



**Findings:** Parcel 2 is proposed to utilize the minimum 60' lot width frontage while Parcel 3 will be somewhat larger.

**D. Minimum yard requirements:**

1. *Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only;*

**Findings:** Street yard setbacks for the proposed new house on Parcel 2 will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

2. *Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots, fifteen feet single story or twenty feet two-story. One story building components must meet the single story setback requirements; two story building components must meet the two-story setback requirements;*

**Findings:** The original Tax Lot contains an existing house and an accessory structure which will end up in the rear of the newly created Parcel 2. It complies with the reduced 3' setbacks applicable to detached accessory buildings within the rear yard that are more than 60' from any street. A temporary zoning anomaly will occur as a result of approval of this partition by separating the existing accessory building from the existing home – or principal use of the property until a new home is built on Parcel 2 to accompany the accessory building. Staff is not concerned about maintaining the accessory building without an associated primary building since the applicant is specifically applying for the partition to be able to build a new home on Parcel 2 to go with the existing accessory building. An accessory building without an associated home is technically a zoning violation because it has the potential to be used as a commercial storage or other inappropriate principal use within the R-1 district if a house is never built on the lot. A condition of approval to restrict use of the existing storage building prior to a home being constructed on the property to only those allowed as a principal use in the R-1 zone is appropriate.

3. *Interior yard: Seven feet, except as otherwise provided for zero-lot line housing.*

**Findings:** The existing house faces 9<sup>th</sup> Avenue and takes access from 9<sup>th</sup> as well. This makes the 9<sup>th</sup> Avenue frontage the front yard at (20' setback) and opposite along the new south property line the rear yard which has a minimum rear setback of 10' for a single-story home on a corner lot. The conceptual drawing does not indicate the distance the existing home is from the eastern property line which becomes the interior yard. Since this boundary is not changing, the standard does not matter, as the existing home is grandfathered in. The interior yard setbacks for the proposed new house will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

**E. Maximum building height:**

1. *Principal building: thirty-five feet.*

**Findings:** The existing home is a single story, therefore easily complying with the 35' height standard. Requirements for the new house will be verified when the applicant applies for a city Site Plan Permit/County Building Permits. Infill height standards in 16.21 will also apply to the

proposed new house, limiting it to no taller than 28 feet; infill height standards contain restrictions on the heights of infill homes in order to maintain the character of existing one-story neighborhoods.

**F.** *The maximum amount of impervious surface allowed in the R-1 zone shall be 60 percent of the lot area.*

**Findings:** The 60% maximum impervious surface requirement will be verified when the applicant applies for a city Site Plan Permit/County Building Permit for a new home.

**G.** *Other regulations:*

- 1.** *Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.*
- 2.** *All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements.*
- 3.** *Required yards on southern and western exposures may be reduced by not more than five feet for eaves or canopies to provide shade.*
- 4.** *Accessory buildings shall not have a larger footprint than the primary building, unless lot area exceeds twelve thousand square feet.*

**Findings:** The above requirements will be verified when the applicant applies for a city Site Plan Permit/County Building Permits for a new home.

## ***16.21 Residential Design Standards***

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### ***16.21.020 Applicability and review procedure for single family and two family dwellings.***

*The standards in sections 16.21.030 through 16.21.050 apply to single family dwellings, manufactured homes, and two family dwellings (duplexes). Where a proposal is for an alteration or addition to an existing development, the standards of this section apply only to the portion being altered or added. If the applicant can demonstrate that implementation of the standards would be impractical due to lot size, shape, slope, or other natural feature of the property that does not generally apply to other properties in the city, the Planning Director may waive any of the standards which are demonstrated to be impractical.*

### ***16.21.030 Single family and two-family dwelling design menu.***

### ***16.21.040 Main entrances for single family and two family dwellings.***

**Findings:** The residential design standards of Chapter 16.21.020-040 are applicable to the proposed new house and will be verified when the applicant applies for a city Site Plan Permit/County Building Permits. Infill home standards in Chapter 16.21 permit homes up to a maximum height of 28 feet and contain step-up standards to prevent tall 2-story structures directly abutting existing 1-story homes at the usual minimum setback.

**16.21.050 Infill Homes**

**Findings:** Infill homes are defined in 16.04.255 as “existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that are located in an R-1 or R-1.5 zoning district, and that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval).”

The proposed new home meets the definition of an infill home; therefore the standards of 16.21.050 are applicable to this proposal. The standards of Chapter 16.21.050 are applicable to the proposed new house and will be verified when the applicant applies for a city Site Plan Permit/County Building Permit. In addition, see the discussion under 16.60.050 regarding infill home notation on the final plat.

**16.43 Outdoor Lighting Standards**

**16.43.110 Lighting Plan Required**

A lighting plan shall be submitted with the development or building permit application and shall include:

- A. A site plan showing the location of all buildings and building heights, parking, and pedestrian areas.
- B. The location and height (above grade) of all proposed and existing luminaires on the subject property.
- C. Luminaire details including type and lumens of each lamp, shielding and cutoff information, and a copy of the manufacturer’s specification sheet for each luminaire.
- D. Control descriptions including type of control (time, motion sensor, etc.), the luminaire to be controlled by each control type, and the control schedule when applicable.
- E. Any additional information necessary to demonstrate compliance with the standards in this section.

**Findings:** The standards of 16.43 are applicable to new single family homes. This would typically apply to outdoor porch or floodlighting.

**16.46 Access Limitations on Project Density**

**16.46.030 Access connection.**

- A. *Spacing of accesses on City streets.* The number and spacing of accesses on City streets shall be as specified in Table 16.46.030. Proposed developments or land use actions that do not comply with these standards will be required to obtain an access spacing exception and address the joint and cross access requirements of this Chapter.

**TABLE 16.46.30**

**Access Management Guidelines for City Streets\***

<b>Street Facility</b>	<b>Maximum spacing** of roadways</b>	<b>Minimum spacing** of roadways</b>	<b>Minimum spacing** of roadway to driveway***</b>	<b>Minimum Spacing** driveway to driveway***</b>
Arterial	1,000 feet	660 feet	330 feet	330 feet or combine
Collector	600 feet	250 feet	100 feet	100 feet or combine
Neighborhood/Local	600 feet	150 feet	50 feet****	10 feet

\*\* Measured centerline on both sides of the street

\*\*\* Private access to arterial roadways shall only be granted through a requested variance of access spacing policies when access to a lower classification facility is not feasible (which shall include an access management plan evaluation).

\*\*\*\* Not applicable for single-family residential driveways; refer to section 16.10.070(B)(10) for single-family residential access standards

Note: Spacing shall be measured between access points on both sides of the street.

**Findings:** The applicant is not proposing roads, so the above roadway spacing standards are not applicable. The TSP classifies N Ivy Street as a Collector Street and NE 9<sup>th</sup> Avenue as a Local Street. The above roadway to driveway spacing standards is indicated to not be applicable to single family driveways which have a 30' separation indicated elsewhere. It is not clear whether that applies when dealing with a residential driveway onto a collector street which is listed as needing a 100 foot separation. The proposed driveway location near the southern edge of Parcel 2 where an existing curb opening exists in front of the existing shop on the site will meet this 100 foot separation but it will not meet a 100 foot separation from the next closest driveway. Residential driveways are indicated within the Public Works Design Standards as having to have a 10 foot separation. This driveway may be close to meeting this standard from the existing driveway right next door. Since the curb opening for the proposed new home driveway already existing; staff believes an exception to the 10 foot separation standard would be appropriate if necessary. Refer to 16.10.070(B) for discussion of roadway/intersection-to-driveway and driveway-to-driveway spacing standards.

**16.46.070 Exception standards**

- A. An exception may be allowed from the access spacing standards if the applicant can provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
  1. Indirect or restricted access cannot be obtained;
  2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and
  3. No alternative access is available from a street with a lower functional classification than the primary roadway.
- C. The granting of the exception shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.
- D. No exception shall be granted where such hardship is self-created.
- E. Reasons for denying access spacing exception applications include, but are not limited to, traffic safety concerns, expected or planned traffic increases due to development or road construction, and emergency service provision issues.

**Findings:** See 16.10.070(B)(9)(d) for discussion of driveway spacing exception requested. Staff

is not concerned with granting the use of an existing residential driveway which is an adequate distance from the N Ivy Street and NE 9<sup>th</sup> Avenue intersection even though it will not meet the desired 100' separation from the next nearest driveway. The existing driveway is not shown on the conceptual tentative partition layout but a field visit shows it to be very close to another existing driveway on the neighboring property. An exception is warranted by the existing nature of the driveway.

## ***16.56 Land Division Regulation***

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**Findings:** Chapter 16.56 contains general language regarding land divisions and has no specific evaluation criteria.

## ***16.60 Major or Minor Partitions***

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### ***16.60.020 Standards and criteria.***

*The same improvements shall be installed to serve each building site of a partition as is required of a subdivision, and the same basic design standards shall apply. If the improvements are not constructed or installed prior to the filing of the signed partition plat with the county, they shall be guaranteed in a manner approved by the City Attorney. However, if the commission finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the commission shall accept those improvements. In lieu of accepting an improvement, the commission may recommend to the council that the improvement be installed in the area under special assessment financing or other facility extension policies of the city.*

**Findings:** Per above, the standards of Chapter 16.64, Subdivision Design Standards, are applicable to this proposal. The above provisions also give the Planning Commission the authority to exempt the proposal from some of the design standards of Chapter 16.64.

### ***16.60.040 Minor partitions.***

*Application for a minor partition shall be evaluated based upon the following standards and criteria:*

- A.** *Conformance with the text and applicable maps of the Comprehensive Plan;*
- B.** *Conformance with all other applicable requirements of the Land Development and Planning Ordinance;*
- C.** *The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;*
- E.** *It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.*

**Findings:** The application and this staff report show conformance with the above, with the exception of the Parcel 2 driveway spacing from the existing adjacent driveway. Public facilities and services are presently available on the site; see the discussion under 16.08.090 regarding

public curb and sidewalk facilities. In addition, a standard condition of approval assures that all requirements of applicable utility agencies providing public facilities are met prior the recordation of the partition plat.

