

City of Canby

MINOR PARTITION STAFF REPORT

FILE #: MLP 14-03

Prepared for the November 24, 2014 Planning Commission Meeting

LOCATION: 672 S Fir Street

ZONING: R-1 Low Density Residential

Tax lots: 41E04AB04700 (Bordered Property in Map Below)



LOT SIZES: 0.51 ACRES, 22,216 SF

OWNERS: ENC 4, LLC

APPLICANT: Ed Netter

APPLICATION TYPE: Minor Partition (Type III)

CITY FILE NUMBER: MLP 14-03

I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

The applicant proposes to partition one existing lot into three lots. An existing home is planned to be retained and remodeled on parcel 2, while the other two lots provide for two new single-family detached homes.

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)
 - PROPOSERS** (Persons in favor of application) (Not more than 5 minutes per person)
 - OPPOSERS** (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 or 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
CANBY PLANNING COMMISSION
7:00 pm – October 13, 2014
City Council Chambers – 155 NW 2nd Avenue

- PRESENT:** Commissioners Shawn Hensley, John Savory, John Serlet, and Larry Boatwright
- ABSENT:** Commissioner Tyler Smith, Chair
- STAFF:** Bryan Brown, Planning Director, Laney Fouse, Planning Staff, and Rick Robinson, City Administrator
- OTHERS:** Will Snyder, Joe Snyder, Mary Lane, Robert Lane, Sam Jones, Lee Sanderson, and Ken Rider, Council Liaison

1. CALL TO ORDER

Vice Chair Savory called the meeting at 7 pm.

There was discussion about whether or not three Commissioners represented a quorum. It was decided a quorum was present.

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

3. MINUTES

- a. *Planning Commission Minutes, September 22, 2014*

Motion: *A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve the September 22, 2014 minutes as written. Motion passed 3/0.*

Commissioner Boatright arrived at 7:05 pm.

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 9th Avenue. (MLP 14-02)*

Vice Chair Savory opened the public hearing and read the public hearing format. He asked if any of the Commissioners had any conflict of interest or ex parte contact to declare.

Commissioner Serlet lived in the area and walked by the subject property but had no conflict of interest. Commissioner Hensley said he also lived nearby but had no ex parte contact or conflict of interest. Commissioners Boatright and Savory said they had no conflict of interest or ex parte contact.

Bryan Brown, Planning Director, entered his staff report into the record. Mr. Brown said this was an application for a minor land partition proposing to create two lots at 103 NE 9th Avenue. He explained the proposed conceptual layout. The existing house and shop would remain which required a survey to make sure the distances from the new property line met the setback requirements. The applicant was confident that he would be able to meet those requirements. There were two existing driveways on N Ivy. The driveway closest to the intersection of Ivy and 9th was proposed to be removed. The other driveway met the separation distance requirements from the intersection, however it was too close to the driveway on the next property to the south. The Commission could

grant an exception as it was an existing driveway that had always been used to access the shop. One of the arguments in favor of the land partition was it made greater efficient use of the land and existing utilities rather than a new subdivision on the edge of town that used up farmland. The application met all of the development standards except for the driveway separation on Ivy. All the necessary utilities were in Ivy Street and would require street cuts and repaving to make the connections. There was no threshold triggered to do a traffic study. As a result of the application, there would be one new house built which would generate about nine trips per day. There was enough capacity on Ivy that it would not be impacted by the extra trips. He explained how the application met the general development standards. Two on-site parking spaces were required and would be confirmed with building plan submittal. All existing street and sidewalk improvements were adequate. The use of the existing shop must be restricted to only uses allowed within the zone district until a principal home was built on the same parcel. A street tree easement was needed to meet the street tree requirements on the new parcel. Staff recommended approval with conditions.

Applicant:

Will Snyder of White River Homes, a resident of Canby said he and his brother built homes in town and that was his intention with this property. He planned to rehab the existing home and build a new single level home on the second parcel. He wanted to keep the existing shop as it would be a benefit to the second parcel. They would rehab and sell the existing home as soon as possible and start building the second house in the spring.

There was no proponent, opponent, or neutral testimony.

Vice Chair Savory closed the public hearing at 7:20 pm.

Commissioner Deliberation:

Commissioner Serlet commented on the good job Mr. Snyder did on a recently built house on Juniper Street.

Motion: *A motion was made by Commissioner Serlet and seconded by Commissioner Boatright to approve MLP 14-02 with the condition that the survey be completed and that the Commission made an exception for the existing driveway on Ivy Street. Motion passed 4/0.*

- 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)*

Vice Chair Savory read the public hearing format. He asked if any of the Commissioners had any conflict of interest or ex parte contact to declare. There were none.