**16.60.050 Planning Commission action.**

**A.** Tentative maps shall be submitted to the commission for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance. The commission may require such dedication of land easements and may specify such conditions or modifications to the tentative map as are deemed necessary to carry out the Comprehensive Plan. In no event, however, shall the commission require greater dedications or conditions than would be required if the parcel were subdivided. For residentially zoned land, the Planning Commission shall require, for newly created lots adjacent to existing residential development, that homes built on such lots be designated on the plat or included in the deed restrictions as "Infill Homes" as defined by 16.04.255 and therefore subject to any or all of the requirements of 16.21.050 Infill Homes.

**Findings:** Per 16.04.470, a *partition* "means to divide an area or tract of land into two or three parcels within the calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. Partitioned land does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size." A *minor partition* "means a partition that does not include the creation of a road or street."

This partition does not propose to create a road or street and is therefore being processed as a minor partition. Parcel 2 will become an infill lot per the definition of "infill lot" in 16.04.255. Per the standard above, Parcel 2 shall be noted as an "infill home" as a **condition of approval**.

**16.60.060 Final procedures and recordation.**

- A.** Following the action of the city in approving or conditionally approving a tentative map for a partition, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city engineer prior to the transfer of title of any of the parcels involved.
- B.** Recordation of an accurate survey map, prepared by a registered engineer or licensed surveyor, must be completed within one year of the approval of the tentative map. One copy of the recorded survey map shall be filed with the City Planner for appropriate record keeping.
- C.** The applicant shall bear full responsibility for compliance with applicable state and city regulations regarding the recordation of documents and subsequent transfer of ownership.
- D.** The Planning Director may approve a single one-year extension to the original one-year period. Applicants must file a request for such extension in writing, stating the reasons the request is needed. The Planning Director shall review such requests and may issue the extension after reviewing any changes that may have been made to the text of this title and any other pertinent factors, including public comment on the original application.

**Findings:** As a **condition of approval**, the applicant shall record the partition plat within one

year of approval of the tentative site layout. If the applicant wishes to extend this period, the applicant may request the Planning Director to approve a one-year extension for recordation of the approved final partition plat. The final partition plat shall be recorded at Clackamas County and must meet all Clackamas County standards for plat recordation.

## ***16.64 Subdivisions-Design Standards***

### ***16.64.010 Streets***

***M. Planting Easements. The Planning Commission may require additional easements for planting street trees or shrubs.***

**Findings:** Staff recommends requiring a 12 foot street tree easement along the frontages of each resulting parcel. This easement may be combined with utility easements when needed. Chapter 12.32- Tree Regulations specifies tree spacing, planting, species selection, and establishment procedures. Essentially, the Tree Regulations have the applicant pay a fee to the city based on the number of trees to be planted, and then the Public Works department is responsible for the placement, planting and establishment of the required street trees. Therefore, as a **condition of approval**, the applicant shall dedicate a 12 foot tree easement along the Ivy and 9<sup>th</sup> Avenue frontages of Parcels 1 and 2 and the applicant shall pay the city fee for city establishment of street trees in accordance with the general 30' spacing standard per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. This easement may be combined with other utility and sidewalk easements and shall be measured from the property boundary. All street tree fees shall be paid prior to the recordation of the partition plat.

### ***16.64.015 Access***

***E. Streets shall have sidewalks on both sides. Pedestrian linkages should also be provided to the peripheral street system.***

***F. Access shall be consistent with the access management standards adopted in the Transportation System Plan.***

**Findings:** The required sidewalks existing on both street frontages. Refer to the discussion regarding sidewalks under 16.08.090. TSP access spacing standards match the standards under 16.46.030; refer to the discussion under Chapter 16.46 and under 16.10.070(B) which address (F) above.

### ***16.64.030 Easements***

***A. Utility Lines. Easements for electric lines or other public utilities are required, subject to the recommendations of the utility providing agency. Utility easements twelve feet in width shall be required along all street lot lines unless specifically waived. The commission may also require utility easements alongside or rear lot lines when required for utility provision. The construction of buildings or other improvements on such easements shall not be permitted unless specifically allowed by the affected utility providing agency.***

**Findings:** By condition of approval all requirements of applicable utility agencies providing public facilities are required to be met prior the recordation of the partition plat and prior the



issuance of building permits.

**16.64.040 Lots**

**A. Size and Shape.** *The lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated. To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed three times its width (or four times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature such as a railroad line.*

**Findings:** The above standard is met for both resulting parcels.

**B. Minimum Lot Sizes:**

**1.** *Lot sizes shall conform to requirements of Division III unless the applicant chooses to use an alternative lot layout per subsection (3) below to accommodate interconnected and continuous open space and or other natural resources. In this case, the average minimum lot size may be reduced by 5,000 square feet after subtracting access tracts. Overall development densities shall comply with the underlying maximum density allowed by the zone.*

**C. Lot Frontage.** *All lots shall meet the requirements specified in Division III for frontage on a public street, except that the Planning Commission may allow the creation of flag lots, cul-de-sac lots and other such unique designs upon findings that access and building areas are adequate.*

**Findings:** The lot sizes meet standards for size and lot frontage on a public street. See the discussion under Chapter 16.16, R-1 Zone.

**16.64.040(C), continued**

*...Lots that front on more than one major street shall be required to locate motor vehicle accesses on the street with the lower functional classification.*

**Findings:** The TSP classifies N Ivy as a Collector Street, which is a higher classification than NE 9<sup>th</sup> Avenue, which is classified as a standard local street. The applicant has proposed to partition the existing parcel in a manner that forces the only means of access to Parcel 2 to occur from the higher classification street (Ivy) due to the location of the existing home on the site. A north/south division of the lot would direct a new or common use driveway onto NW 9<sup>th</sup> Avenue, the lower classification street as intended by this code provision. The location of the existing home to be saved prevents this orientation of the lots. New residential driveways onto collector streets is not prohibited but when practicable better to place to local streets. Staff believes the Comprehensive goal to promote the efficient use of urban land to help avoid sprawl out into valuable farm land outweighs the competing driveway management provision and finds the proposed lot layout and resulting driveway onto N Ivy to be acceptable at this location, particularly since the driveway already exists to the shop building on the property.

**E. Lot Side Lines.** *The side lines of lots shall run at right angles to the street upon which the lots face, or on curved streets they shall be radial to the curve, unless there is some recognizable advantage to a different design.*



**Findings:** The above standard is met by the proposed "Tentative Plat" layout.

**16.64.070 Improvements**

**A. Improvement Procedures.** In addition to other requirements, improvements installed by a land divider either as a requirement of these regulations, or at his own option, shall conform to the requirements of these regulations and improvement standards and specifications followed by the city, and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plat of a subdivision or partition. No work shall commence until the developer has signed the necessary certificates and paid the subdivision development fees specified elsewhere in this division.
2. Improvement work shall not commence until after the city is notified and if work is discontinued for any reason it shall not be resumed until after the city is notified.
3. Improvements shall be constructed under the inspection and to the satisfaction of the City. The city may require changes in typical sections and details in the public interest if unusual conditions arise during construction which warrants the change.

**Findings:** No public improvements have been identified in association with this partition.

**B.** The following improvements shall be installed at the expense of the subdivider unless specifically exempted by the Planning Commission:

1. Streets, including drainage and street trees;
2. Complete sanitary sewer system;
3. Water distribution lines and fire hydrants;
4. Sidewalks and any special pedestrian ways;
5. Street name and traffic-control signs;
6. Streetlights;
7. Lot, street and perimeter monumentation;
8. Underground power lines and related facilities;
9. Underground telephone lines, CATV lines, natural gas lines, and related facilities;

**Findings:** The applicant proposes infill development on a site where the above services are already provided. Refer to the discussion on curbs and sidewalks under 16.08.090. Street Trees and curbing, sidewalk, and street improvements are covered elsewhere.

**C. Streets**

3. **Street Trees.** Street trees shall be provided consistent with the provisions of Chapter 12.32.

**Findings:** A condition of approval has been added to assure that a street tree easement will be placed on the partition plat and to alert the applicant that the street tree fee will be collected prior to recordation of the partition plat.

8. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or access ways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.
9. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, access ways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use.

**Findings:** The applicant proposes infill development on a site where most of the above services are already provided. Refer to the discussion on sidewalks under 16.08.090 and to a condition of approval addresses any potential requirements from utility agencies.

**D. Surface Drainage and Storm Sewer System.**

3. All new subdivisions in Canby are required to treat storm water on site. Storm water management using LID practices is required where feasible, pursuant to requirements of this chapter and other applicable sections of this code. LID facilities shall be constructed in accordance with Canby Public Works Design Standards.
4. A conceptual storm water management report must be submitted with the subdivision application. The report must demonstrate how and where storm water will be managed on site at the subdivision. Where LID practices are not used, the applicant must demonstrate why LID is not feasible. The report will be reviewed by the Canby Public Works Department and shall be consistent with the Public Works Design Standards. Generally, the storm water management plan must include the following:
  - a. A description of existing conditions including a map;
  - b. A description of the proposed storm water system including a map;
  - c. An estimate of existing storm water runoff;
  - d. An estimate of proposed storm water runoff;
  - e. The detention/retention requirements; and
  - f. The discharge location, treatment method and sizing, and if discharging to the ground, the expected infiltration rates based upon soils mapping data.
5. Responsibility for maintenance of LID facilities shall be as follows:
  - b. Private property owners shall be responsible for maintaining all LID facilities on their property. The city reserves the right to inspect such facilities at any time. Upon written notice by the city to the owner that the facility has been compromised to the point where the design capacity is no longer available or the facility is not functioning as designed and approved, the owner shall correct the problem. If the owner fails to respond to the written notice within 15 days, the city may undertake the work and bill all time and material to the owner.

**Findings:** A condition of approval to address on-site drainage solution for the new home has been made to address the above standards.

- G. **Sidewalks.** Sidewalks shall be required on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of identified arterials, or industrial districts, the commission may approve a subdivision without sidewalks if alternative pedestrian routes are available. Sidewalk construction may be postponed until

*the actual construction of buildings on the lots, provided that adequate assurance is given that such sidewalks will be installed.*

**Findings:** Refer to the discussion on curbs and sidewalks under 16.08.090 and to the discussion of street improvements under 16.08.150(E). The sidewalk will need to be replaced where the extra driveway is removed from the Ivy Street frontage and replaced if damaged from the installation of water and sewer laterals to the new home. Installations of home utility connections are typically done with construction of the new home rather than prior to recordation of the partition plat.