Mr. Brown, Planning Director, entered the staff report into the record. This was a request for a Conditional Use Permit to construct a detached accessory dwelling in the rear yard of 1350 N Birch Street. The street was considered a neighborhood route and there were substantial size lots in the neighborhood. He discussed the submitted site plan for a one story, 783 square foot accessory dwelling. The criteria said it had to be less than 800 square feet. It would be used for mother's quarters, however it would run with the land if approved and could become a rentable dwelling. He explained how the application met the Comprehensive Plan land use elements and development standards. There was ample setback and space from all the neighboring properties, it would maximize the use of existing public facilities and services, and increase efficiency of land use without sacrificing quality of life. They planned to use the same meters and sewer lines as the existing house. He discussed how all of the review criteria had been met. Staff recommended approval 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 3rd 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.

Commissioner Hensley liked the house numbering suggested by staff.

Applicant:

Mary Lane, 1350 N Birch, explained she wanted to build the accessory dwelling for her mom. It was a single story structure just like the existing house. They would be re-siding the existing house and the house and accessory dwelling would be painted the same color.

Commissioner Savory asked if they planned to rent out the accessory dwelling eventually.

Rob Lane, 1350 N Birch, said that was not the plan as it would always be their property.

Neutral Testimony:

Sam Jones, 1360 N Birch, was concerned about the loss of privacy as he had a two story home that looked into the backyard of the property. That might be alleviated by planting tall trees. He was also concerned about the house becoming a rental. For privacy, he suggested planting flowering pear trees. He explained where his flag lot was located.

Lee Sanderson, 14870 Osprey Court Beaverton, OR, was Ms. Lane's brother. Their parents bought the house in 1976. His dad passed away in 2007 and his mom was having a hard time keeping up with the maintenance. He gave a history of how the family decided to have Ms. Lane's family live in the existing house and add an accessory dwelling for his mother. The intent was not to make it an income producing situation. He understood Mr. Jones' concern regarding privacy, but it was a second story deck that overlooked the property and the proposed accessory dwelling was small. He did not think it would be an issue and was willing to work with Mr. Jones.

There were no proponents or opponents.

Vice Chair Savory closed the public hearing at 7:53 pm.

There was no discussion by the Planning Commission.

Motion: *A motion was made by Commissioner Hensley and seconded by Commissioner Boatright to approve CUP 14-02 as written. Motion passed 4/0.*

5. NEW BUSINESS

Councilor Rider introduced new City Administrator Rick Robinson.

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***

Mr. Brown stated he changed the numbering in the conditions because Conditions 1 and 2 were removed by Commission vote at the last meeting. The applicant had decided to put in gray slats to match the existing buildings and tower. Regarding the irrigation system, they planned to use water bags on the landscaping to keep it watered. They would still need to

bring water on site, replace the plants if they died, use drought tolerant species, and would guarantee keeping the landscape alive for the two years until it was established, and then irrigation would not be needed. Dragonberry had a similar problem with not putting in irrigation and the landscaping died and had to be replaced. This site was different as it was a small area hidden behind slatted screens.

Motion: *A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve the final findings for DR 14-02/CUP 14-01 Verizon Wireless as written. Motion passed 4/0.*

b. ***MLP 14-02 Will Snyder, White River Homes***

Mr. Brown said the Commission stated in their motion that the survey needed to be completed which was an ordinance requirement and already taken care of in the conditions. The second item in the motion was approval of the exception for the driveway which he wasn't sure was specifically mentioned in the findings. If not, it was understood that the exception was granted if the application was approved.

Commissioner Serlet withdrew his condition regarding the survey as it was already in the conditions.

Motion: *A motion was made by Commissioner Serlet and seconded by Commissioner Boatright to approve the final findings for MLP 14-02 Will Snyder, White River Homes. Motion passed 4/0.*

c. ***CUP 14-02 Mary & Robert Lane***

Motion: *A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to approve the final findings for CUP 14-02 Mary and Robert Lane. Motion passed 4/0.*

7. ITEMS OF INTEREST/REPORT FROM STAFF

a. *Next Regular Planning Commission meeting scheduled for Monday, October 27, 2014*

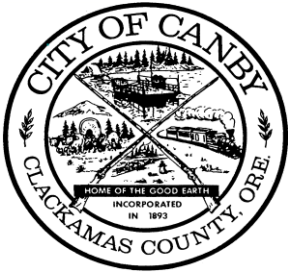
Mr. Brown said there was nothing on the next meeting agenda so far, and he thought the meeting was likely to be cancelled.