**K. Other Improvements.**

- 2. Street tree planting is required of the subdivider and shall be according to city requirements.*

**Findings:** With a required condition of approval the above standards are met.

**M. Survey Accuracy and Requirements.** *In addition to meeting the requirements as set forth in Oregon Revised Statutes relative to required lot, street and perimeter monumentation, the following shall be required:*

- 1. An accuracy ratio of subdivision plat boundary line closure of one in ten thousand (.0001) feet as found in the field.*
- 2. Two primary perimeter monuments (one of which can be the initial point) having the same physical characteristics as the initial point. The monuments are to be on a common line visible, if possible, one to the other at time of approval and preferably at angle points in the perimeter. They shall be points as far apart as practicable. A survey monument witness sign of a design acceptable to the city engineer shall be placed within eighteen inches of both monuments. The position for the initial point and other primary perimeter monuments shall be selected with due consideration to possible damage during construction and desirability of witness sign location.*
- 3. Street centerline monumentation shall consist of a two-inch diameter brass cap set in a concrete base within and separate from a standard monument box with cover (standard city details applicable) at locations specified by the city engineer (generally at intersections with centerline of arterial or collector streets and within streets proposed to be greatly extended into adjacent future subdivisions). All other street centerline points (intersections, points of tangent intersections, cul-de-sac center lines, and cul-de-sac off-set points) shall be monumented with a five-eighths-inch diameter steel rod thirty inches long with an approved metal cap driven over the rod and set visible just below the finish surface of the street. If any points of tangent intersection fall outside of a paved section street, the above monumentation will be required at point of curvature and point of tangency of the curve. All centerline monuments are to be accurately placed after street construction is complete.*

**Findings:** The City Engineer or County surveyor shall verify that the above standards are met prior to the recordation of the partition plat. This is a **condition of approval**.

**N. Agreement for Improvements.** *Before commission approval of a subdivision plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or*

execute and file with the city engineer, an agreement specifying the period within which required improvements and repairs shall be completed and provided that, if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and reasonable attorney fees necessary to collect the amounts from the land divider. The agreement shall also provide for reimbursement to the city for the cost of inspection by the city which shall not exceed ten percent of the improvements to be installed.

**O. Bond.**

1. The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:
    - a. A surety bond executed by a surety company authorized to transact business in the state in a form approved by the City Attorney;
    - b. A personal bond cosigned by at least one additional person, together with evidence of financial responsibility and resources of those signing the bond, sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement;
    - c. Cash.
  2. Such assurance of full and faithful performance shall be for a sum approved by the city engineer as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of the city inspection.
  3. If the land divider fails to carry out provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the cost of expense incurred by the city exceeds the amount of the bond or cash deposit, the land divider shall be liable to the city for the difference.
- P. Guarantee.** All improvements installed by the subdivider shall be guaranteed as to workmanship and materials for a period of one year following written notice of acceptance by the city to the developer.

**Findings:** No general public improvements are involved with this partition.

## ***16.89 Application and Review Procedures***

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**Findings:** This application is being processed in accordance with Chapter 16.89. Notice of the public hearing was mailed to owners and residents of lots within 200 feet of the subject development and applicable agencies. Notice of the meeting was posted at the Development Services Building and City Hall and was published in the *Canby Herald*. This chapter requires a Type III process for minor partitions.

A neighborhood meeting is not required for minor partitions. A pre-application conference was not required to be held with this request since all necessary utilities were existing.

## ***16.120 Parks, Open Space, and Recreation Land-General Provision***

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**16.120.020 Minimum standard for park, open space and recreation land**

**A. Parkland Dedication:** All new residential, commercial and industrial developments shall be required to provide park, open space and recreation sites to serve existing and future residents and employees of those developments.

**1.** The required parkland shall be dedicated as a condition of approval for:

**a.** Approval of a tentative plat of a subdivision or partition.

**2.** The City shall require land dedication or payment of the system development charge (SDC) in lieu of land dedication (Section 4.20.170). In addition, the City may credit private on-site park, open space and recreation area(s) and facilities (Section 16.120.060). The City may approve any combination of these elements. Prior to parkland dedication, a Level I Environmental Assessment of the lands proposed for dedication shall be performed by the applicant as part of the site plan approval for the project.

**Findings:** System Development Charges (SDCs) will be collected at the time of development to meet the requirements of 16.120.

**IV. PUBLIC TESTIMONY**

Notice of this application and opportunity to provide comment was mailed to owners and residents of lots within 200 feet of the subject properties and to all applicable public agencies. All citizen and agency comments/written testimony will be presented to the Planning Commission.

**V. CONDITIONS OF APPROVAL**

Staff concludes, with conditions, that the application will meet the requirements for approval. Staff has recommended the following conditions of approval:

**1.** Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #MLP 14-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:

- a.** Minor Partition Land Use Application and applicant narrative dated 8/25/14
- b.** Tentative Partition Plat drawing
- c.** Public Notification Map

Partition Plat conditions:

- 2.** The applicant shall dedicate a 12 foot street tree easement along the N Ivy Street and 9<sup>th</sup> Avenue frontages of Parcels 1 and 2.
- 3.** Parcel 2 shall be noted as an “infill home” on the partition plat by referring to the conditions of approval for MLP 14-02.
- 4.** The City Engineer or County surveyor shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the final partition plat.
- 5.** The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Final Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the partition plat at Clackamas County, it must be approved by the city and all other utility/service providers. The city will

distribute the final plat as needed to applicable agencies for comment prior to signing off on the partition plat. Applicable agencies may include:

- a. City of Canby Planning: Reviews final plat for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works
  - c. Clackamas County
  - d. Canby Fire District
  - e. Canby Utility
  - f. Northwest Natural Gas
  - g. Canby Telcom
  - h. Wave Broadband
6. Clackamas County Surveying reviews pending partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County within one year of approval or the applicant must request that the Planning Director approve a one-year extension for recordation of the approved final plat.

Public Improvement Conditions:

7. The existing curb opening and driveway to be abandoned on N Ivy Street shall be removed and a standard sidewalk replaced with construction of the new home. Any portion of the existing sidewalk and street curb damaged when making water and sewer line connections to the City system shall be replaced. A street opening permit is required prior to work commencing within the public street right-of-way.
8. The applicant shall pay the city fee for city establishment of street trees along the NE 9<sup>th</sup> Street and N Ivy Street frontages per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. All street tree fees shall be paid prior to the recordation of the partition plat.

Driveway Conditions:

9. The applicant shall utilize the existing driveway meeting the 100' separation requirement from the street intersection or abandon and replace the existing with a new driveway also meeting the 100 foot separation requirement from the nearest street intersection. The applicant shall obtain a Canby Street Opening Permit in order to relocate and install a new driveway on Parcel 2.

Misc. Conditions:

10. The development shall comply with all applicable City of Canby Public Works Design Standards.
11. On-site storm water management shall be designed in compliance with the Canby Public Works Design Standards.
12. The existing 6' tall fence located adjacent to the property line along the N. Ivy Street frontage shall be removed prior to issuance of a building permit for Parcel 2.
13. The clear vision requirement applicable at street intersections shall be corrected prior to any development permit being issued on the subject property.
14. The use of the existing storage building shall be restricted prior to construction of a home on the same property to those uses allowed as a principal use in the R-1 zone.

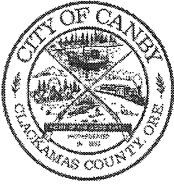
Prior to issuance of Residential Building Permits the following must be completed:

15. Apply for a City of Canby Site Plan Permit/Building Permit.
16. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical plan review and inspection service for the new home for this project. The applicable building permits are required prior to construction.

## **VI.** Decision

Based on the application submitted and the facts, findings, and conclusions of this report, Staff recommends that the Planning Commission **Approve** Minor Land Partition File #MLP 14-02 pursuant to the Conditions of Approval presented in this Staff Report in Section V.

***Sample motion:*** I move to approve Minor Land Partition File #MLP 14-02 pursuant to the Conditions of Approval presented in this Staff Report.



City of Canby  
 Planning Department  
 170 N. 2<sup>nd</sup> Avenue  
 P.O. Box 930  
 Canby, OR 97013  
 Ph: 503-266-7001  
 Fax: 503-266-1574

# LAND USE APPLICATION

## MINOR/MAJOR PARTITION Process Type II/III

**APPLICANT INFORMATION:** (Check ONE box below for designated contact person regarding this application)

Applicant Name: Snyder Construction, LLC Phone: 503-833-2626  
 Address: PO Box 595 Email: will@whiteriverhomes.net  
 City/State: Canby Zip: 97013

Representative Name: Will Snyder Phone: Same  
 Address: Same Email: Same  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Property Owner Name: Snyder Construction, LLC Phone: Same  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Property Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

**PROPERTY & PROJECT INFORMATION:**

103 NE 9th Ave Canby 16,877 SF 00790200  
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

One detached single family dwelling R1  
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

Minor partition leaving existing dwelling on north lot and create south lot  
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
<u>MLP 14-02</u>	<u>8.26.14</u>	<u>JS</u>	_____	_____
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE



# White River Homes

8/25/14

RE: Minor Partition of 103 NE 9<sup>th</sup> Ave Canby

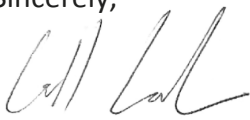
Snyder Construction, LLC DBA White River Homes intends to partition the subject property east and west creating a north lot (Parcel 1) that will contain the existing dwelling and a new south lot (Parcel 2) that will contain the existing shop.

The lot is roughly a square with the north/south property lines at 130' long and the east/west property lines at 129.82' long. The newly created south lot will be 60' wide, facing N Ivy St and 129.82' deep, totaling 7,789 square feet. The existing shop is located at the rear or eastern edge of this proposed parcel. Ivy St already has a sidewalk and two driveway aprons poured. One of the two aprons will be used for the future dwelling.

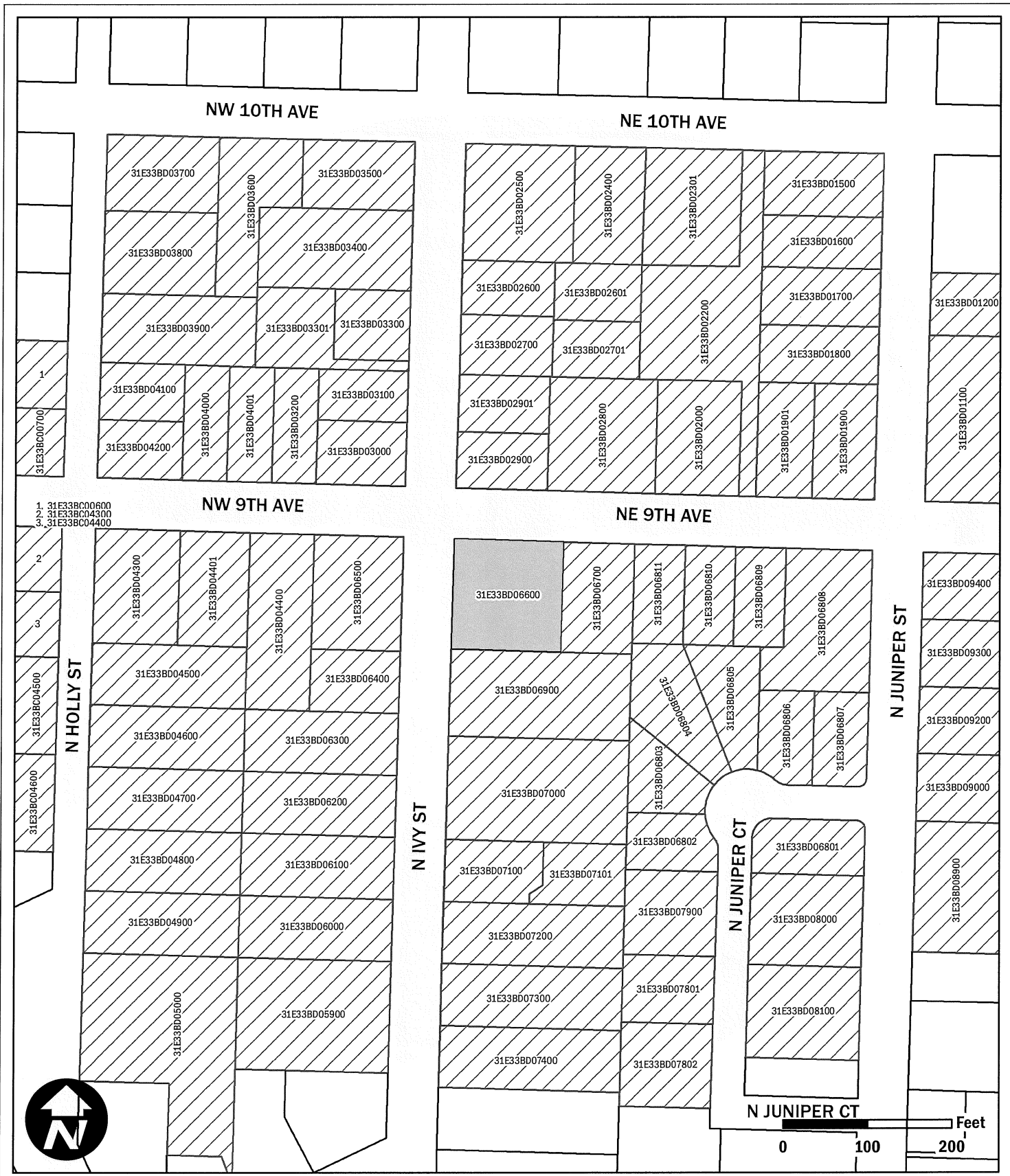
The 16,877 square foot site is zoned R1 which allows lots to be 7,000 to 10,000 square feet. Parcel 1, the lot that contains the existing dwelling will be roughly 9,088 square feet. Parcel 2, the newly created lot will contain roughly 7,680 square feet.

Parcel 1 will use the same utilities currently used and accessed via 9<sup>th</sup> Ave. Parcel 2 will front N Ivy St and will access water, sewer, electricity, gas and low voltage all located in N Ivy St. The sewer is located on the eastern side of N Ivy St. Water is located east of the center of N Ivy St. Power is located on the western side of N Ivy St.

Sincerely,

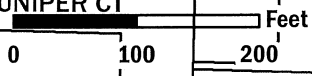


Will Snyder



- 1. 31E33BC00600
- 2. 31E33BC04300
- 3. 31E33BC04400

- 1. 31E33BC04500
- 2. 31E33BC04600
- 3. 31E33BC04700



**Public Notification Search**

- Subject
- Radius = 500'
- Notification Parcels

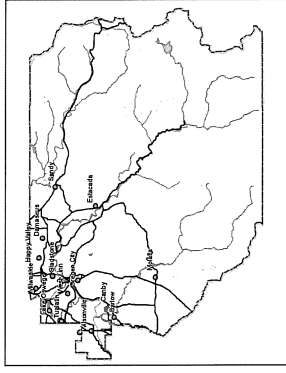
Prepared by: Fidelity National Title  
 Data: CoreLogic, Metro RLIS  
 Date: 8/12/2014  
 This information is reliable, but not guaranteed. It is not a survey.

3 1 E 33BD  
CANBY  
S.E. 1/4 N.W.1/4 SEC.33 T.3S. R. 1E. W.M.  
CLACKAMAS COUNTY  
1" = 100'

D. L. C.  
PHILANDER LEE NO. 56

Cancelled Taxlots

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Waterlines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- D.L.C. Line
- Mesander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT  
PURPOSES ONLY

3 1 E 33BD  
CANBY

3/24/2014



This map was prepared for  
assessment purpose only.

CANCELLED

1" = 100'  
SEE MAP 3 IE 3368R





# City of Canby

## CONDITIONAL USE STAFF REPORT

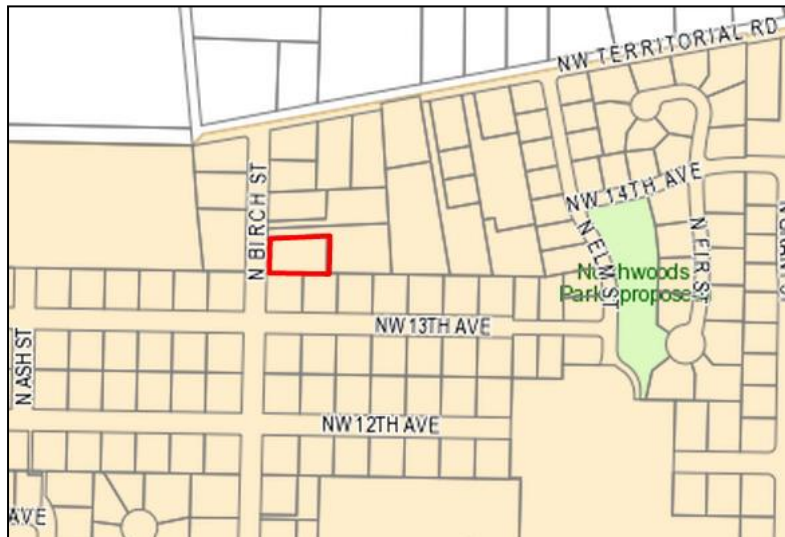
FILE #: CUP 14-02 (Detached Accessory Dwelling Unit)

Prepared for the October 13, 2014 Planning Commission Meeting

**LOCATION:** 1350 N. Birch Street (Bordered area in map below)

**ZONING:** R-1 Low Density Residential

**TAX LOT:** 3-1E-32AA00804



**LOT SIZE:** .38 Acres

**OWNER:** Mary & Robert Lane

**APPLICANT:** Mary & Robert Lane

**APPLICATION TYPE:** Conditional Use Permit (Type

**CITY FILE NUMBER:** CUP 14-02

### I. APPLICANT'S REQUEST:

The applicant is requesting permission to construct a detached accessory dwelling unit in the rear yard behind the principal home at 1350 N Birch Street. Section 16.16.020(O) requires a conditional use permit for an accessory dwelling that is not attached to the primary dwelling in the R1 zone. The accessory dwelling shall be separated from the primary dwelling unit by a minimum of 10 feet and conform to the standards in Section 16.16.010(D)(2). In accordance with Section 16.16.030(E)(2)(a) the proposed detached

accessory structure may normally be allowed a height up to 22' as measured to the highest point of the roof when located inside the allowed building footprint for the principal home.

One additional on-site parking space is required to accommodate the occupant of an accessory dwelling unit. The accessory dwelling unit may not exceed 800 square feet of floor area. The exterior siding and roofing must be similar in color, material and appearance to that used on the primary dwelling although different siding or roofing may be approved by the Planning Commission if it finds that the proposed design is more compatible with surrounding residences. The applicant has indicated that their immediate purpose for constructing the ADU is to provide a nearby location for a family member. Once approved and built, accessory dwelling units run with the land and can serve as a source of rental income to the current or any future owner of the property.

## **II. APPLICABLE CRITERIA:**

### **1. 16.50.010 Authorization to Grant or Deny Conditional Uses**

In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.

### **2. Other Applicable Criteria:**

- A. 16.16.020 Conditional uses in the R-1 zone.
- B. 16.16.030 Development Standards

## **III. FINDINGS:**

### **1. Location and Background**

The property is located on the east side of North Birch Street and on a large lot the lot is 0.38 acres or about 16,552 square feet in size. Surrounding uses include, residential single-family detached homes to the north, east, south, and across Birch Street to the west.

## 2. Comprehensive Plan Consistency Analysis

### **LAND USE ELEMENT**

**GOAL: TO GUIDE THE DEVELOPMENT AND USES OF LAND SO THAT THEY ARE ORDERLY, EFFICIENT, AESTHETICALLY PLEASING AND SUITABLY RELATED TO ONE ANOTHER.**

#### Applicable Policies:

Policy #1: Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses, while grouping compatible uses.

*Analysis: The proposed accessory dwelling unit is not a conflicting or incompatible use to the surrounding neighborhood. It is the same – a detached single-family dwelling. Any possible issue would be more one of crowding or density and any possible immediate impacts related to the loss of space, air, and light to the immediate adjacent properties which back up to the rear yard of this property. This lot is large and clearly has plenty of space to erect an additional small dwelling unit behind the existing home well within the standard principal building footprint therefore retaining more than the usual side and rear yard setbacks that are applicable. In fact, the side yard setback is 18' versus the 7' minimum and the rear yard setback is 28' versus the minimum 15' setback for a one-story home. The impact is also lessened as no new driveway is proposed to the rear of the property, only a sidewalk to improve access from parking which is provided in front of the existing principal home.*

Policy #2: Canby shall encourage a general increase in the intensity and density of permitted development as a means of minimizing urban sprawl.