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

9. ADJOURNMENT

A motion was made by Commissioner Hensley and seconded by Commissioner Serlet to adjourn the meeting. Motion passed 4/0. The meeting was adjourned at 8:07 pm.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001. A copy of this agenda can be found on the City's web page at www.ci.canby.or.us City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503-263-6287.



PLANNING COMMISSION

(Revised) Meeting Agenda

Monday, November 24, 2014

7:00 PM

City Council Chambers – 155 NW 2nd 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, October 13, 2014*

4. PUBLIC HEARING

- a. *Consider a Minor Land Partition request from Ed Netter to partition one existing lot located at 672 S Fir Street into three lots. (MLP 14-03)*

5. NEW BUSINESS

- a. *Consider a Modification request from Jason Bristol to replace the pavers with asphalt for his previously approved Emerald Gardens Subdivision project (MOD 14-04).*

6. FINAL DECISIONS

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

- a. *MLP 14-03 – Netter, 672 S Fir St*

7. ITEMS OF INTEREST/REPORT FROM STAFF

- a. *Introduce New Associate Planner, Dave Epling*
b. *Next Regular Planning Commission meeting scheduled for Monday, December 8, 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.

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ATTACHMENTS

- A. Application form and supporting documents
- B. Application narrative
- C. Tentative partition drawing titled "Proposed Minor Partition 672 S Fir Street", dated 11.12.14 (2nd Revision)
- D. Citizen and agency comments/written testimony

II.

PRIMARY FINDINGS FOR PLANNING COMMISSION CONSIDERATION

A. *Modified Non-Typical Means of Access for Flag Lot.* Parcel 2 of the proposed partition will be provided access in a mostly typical manner for a flag lot arrangement by way of an access easement across Parcel 1 to the parcel behind. More often an actual parcel ownership arm is provided to provide direct public street access to more directly meet the minimum public street frontage requirement. A usual lot is required 60' of frontage on a public street, however the Planning Commission may allow flag lots, and cul-de-sacs where access and building sites are determined to be adequate. Parcel 3 is proposed to take access across a short access easement to an adjacent property to the northeast which is not a part of the proposed Minor Partition. This access solution is unique to this particular proposed lot arrangement, and is considered to be a viable and arguably preferred means of access as it lessens the total length of private cross access easement needed. In this case, providing access to Parcel 3 in the opposite direction to SE 6th Place eliminates a code compliance issue pointed out by staff if the access easement from Fir Street was utilized to serve Parcel 3 as its 20' width would not accommodate the 5' minimum setback requirement from the existing home to be retained and remodeled on Parcel 2. The applicant has indicated that he has secured agreement from the adjacent property owner to establish the proposed 20' wide access and utility easement. This must become a condition of approval to have this easement recorded prior to filing of record the partition plat.

B. *Retain existing 4' Wide Sidewalk Rather Than Widen to Current 6' Standard.* The proposed partition can be considered an infill opportunity where the residential density is increased in an already developed residential neighborhood. An existing 4' wide sidewalk built to the curb runs the full length of this partition along the S Fir Street frontage and the block as a whole. The current TSP adopted public right-of-way cross section standard for a standard local street is for a 6' wide sidewalk constructed anywhere from 0 to 8 feet behind the curb to provide a street tree planter strip depending on the available right-of-way. With a total existing street right-of-way of 60' there would be enough right-of-way to provide a 5' wide planter strip next to the curb and a 6' wide new sidewalk. This however would likely be deemed to be out of place and character with the existing developed neighborhood and would require tapers along the partition lot frontage to match the existing 4' wide curb tight sidewalk arrangement existing within the remainder of the block. Therefore, staff would recommend that an exception to the planter strip and 6' foot sidewalk would be appropriate in order to continue continuity within the remaining developed block, especially since the existing sidewalk

appears to be in relatively good shape. Accepting the existing sidewalk, its width, and current curb tight location is up to the Planning Commission.

A neighbor in the area of this partition pointed out at the planning counter that it is unfortunate that the area where the proposed access drive is proposed for Parcel 3 is on a curve in NE 6th Place where existing residences parallel park on a street that has no existing sidewalks on either side. This forces school children to walk down the middle of the street at times in this area. They were not necessarily concerned that another driveway opening would be particularly bad, but that the existing situation was not the safest. It would not seem reasonable for this partition developer to address the lack of sidewalks on a street which is not a part of his partition request.