*Analysis: The addition of accessory dwelling units in low density single-family zone districts is considered to be one of the primary land use efficiency tools to better utilize space*

*within our current urbanized residential areas to accommodate the growing demand for housing without spreading to new greenfield sites on the edge or outside of the City limits which usually means using valuable farm land.*

*The accessory dwelling, if done appropriately, can better utilize land for increased housing without significantly altering the character of a predominantly single family district. Accessory dwellings that are internal to the existing square footage of a home or are attached with a common wall as an addition to an existing home are considered an "outright allowed use" in the low density residential zone. The creator of the city code was more cautious with a detached accessory dwelling unit as it could have more impact due to its placement in the rear yard on adjacent properties.*

Policy #3: Canby shall discourage any development which will result in overburdening any of the community's public facilities or services.

*Analysis: No burdening of public services is anticipated. For the most part, the proposed use will take advantage of services to the existing home with water and sewer being extended from the existing home. The desire is to continue to utilize a single meter for the two homes on the property. Public facility and service providers were asked to comment on this application and existing services are sufficient to serve the site with no concerns voiced.*

*A typical home is expected to generate approximately 9 vehicle trips in a typical 24 hour weekday. These are of course spread out over the day. N Birch Street is classified as a neighborhood route which is expected to carry some-what more traffic than the typical local residential street. This increase is insignificant for the specific capacity of this public street and for the neighborhood.*

Policy #4: Canby shall limit development in areas identified as having an unacceptable level of risk because of natural hazards.

*Analysis: No natural hazards have been identified on the subject property.*

Policy #5: Canby shall utilize the land use map as the basis of zoning



and other planning or public facility decisions.

*Analysis: The parcel is currently zoned Low Density Residential (R-1) and is surrounded by other R-1 zoned properties.*

Policy #6: Canby shall recognize the unique character of certain areas and will utilize the following special requirements, in conjunction with the requirements of the land development and planning ordinance, in guiding the use and development of these unique areas.

*Analysis: The property is not located in an "area of special concern" designated in the Canby Comprehensive Plan.*

#### **ENVIRONMENTAL CONCERNS ELEMENT**

**GOALS: TO PROTECT IDENTIFIED NATURAL AND HISTORICAL RESOURCES.**

**TO PREVENT AIR, WATER, LAND, AND NOISE POLLUTION.**

**TO PROTECT LIVES AND PROPERTY FROM NATURAL HAZARDS.**

*The subject property is considered to be urbanized and no environmental concerns have been identified.*

#### **TRANSPORTATION ELEMENT**

**GOAL: TO DEVELOP AND MAINTAIN A TRANSPORTATION SYSTEM WHICH IS SAFE, CONVENIENT AND ECONOMICAL.**

*Applicable Policies:*

Policy #1: Canby shall provide the necessary improvements to City streets, and will encourage the County to make the same commitment to local County roads in an effort to keep pace with growth.

*Analysis: No improvements to the street or sidewalk system is necessary to serve the intensification of use associated with this proposal.*

Policy #4: Canby shall work to provide an adequate sidewalk and pedestrian pathway system to serve all residents.

*Analysis: The subject property is accessed by a system of existing adequately paved streets and sidewalks. There is an existing sidewalk along the property frontage on along S Elm Street. The City is planning improvements to the intersection of S Elm St. and SW 13<sup>th</sup> Ave.*

Policy #6: Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience of the general public.

*Analysis: Staff did not receive any concerns or comments from emergency providers including the Police Department or Canby Fire District on this construction proposal. The Fire District did want to see a unique new address to be provided to the accessory home. Staff is proposing to assign an address of 1350A N. Birch Street for the accessory dwelling unit if this application is approved. The new accessory unit is within the normal hose length for fighting a fire from the adjacent public street. There was no concern with access to the site or requirement for a sprinkler system.*

#### ***PUBLIC FACILITIES AND SERVICES ELEMENT***

**GOAL: TO ASSURE THE PROVISION OF A FULL RANGE OF PUBLIC FACILITIES AND SERVICES TO MEET THE NEEDS OF THE RESIDENTS AND PROPERTY OWNERS OF CANBY.**

*Applicable Policies:*

Policy #1: Canby shall work closely and cooperate with all entities and agencies providing public facilities and services.

*Analysis: Utility providers have all indicated that adequate access and services are available.*

Policy #5: Canby shall assure that adequate sites are provided for public schools and recreation facilities.

*Analysis: No public schools or recreation facilities are required at this site.*

**CONCLUSION REGARDING CONSISTENCY WITH THE POLICIES OF THE CANBY COMPREHENSIVE PLAN:**

Review of the goals, policies, and implementation measures of the Comprehensive Plan indicates that the proposed conditional use is consistent with Canby's Comprehensive Plan.

**3. Evaluation Regarding Conditional Use Approval Criteria**

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.

*This application meets the requirements of the Comprehensive Plan, this title, and other applicable city policies.*

- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.

*The site is surrounded by urbanization and is well-suited and sized to adequately handle the proposed use. The applicant indicates the site is flat and no existing trees or shrubbery will be disturbed. More than adequate setbacks will remain to both the rear and side yard. Although a calculation was not provided, it is clear to staff that the overall impervious surface on the property will not exceed the 60% maximum allowed. The one additional parking space is able to be accommodated side by side with the existing on-site parking in front of the principal residence.*

- C. All required public facilities and services exist to adequately meet the needs of the proposed development.

*Needed services already exist to the property to serve the existing principal home. The applicant desires to keep as many utilities as possible under a single account. This means she plans to extend the existing private water and sewer service laterals to also serve the new home without separate metering and independent service lines. Canby utility and public works have indicated to the applicant that extension of services is doable from the existing principal home to also serve the accessory dwelling. Birch Street can easily handle the additional vehicular trips that a typical accessory dwelling unit would add to the street system.*

- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.

*The impact on surrounding properties will be negligible as it represents the*

*same single-family detached housing that is in the surrounding area on a large lot which can easily accommodate the increased intensity of use without a significant loss of open space, air, and light which are typical components regulated by zoning. The accessory dwelling is planned to be painted the same color as the principal residence, both structures are one-story in height with the accessory unit being a smaller structure and lower in height than the existing home. An additional parking space fits in nicely adjacent to the existing parking spaces in front of the existing home. The usual development standards for an R-1 zone are met – including setbacks, height, and maximum impervious coverage. No trees or existing shrubs are to be removed from the site. Vehicular traffic will not be introduced into the back yard to serve the accessory dwelling, but rather a sidewalk to provide convenient access from the new associated parking space.*

#### **IV. PUBLIC TESTIMONY**

*One citizen comment was received along with 2 agency comments. The nearby neighbor favors the approval of the conditional use permit indicating the addition would not impact their residence. The City Engineer had no comments for pertaining to this request. Canby Fire simply wanted to know what new address would be given.*

#### **V. CONCLUSION**

1. Staff concludes that the conditional use is in conformance with the City's Comprehensive Plan and Land Development and Planning Ordinance.
2. Staff concludes that the site can easily accommodate the proposed use.
3. Staff concludes that public service and utility provision to the site is available or can be made available through agreed upon future improvements.
4. Staff concludes that the conditional use will not alter the character of the surrounding area in a manner which substantially limits or precludes the use of surrounding properties as they exist today or for uses permitted in the zone.

#### **VI. RECOMMENDATION**

Based on the application submitted and the facts, findings and conclusions of this report, but without benefit of a public hearing, staff recommends that the Planning Commission **approve** CUP 14-02 with the following conditions:

1. Necessary utility lateral or service extensions shall be installed at the applicant's expense. The location of the sewer and water lateral extensions shall be approved by Public Works and Canby Utility prior to excavation
2. The additional 3<sup>rd</sup> on-site required parking space shall have a hard surface (not gravel).
3. The Planning Department shall assign a new separate address to the accessory dwelling.

**Attachments:**

1. Application and narrative
2. Conditional Use Permit Site plan
3. Citizen comment received.



City of Canby  
 Planning Department  
 111 NW 2<sup>nd</sup> Avenue  
 PO Box 930  
 Canby, OR 97013  
 (503) 266-7001

# LAND USE APPLICATION

## Conditional Use Process Type III

**APPLICANT INFORMATION:** (Check ONE box below for designated contact person regarding this application)

Applicant Name: MARY Lane Phone: 503 706 4736  
 Address: 1350 N. Birch St Email: mrlane97303@hotmail.com  
 City/State: Canby OR Zip: 97013

Representative Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

Property Owner Name: Mary Lane Phone: 503 706 4736  
 Signature: [Signature]  
 Address: 1350 N. Birch St Email: mrlane97303@hotmail.com  
 City/State: Canby OR Zip: 97013

Property Owner Name: Robert Lane Phone: 503 706 2581  
 Signature: [Signature]  
 Address: 1350 N. Birch St Email: mrlane97303@hotmail.com  
 City/State: Canby OR Zip: 97013

NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

**PROPERTY & PROJECT INFORMATION:**

1350 N. Birch St. Canby OR .38 acre 31E32AA00804  
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

Existing Use, Structures, Other Improvements on Site \_\_\_\_\_ Zoning \_\_\_\_\_ Comp Plan Designation \_\_\_\_\_  
Adding an accessory dwelling unit in back yard of property.  
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
<u>CUP 14-02</u>	<u>8/28/14</u>	<u>[Signature]</u>	RECEIPT #	DATE APP COMPLETE
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE

- Finished grading contour lines of site and abutting public ways;
- Location of all existing structures, and whether or not they are to be retained with the proposed development;
- Layout of all proposed structures, such as buildings, fences, signs, solid waste collection containers, mailboxes, exterior storage areas, and exterior mechanical and utility equipment;
- Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
- Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
- Location of vision clearance areas at all proposed driveways and streets.



Landscape Plan

The following general information shall be included on the landscape plan:

- Layout and dimensions of all proposed areas of landscaping;
- Proposed irrigation system;
- Types, sizes, and location of all plants to be used in the landscaping (can be a "palette" of possible plants to be used in specific areas for landscaping);
- Identification of any non-vegetative ground cover proposed, and dimensions of non-vegetative landscaped areas;
- Location and description of all existing trees on-site, and identification of each tree proposed for preservation and each tree proposed for removal;
- Location and description of all existing street trees in the street right-of-way abutting the property, and identification of each street tree proposed for preservation and each tree proposed for removal.

Elevations Plan

The following general information shall be included on the elevations plan:

- Profile elevations of all buildings and other proposed structures;
- Profile of proposed screening for garbage containers and exterior storage areas;
- Profile of proposed fencing.

Sign Plan.

- Location and profile drawings of all proposed exterior signage.

Color and Materials Plan.

- Colors and materials proposed for all buildings and other significant structures.

## **CONDITIONAL USE PERMIT – TYPE III: STANDARDS AND CRITERIA**

Under Section 16.50.010 of the Canby Municipal Code, an application for CONDITIONAL USE PERMIT approval shall be evaluated based on the following standards and criteria:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.



**Addendum**

9/18/2014

Conditional use permit statement:

This application for a conditional use permit is being requested so that we may build an accessory dwelling unit for my mother to live in.

- A. The ADU and its placement on the property meet the cities requirements. The building will be placed in the back yard of our current home and the setbacks meet the requirements. The ADU will be placed in a grassed area that is level and will not require the removal of any trees or shrubbery. This will not impact the current landscaping.
- B. The property is .38 acres and the ADU will be placed in a grassed lawn area that is level and will not require the removal of any trees or shrubbery. The ADU will be 786 square feet. It will be located on the back side of the house and will not disrupt any of the characteristics of the site or the current house. The ADU is one level and will coordinate with the current house.
- C. There should be no issues with public facilities or services to the house. I have contacted Canby Utility and the Public Works Department. Both groups have said there should be adequate access and services to meet the needs of the ADU. **Sewer and electric will be connected to the main house. The ADU will share a meter with the current house and will not be metered separately.**
- D. The ADU will not alter the character of the surrounding areas. This is a small residential dwelling that will be used for a family member. This will not impact the surrounding properties since the use of the ADU will be in line with the current neighborhood. **The current house is one story and the ADU is one story. The ADU is 15'-11" in height. The current house is being resided. The ADU and house will both have hardiplank siding. The ADU and the current dwelling will be painted the same khaki color to ensure consistency.**

Thank you for your consideration,  
Mary Lane  
1350 N. Birch ST  
Canby, OR 97013



# Plot Plan

ADAIR HOMES  
2150 BENTLEY COURT NE  
AURORA, OR 97002

Home Owner(s): Sanderson, Lee / Mary & Rob Lene

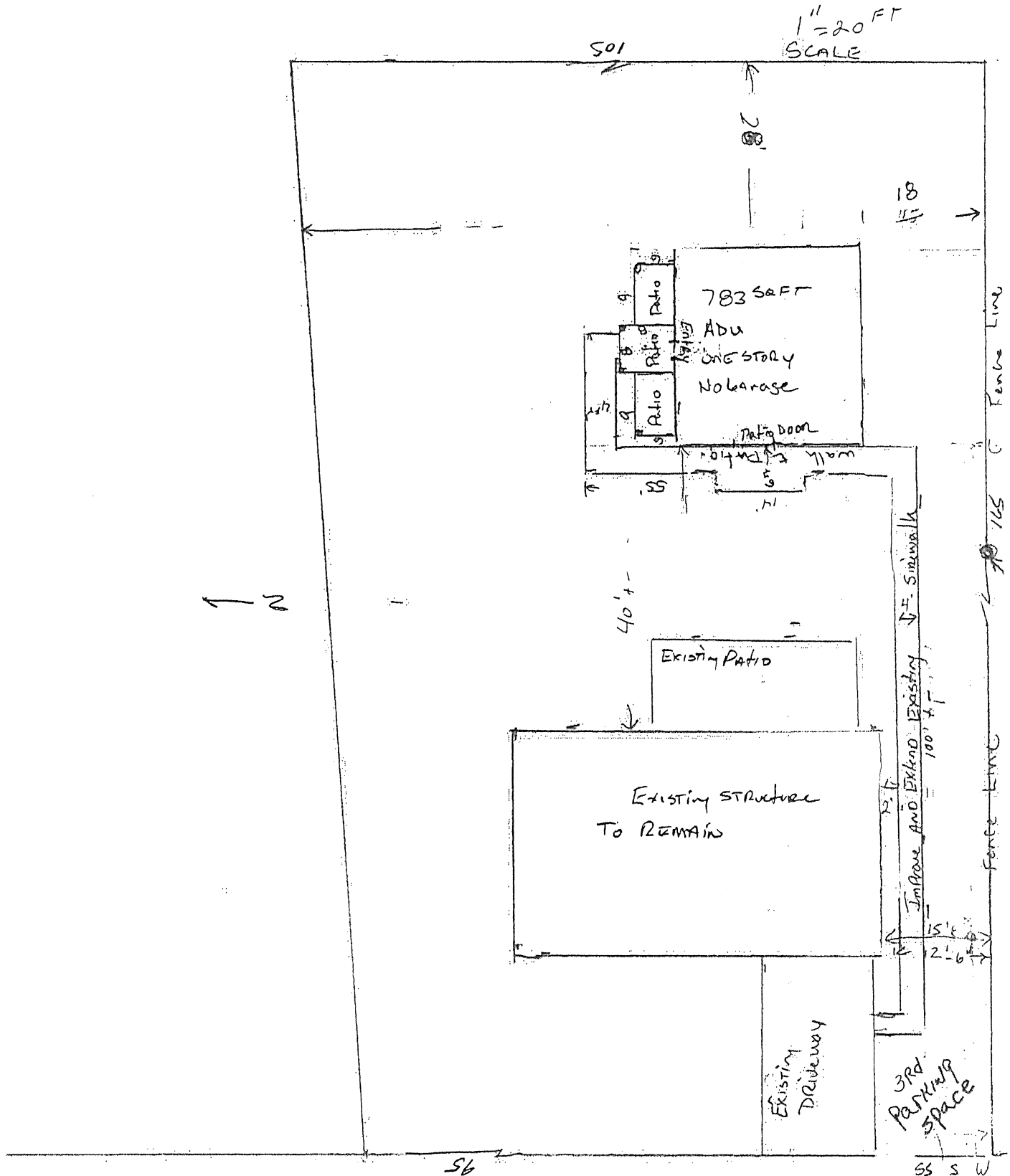
Property Location: 1350 N Birch Street, Canby OR 97013 Tax Lot 31E32A00804

The information on this Plan has been provided and reviewed by the property owner who by signing below:

- 1) Acknowledges and Accepts full responsibility for its accuracy and completeness;
- 2) Is responsible to ensure that the improvements to the site take place in conformance with this plan;
- 3) Will establish all the corner irons, lot lines and code required setbacks required of this property, any change(s) to this plan must be pre-approved by the governmental agencies with jurisdiction, the mortgage lender, the contractor and documented.

Owner \_\_\_\_\_ Date \_\_\_\_\_

Owner \_\_\_\_\_ Date \_\_\_\_\_



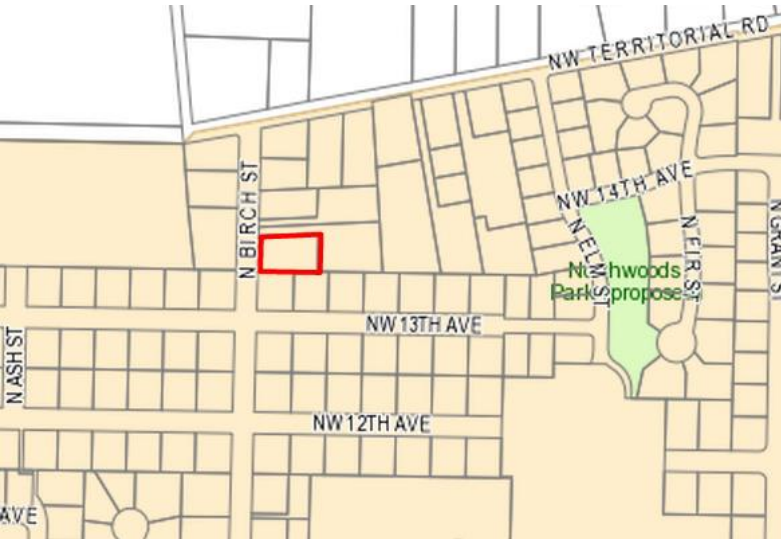
N Birch STREET



# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The purpose of this Notice is to invite you to a Public Hearing at a Planning Commission meeting on Monday, October 13, 2014 at 7 pm in the City Council Chambers, 155 NW 2<sup>nd</sup> Avenue and to comment on a proposed Conditional Use Permit (CUP 14-02) from Mary Lane to allow the construction of an accessory dwelling unit in the rear yard for the property addressed as 1350 N Birch Street otherwise known as Clackamas County Tax Lot 31E32AA00804.



**Comments due**– If you would like your comments to be incorporated into the City’s Staff Report, please return the Comment Form by Wednesday, October 1, 2014

**Location:** 1350 N Birch Street (Bordered in red on map)

**Tax Lot:** 31E32AA00804

**Lot Size and Zoning:** .38 acres, R-1 Low Density Residential

**Owners:** Mary & Robert Lane

**Applicant:** Mary Lane

**Application Type:** Conditional Use Permit

**City File Number:** CUP 14-02

**Contact:** Bryan Brown, Planning Director at 503-266-0702 or email [brownb@ci.canby.or.us](mailto:brownb@ci.canby.or.us)

**What is the Decision Process?** The Planning Commission will make a decision after the Public Hearing. The Planning Commission’s decision may be appealed to the City Council.

**Where can I send my comments?** Written comments can be submitted up to the time of the Public Hearing and may also be delivered in person to the Planning Commission during the Public Hearing. (Please see *Comment Form*). Comments can be mailed to the Canby Planning Department, P O Box 930, Canby, OR 97013; or delivered in person at 111 NW Second Avenue; or emailed to [brownb@ci.canby.or.us](mailto:brownb@ci.canby.or.us).

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, October 3, 2014 and can be viewed on the City’s website: <http://www.ci.canby.or.us> Copies are available at \$0.25 per page or can be emailed to you upon request.