C. Parcel 1 Adjacent to S Fir Street is not a Flag Lot when Determining Building Setbacks.

Parcel 1 is not considered a flag lot since it has frontage on a public street and takes access from that public street. This results in a 20' front yard setback from Fir Street and a 15 or 20' rear yard setback opposite the front depending on whether a one or 2-story home is built. Upon pointing out how setbacks would be determined to the applicant, they agreed to modify the lot depth of Parcel 1 to better account for the applicable setbacks so a more buildable lot is created. CMC 16.64.040(l)(4) allows the Commission to establish special setback requirements at the time of approving the creation of flag lots. Parcel 2 and 3 may be considered flag lots thus utilizing the standard code provision of assigning three interior side yard setbacks of 7' and the use of one rear yard setback of 15 to 20' depending on story height which the applicant may choose its location. The natural "rear lot" setback would from the side of the lot where the access road enters to allow vehicle maneuvering. Staff is comfortable with the means of access proposed and the resulting setbacks providing buildable lots.

D. Utility Services to Existing Home. The applicant did not provide information as to the location of existing service utilities to the existing home to be retained on Parcel 2. The applicant is responsible to work directly with each desired utility service provider to either relocate existing services within the proposed 20' wide access and utility easement through Parcel 1 or to provide a private easement across Parcel 1 protecting and assuring continued use of any existing private service lines. NW Natural has indicated that the existing gas line serving the residence at 672 S Fir Street will likely need to be relocated as it currently crosses Parcel 1 in the buildable footprint area. Staff does not know the location of electric and telephone services. We do need to assure that all necessary utilities have a means of protected access to service each proposed lot. The 2 proposed access and utility easements should provide a location for these private service connections.

E. Existing Tree Protection along North Property Boundary. We received written comments from the owners of the property at 345 SW 6th Avenue whose back yard abuts the northern property line of the proposed Parcel 3 and they mention their neighbor's property which backs onto Parcel 2. They are concerned in assuring that the existing Cedar trees that are

located along the property line just north of the existing driveway on the site to be partitioned and preserved. They indicate that since they are located near the property line that it should be possible to preserve them if the driveways are not moved or placed too close to the northern property line. Without a survey, identifying the exact location of these trees is not clear. The paved drive requirement within the proposed 20' wide access and utility easements may be a minimum of 12' wide when the access easements are less than 100' in length. This should make it possible to avoid removing the existing Cedar trees if they are indeed close to the property line by offsetting the paved drive to the southern portion of the provided access easement. Staff would recommend that the applicant agree to provide a tree protection plan to indicate which trees can be preserved along all three Parcels by offsetting the paved drive to the south side of the proposed access easements along with consideration of the placement of utility service trenches to the homes. This has been made a condition of approval.

III. APPLICABLE CRITERIA & STAFF 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
- 16.86 Street Alignments
- 16.89 Application and Review Procedures
- 16.120 Parks, Open Space, and Recreation Land General Provisions

Applicable code criteria are highlighted below in **gray**, with findings and discussion after the citations; most full code citations are omitted for brevity. If not discussed below, other standards from the code are either met fully, not applicable, and/or do not warrant discussion. Most met provisions have no discussion for brevity.

Chapter 16.08 General Provisions

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: Staff recommends allowing the use of the existing 4' wide curb tight sidewalk which exists for the full block on this otherwise fully developed block.

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 TIS requirements to trigger the need as indicated in CMC 16.08.150.

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:

- Stormwater will be required to be contained on site and stormwater plans must comply with the city’s Public Works Design Standards, a condition of approval.
- Vision clearances are reviewed during the building permit process.
- The site contains existing public utilities that individual lot connections can be made with provision of the access and utility easements proposed.
- The site is located adjacent to an existing paved street; no new street improvements are proposed that would trigger the requirements of (D) and (E); total right-of-way of 60’ exceeds current local street cross section demands, and an existing 4’ wide sidewalk exists on the entire developed block. Staff previously suggested that it may be deemed appropriate to waive the 6’ wide sidewalk standard.

Chapter 16.10 Off Street Parking & Loading

Table 16.10.050 Off-street Parking Provisions

Findings: Two parking spaces are required per single family home; parking will be reviewed during

the building permit process.

16.10.070 Parking lots and access

B. Access

- 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...

Findings: The standard local street cross section requires a six-foot wide sidewalk. An existing 4' wide sidewalk is present along the entire frontage of this developed block. Meeting the 6' wide standard in an existing developed neighborhood block would widen the sidewalk with tapers to the existing width on both ends for the 106' of sidewalk frontage. Meeting this standard is possible but staff is not certain installing a 6 foot wide sidewalk on one lot where the remaining is already built out and established with a 4' wide sidewalk is the best option. The Planning Commission may approve a sidewalk width exception if they believe that is most appropriate.