**Applicable Criteria:** Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-Street Parking & Loading
- 16.16 R-1 Low Density Residential Zone
- 16.50 Conditional Uses
- 16.89 Application and Review Procedures

*Note: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue.*

**CITY OF CANBY –COMMENT FORM**

If you are unable to attend the Public Hearing, you may submit written comments on this form or in a letter addressing the Planning Commission. Please send comments to the City of Canby Planning Department:

- By mail:** Planning Department, PO Box 930, Canby, OR 97013
- In person:** Planning Department at 111 NW Second Street
- E-mail:** [brownb@ci.canby.or.us](mailto:brownb@ci.canby.or.us)

Written comments to be included in the Planning Commission’s meeting packet are due by *noon on Wednesday, October 1, 2014*. Written comments can also be submitted up to the time of the **Public Hearing on Monday, October 13, 2014** and may also be delivered in person to the Planning Commission during the **Public Hearing at 7 pm**.

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***Application: Conditional Use Permit 14-02/Applicant: Mary Lane***

**COMMENTS:**

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**YOUR NAME:** \_\_\_\_\_  
**EMAIL:** \_\_\_\_\_  
**ORGANIZATION or BUSINESS (if any):** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_  
**PHONE # (optional):** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

**Thank you!**

## Laney Fouse

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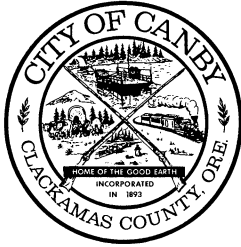
**From:** robert backstrom <bback@canby.com>  
**Sent:** Monday, September 29, 2014 8:47 AM  
**To:** Bryan Brown  
**Subject:** CUP 14-02 Mary Lane

Hello, Brian. I am in favor of the project as submitted for 1350 N. Birch Street. The occupant will be the mother of the owners who who currently lives alone and far away. It will not be a bother to our residence and we recommend that the City of Canby approve the application.

Thank you.

Robert Backstrom  
1395 N. Birch St.  
Canby, Oregon 97013  
503 266 5771  
[bback@canby.com](mailto:bback@canby.com)





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

**A REQUEST FOR SITE AND DESIGN )  
REVIEW AND CONDITIONAL USE )  
PERMIT FOR VERIZON CELL TOWER )  
AT 505 N BAKER DRIVE )** **FINDINGS, CONCLUSION & FINAL ORDER  
DR 14-02 & CUP 14-01  
VERIZON WIRELESS CELL TOWER**

**NATURE OF THE APPLICATION**

The Applicant has sought an approval for a Site and Design Review #DR 14-02 and Conditional Use Permit #CUP 14-01 for the erection of a wireless cell tower on a 50 X 50’ lease area on property addressed as 505 N Baker Drive otherwise described as Tax Lot 31E32DC00200, City of Canby, Clackamas County, Oregon. The property is zoned Light Industrial (“M-1”) under the Canby Municipal Code (“CMC”).

**HEARINGS**

The Planning Commission considered application DR 14-02 & CUP 14-01 after the duly noticed hearing on September 22, 2014 during which the Planning Commission by a 5-0 vote approved DR 14-02 & CUP 14-01. These findings are entered to document the specifics of the approval.

**CRITERIA AND STANDARDS**

In judging whether or not a Site and Design Review and Conditional Use Permit application shall be approved, the Planning Commission determines whether criteria from the Code are met, or can be met by observance of conditions, in accordance with Chapter 16.08.120 Siting and Review Process for Wireless Telecommunications Systems Facilities, 16.49.040 Site & Design Review, and 16.50 Condition Uses. Other applicable code criteria and standards were reviewed in the Staff Report dated September 22, 2014 and presented at the September 22, 2014 meeting of the Canby Planning Commission.

**FINDINGS AND REASONS**

The Staff Report was presented by staff with a recommendation for approval of the Site and Design Review and Conditional Use Permit applications (without benefit of the public hearing) along with 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 holding the public hearing where written and oral testimony was received from the applicant, other proponents, those who were neutral, and opponents in attendance; the Planning Commission closed the public hearing and moved into deliberation where they utilized the findings and conditions listed in the staff report along with the overall presentation record at the public hearing to make the following 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:

- A 660' Radius Study presented by the applicant was submitted for the record as a printed sheet and also with submittal of their power point presentation
- Testimony was heard from the applicant when questioned about stealth tower design indicating that one of the drawbacks to their use was that they tend to limit the opportunity for other carriers to use the tower. The Planning Commission noted that although many designs are interesting, they often seem fake, and that there was no overall neighborhood push to support a particular stealth design so did not choose to impose a stealth design change.
- The applicant indicated a willingness to paint the tower if a certain color was desired, but deliberations moved toward agreement that the natural color of the metal used as proposed would mean less chance of peeling paint and maintenance concerns down the road.
- Screening aspects of the site were considered from beefing up the tree and shrub buffer to a more solid screen fence. It was agreed that none of the landscaping or fencing alternatives would hide the bulk of the tower and antennae and that the proposed slatted chain link fence and proposed landscape buffer along the street and partial northern edge was sufficient. New wording was agreed to for staff Condition #10 would to take the Planning Commission out of choosing the slat color.
- When it was noted by a Commissioner that this stretch of the Molalla River had several nesting eagles, it was agreed that FCC Rules require FCC approval prior to construction of any cell tower proposed on a site with attributes that include Endangered Species, Historical Site, Indian Religious Site, Flood Plain, Wetlands, Wilderness Area, Wildlife Preserve, or when High Intensity White lights are proposed near residential neighborhoods, or excessive radio frequency radiation exposure is proposed.
- The applicant noted when prompted by a Commissioner that the diesel fuel tank was integral to the above ground generator and was not proposed to be within an enclosure. The applicant was not certain of the muffler specification to be used on this generator. A possible desire to require a muffled generator did not make it into the approval motion.
- With regards to citizen concern about the tower falling down, it was noted an accepted by the Commission that the nearest house was over three times the height of the tower away and the property owner had made a risk choice for his own property, leaving only the industrial building located to the south to be close enough for any concern. The applicant noted geotechnical reports are performed and foundations and towers are routinely overdesigned to address seismic considerations and wind load factors. No additional setback was imposed due to tower height.
- When prompted by the Chair's question to staff about whether the applicant had adequately provided a good faith effort to locate or design the proposed cell tower in an alternative location or configuration that would qualify for a less rigorous approval process; staff responded that the applicant did not mention in their application of their exploration with staff to locate at the police building which would have only required a building permit. The applicant offered that the proposed site was preferred due to being at a higher elevation, more stable level ground further from the steep bank of the river, and avoidance of possible unknown soil stability issues associated with the site history. Staff indicated the applicant had otherwise



provided information about their search for co-location on other nearby sites - both towers and buildings and concluded that none met their service “capacity improvement objective”.

- The Planning Commission found that there was a need for the applicant to meet code standard to provide a source of water for irrigation of the plant material within the landscaped area proposed. This finding would clarify and altered the wording of staff condition #6 to reflect this finding.
- The Planning Commission agreed to add a condition of approval that states: “Unless otherwise required by FAA, no lighting is allowed on the Cell Tower”. It was understood that the applicant was not proposing any lighting on the cell tower.

### **CONCLUSION**

In summary, the Planning Commission adopted the findings contained in the Staff Report along with the modifications indicated above, concluded that the Site and Design Review and Conditional Use Permit application meets all applicable approval criteria, and recommended that File #DR 14-02 & #CUP 14-01 be approved with the Conditions of Approval stated below. The Planning Commission decision is reflected in the written Order below.

### **ORDER**

The Planning Commission concludes that based on the record on file including testimony of the applicant and public at the public hearing, that the application will meet the requirements for Site and Design Review and Conditional Use Permit approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **DR 14-02 & CUP 14-01** is approved, subject to the following conditions of approval:

#### **General**

1. The development shall comply with all applicable City of Canby Public Works Design Standards.
2. The WTS facility shall receive FCC approval for its radio signal and as specified in FCC Rules 1.1301-1.1319 prior to construction.
3. Unless otherwise required by FAA, no lighting is allowed on the Cell Tower.

#### **Landscaping**

4. The applicant shall submit a revised site plan (landscape detail sheet) that clearly delineates the extent of the landscape buffer area, gravel surface to be retained, paved driveway and parking area, and grass area to be maintained.
5. The applicant shall provide a source of water for irrigation of the landscape plant materials per CMC 16.49.120(H).
6. The applicant shall submit a contract ready detail landscape plan prior to issuance of the building permit with species specific listing of the type, number, size and location where the plant materials are to be installed subject to approval by the Planning Director.

7. The landscape buffer area shall be expanded along the north lease boundary from the street westward approximately ½ the lease boundary (25') a minimum of 10' in width to assure good screening of the ground facilities from street view.
8. All landscaping shall be installed and maintained per the standards of 16.49.080(F-P), 16.49.100(A-C), and 16.49.090.

#### **Fence Screening Slats**

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9. The screening slats within the fence shall be of a color agreed to by the applicant and Planning Department and shall be placed along the complete eastern and northern boundary of the lease area.

#### **Paved Parking and Drive**

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10. The applicant shall provide an on-site paved driveway and approach meeting the minimum 12' wide commercial standard for a minimum 20 feet behind the gated entrance which can also meet the required single on-site paved parking space standard.
11. The applicant shall obtain a "street opening permit" for installation of the paved driveway approach from Canby Public Works Department.

#### **Procedural:** Prior to issuance of building permit the following must be completed:

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12. The applicant shall apply for a City of Canby Site Plan Permit to initiate authorization of release of a building permit, pay all applicable development fees, and apply for a sediment and erosion control permit prior to construction.
13. Prior to the issuance of City Site Plan permit approval, final construction plans must be approved by the city and applicable utility/service providers. The City of Canby may require a pre-construction conference to obtain final approval from applicable utility providers and city departments. This may include, but is not limited to, approval by:
  - a. City of Canby Planning
  - b. City of Canby Engineer
  - c. Canby Public Works
  - d. Canby Fire District
  - e. Canby Utility
  - f. Canby Telcom
  - g. Wave Broadband
14. Clackamas County Building Codes Division will provide structural, electrical, plumbing, and mechanical plan review and inspection for this project. Applicable building permits are required from Clackamas County prior to construction.

I CERTIFY THAT THIS ORDER approving DR 14-02/CUP 14-01 Verizon Wireless Cell Tower was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 13<sup>th</sup> day of October, 2014

\_\_\_\_\_  
Tyler Smith  
Planning Commission Chair

\_\_\_\_\_  
Bryan Brown  
Planning Director

\_\_\_\_\_  
Attest

**ORAL DECISION: September 22, 2014**

<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: October 13, 2014**

<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>				

I CERTIFY THAT THIS ORDER approving DR 14-02/CUP 14-01 Verizon Wireless Cell Tower was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 13<sup>th</sup> day of October, 2014

\_\_\_\_\_  
 Tyler Smith  
 Planning Commission Chair

\_\_\_\_\_  
 Bryan Brown  
 Planning Director

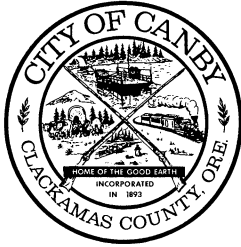
\_\_\_\_\_  
 Attest

**ORAL DECISION: September 22, 2014**

<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: October 13, 2014**

<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>				



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

**A REQUEST FOR A MINOR LAND  
PARTITION  
AT 103 NE 9<sup>th</sup> Avenue** )  
)  
)

**FINDINGS, CONCLUSION & FINAL ORDER  
MLP 14-02  
Snyder Construction, LLC**

**NATURE OF THE APPLICATION**

The Applicant has sought an approval for a Minor Land Partition #MLP 14-02 resulting in 2 six (6) total parcels from 3 existing lots, each to be divided in half for the development of attached single-family homes on properties described as Tax Lots 31E33CC07200, 31E33CC07300, & 31E33CD04600, 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 14-01 after the duly noticed hearing on August 11, 2014 during which the Planning Commission approved by a 4 - 0 vote MLP 14-01. 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. Other applicable code criteria and standards were reviewed in the Staff Report dated August 11, 2014 and presented at the August 11, 2014 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 with 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 hearing public testimony from the applicant only, and closing the public hearing, the Planning Commission 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:

- The Planning Commission confirmed support for Condition #13 that would assure a 12’

public utility easement along the frontage of the lots only if confirmed to be necessary by any utility agency, which have to date indicated to the applicant that all services are available without the easement need.

- Agreed with staff that the existing 32 foot wide street paving, which is 2 feet shy of the new local street standard, should still adequately provide access and accommodate on-street parking on both sides of the street albeit with some traffic calming affect due to the narrowness.

### **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, concluded that the Minor Land Partition application meets all applicable approval criteria, and recommended that File #MLP 14-01 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 will meet the requirements for Minor Land Partition approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **MLP 14-01** is approved, subject to the following conditions:

#### **General Conditions:**

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1. Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #MLP 14-01, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
  - a. Application form and supporting documents
  - b. Application narrative
  - c. Tentative partition drawing titled "Minor Partition Proposal SW 3<sup>rd</sup> St near intersection with S Elm", dated 5/19/2014 (Received on 7.14.14)
  - d. Citizen and agency comments/written testimony
2. The development shall comply with all applicable City of Canby Public Works Design Standards.
3. The applicant must obtain a city Street Opening Permit if the applicant wishes to install curb cuts and driveways prior to home construction so that the city may verify compliance with city access spacing standards.
4. The applicant shall address all comments made in the city engineer's

memorandum dated 7.24.14.

5. Stormwater will be required to be contained on site and stormwater plans must comply with the city's Public Works Design Standards.
6. The applicant must pay the city Master Fee authorized engineering plan review fee equal to 0.4% of public improvement costs prior to the construction of public improvements.

**Final Plat Conditions:**

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7. A final surveyed partition plat shall be prepared by a licensed surveyor or engineer.
8. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the final partition plat. Prior to the recordation of the final plat at Clackamas County, it must be approved by the city and all other applicable agencies. The city will distribute the final plat to applicable agencies for comment prior to signing off on the final plat. Applicable agencies may include:
  - a. City of Canby Planning
  - b. City Engineer
  - c. Canby Public Works
  - d. Canby Fire District
  - e. Canby Utility
  - f. Clackamas County
  - g. Northwest Natural Gas
  - h. Canby Telcom
  - i. Wave Broadband
  - j. Oregon Department of Environmental Quality (DEQ)
9. The proposed final plat must be submitted to the city for review within one year of Planning Commission approval or the applicant must request that the Planning Director approve a one-year extension for submittal.
10. The proposed final plat must be recorded at Clackamas County after city approval.
11. The applicant or county shall provide the city with a copy of the final plat in a timely manner after is recorded at Clackamas County.
12. The final partition plat shall depict any necessary sidewalk easements to accommodate a 6 foot sidewalk along the property frontages.
13. A 12 foot utility easement along all of the lot's street frontages shall be noted on the partition plat unless confirmed to be unnecessary by utility representatives. This easement may be combined with other easements and shall be measured from the property boundary.
14. The applicant shall pay the city fee for city establishment of street trees per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. All street tree fees shall be paid prior to the recordation of the partition plat.
15. A street tree easement 12 feet wide measured from the front property

line shall be provided along the frontage of all lots to allow street trees on private property to be planted behind the sidewalk. This easement may be shared with utilities and the sidewalk.

Monumentation/Survey Accuracy Conditions

16. Lot and perimeter monumentation shall be approved by the county surveyor and/or the city engineer.
17. The county surveyor and/or the city engineer shall verify that the standards of 16.64.070(M) are met prior to the recordation of the final plat.
18. 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 or county surveyor shall verify compliance with this condition prior to the recordation of the final plat.
19. Installation of the front lot monumentation (along and within street rights-of-way) shall be guaranteed. Any monuments destroyed during improvement installation shall be replaced at the developer's expense. The city engineer or county surveyor shall confirm required monuments prior to the recordation of the subdivision plat.

**Residential Building Permits Conditions:**

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20. Prior to the issuance of a City Site Plan Review permit, final construction plans must be approved by the city and all other utility/service providers. This includes, but is not limited to, approval by:
  - a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items.
  - c. Canby Fire District
  - d. Canby Utility – water and electric service
  - e. Northwest Natural Gas
  - f. Canby Telcom
  - g. Wave Broadband
21. Construction of all required public improvements except the public sidewalk and recordation of the partition plat must be completed prior to the construction of any homes.
22. Six foot sidewalks shall be constructed by the homebuilder and shall be depicted all proposed home construction plans.
23. The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for each home.
24. The homebuilder shall apply for a City of Canby Erosion Control Permit.
25. On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.



- 26.** Construction shall comply with all applicable City of Canby Public Works Design Standards.
- 27.** Clackamas County Building Codes Division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for home construction. The applicable county building permits are required prior to construction of each home.
- 28.** 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 driveways 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 14-01** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this 13<sup>th</sup> day of October, 2014

\_\_\_\_\_  
 Tyler Smith  
 Planning Commission Chair

\_\_\_\_\_  
 Bryan Brown  
 Planning Director

\_\_\_\_\_  
 Attest

**ORAL DECISION: October 13, 2014**

<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: October 13, 2014**

<i>Name</i>	<i>Aye</i>	<i>No</i>	<i>Abstain</i>	<i>Absent</i>
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**BEFORE THE PLANNING COMMISSION  
OF THE CITY OF CANBY**

<b>A REQUEST FOR A CONDITIONAL USE</b>	)	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER</b>
<b>PERMIT FOR A DETACHED ACCESSORY</b>	)	<b>CUP 14-02</b>
<b>DWELLING UNIT AT</b>	)	<b>MARY &amp; ROBERT LANE</b>
<b>1350 N BIRCH STREET</b>	)	

**NATURE OF APPLICATION**

The applicant is requesting permission to construct a detached accessory dwelling unit in the rear yard behind the principal home at 1350 N Birch Street. Section 16.16.020(O) requires a conditional use permit for an accessory dwelling that is not attached to the primary dwelling in the R1 zone. The accessory dwelling shall be separated from the primary dwelling unit by a minimum of 10 feet and conform to the standards in Section 16.16.010(D)(2). In accordance with Section 16.16.030(E)(2)(a) the proposed detached accessory structure may normally be allowed a height up to 22' as measured to the highest point of the roof when located inside the allowed building footprint for the principal home.

One additional on-site parking space is required to accommodate the occupant of an accessory dwelling unit. The accessory dwelling unit may not exceed 800 square feet of floor area. The exterior siding and roofing must be similar in color, material and appearance to that used on the primary dwelling although different siding or roofing may be approved by the Planning Commission if it finds that the proposed design is more compatible with surrounding residences. The applicant has indicated that their immediate purpose for constructing the ADU is to provide a nearby location for a family member. Once approved and built, accessory dwelling units run with the land and can serve as a source of rental income to the current or any future owner of the property.

**HEARINGS**

The Planning Commission held a public hearing to consider application CUP 14-02 after the duly noticed hearing on October 13, 2014. These findings are entered to document the specifics of the approval.

**CRITERIA AND STANDARDS**

In judging whether or not a conditional use permit shall be approved, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the proposed location and, to approve such use, shall find that the following criteria are either met, can be met by the application of conditions, or are not applicable.

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as

permitted in the zone.

**Other Applicable Criteria:**

- A. 16.16.020 Conditional uses in the R-1 zone.
- B. 16.16.030 Development Standards

**FINDINGS AND REASONS**

The Planning Commission deliberated on input presented at the October 13, 2014 meeting. The Planning Commission utilized the findings and conditions listed in the staff report along with the presentation record at the public hearing as support for their decision and recommended conditions of approval and the exact wording thereof.

**CONCLUSION**

The Planning Commission of the City of Canby concludes that, based on the findings and conclusions contained in the October 13, 2104 staff report and Commission deliberations at the October 13, 2014 public hearing:

1. That the conditional use is in conformance with the City’s Comprehensive Plan and Land Development and Planning Ordinance.
2. That the site can easily accommodate the proposed use.
3. That public service and utility provision to the site is available or can be made available through agreed upon future improvements.
4. That the conditional use will not alter the character of the surrounding area in a manner which substantially limits or precludes the use of surrounding properties as they exist today or for uses permitted in the zone.

**ORDER**

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that CUP 14-02 is APPROVED with the following conditions:

1. Necessary utility lateral or service extensions shall be installed at the applicant’s expense. The location of the sewer and water lateral extensions shall be approved by Public Works and Canby Utility prior to excavation.
2. The additional 3<sup>rd</sup> on-site required parking space shall have a hard surface (not gravel).
3. The Planning Department shall assign a new separate address to the accessory dwelling.

I CERTIFY THAT THIS ORDER approving CUP 14-02 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 13<sup>th</sup> day of October, 2014

\_\_\_\_\_  
 Tyler Smith  
 Planning Commission Chair

\_\_\_\_\_  
 Bryan Brown  
 Planning Director

\_\_\_\_\_  
 Attest

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