Minimum Access Requirements			
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):			
<i>Dwelling units</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks & Curbs (in addition to driveways)</i>
1 - 2	1	12 feet	Public street sidewalk, otherwise none required

Findings: The partition will comply with the access standards. The street width exceeds the minimum required and a curb tight sidewalk exists on the public street frontage. No sidewalk is required to access flags lots.

10(f). Distance between Driveways and Intersections for Single-family Residential Houses...

Findings: An existing drive will be placed in a common access easement to provide access to Parcel 1 & 2. This drive complies with 30' separation from a street intersection and the desired 10' separation from an adjacent drive. The proposed new access easement and drive out to SE 6th Place to serve Parcel 3 will exceed the minimum 30' separation standard from a street intersection and 10' separation from existing drives on SE 6th Place.

Table 16.10.070 Minimum dimensional Standard for Parking:

Findings: Parking standards will be verified during the building permit process. A driveway shall not exceed 24' in width at the property line.

16.16 R-1 Low Density Residential Zone

16.16.010 Uses permitted outright.

Uses permitted outright in the R-1 zone shall be as follows:
B. Single family dwelling; one single-family dwelling per lot;

Findings: The applicant proposes to create 3 lots to accommodate two new single family dwellings on the vacant parcels and remodel the existing home, a use permitted outright.

16.16.030 Development standards.

Findings: Two of the proposed lots exceed the 7,000 minimum lot size while the third is just 6 square feet short. The Planning Commission may approve lot area exceptions when the average of the partition lot size shall not be less than 7,000 square feet. The average of the 3 proposed lots is 7342 sf. There does not appear to be any particular reason why each lot is not proposed to meet the minimum standard but use of the lot averaging exception would be suitable. Staff is concerned that Parcel 1 should be larger, as a front yard setback requirements of 20' from Fir Street and the rear yard setback of 15' for a single story home and 20' for a two story home will only leave 33' and 28' respectfully for a home footprint depth. The minimum lot width of 60 foot is met. The building height and maximum impervious area will be verified during the building permit process. Staff recommends that the lot depth of Parcel 1 be increased by 2 feet to better account for the setbacks that will apply when siting a home on that lot.

16.21 Residential Design Standards

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)...

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 new homes that will have a street facing façade. Therefore, the new home on Parcel 1 will be evaluated during the building permit process for compliance with the residential design standards. A condition of approval is provided to note this requirement.

16.21.050 Infill Homes

B. Applicability. These standards apply to all new infill homes as defined by 16.04.255.

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).”

Parcel 1 and 3 of the proposed partition are subject to evaluation as to whether the infill home standards would be applicable since these lots are zoned R-1 and appear to have existing homes on two adjacent sides which may be within 25 feet of the common lot line. A condition of approval to alert the home builder to the possible infill home evaluation criteria is recommended

to assure code compliance.

16.43 Outdoor Lighting Standards

16.43.030 Applicability

The outdoor lighting standards in this section apply to the following:

- A. New uses, buildings, and major additions or modifications:
1. For all proposed new land uses, developments, buildings, and structures that require a building permit, all outdoor lighting fixtures shall meet the requirements of this Code.

16.43.060 Prohibited Light and Lighting.

- A. All outdoor light sources, except street lights, shall be shielded or installed so that there is no direct line of sight between the light source or its reflection at a point 3 feet or higher above the ground at the property line of the source. Light that does not meet this requirement constitutes light trespass. Streetlights shall be fully shielded. However, the applicant is permitted to have some unshielded lighting if lumens are within the limits of Table 16.43.070 below.

Findings: The Planning Commission has determined with recent applications that lighting standards are not applicable to street lights. Lighting standards in 16.43 are applicable to new homes. No change to street lighting is proposed or needed with this request.

16.46 Access Limitations on Project Density

Findings: The two additional lots will not impact the suitability of the existing access to lots within the neighborhood. No new roads are proposed to trigger minimum access standards. The majority of the remaining access standards of this section do not apply to residential driveways.

16.56 Land Division Regulation

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

16.60 Major or Minor Partitions

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 section also gives the Planning Commission the authority to be flexible with public improvement requirements.

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: 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 application involves the creation of 3 lots from the existing. This partition does not propose to create a road or street, but two private driveways – one of which will be a shared driveway. As such, this application is being processed as a minor partition. A condition of approval verifies that all requirements of applicable utility agencies, including easement requirements, are met prior the recordation of the partition plat.

The application, staff report, and conditions of approval ensure conformance with the above. Public facilities and services are presently available to serve each lot by extending individual service laterals within the 2 different access and utility easement from the main utilities services located in the existing adjacent public streets.

16.60.060 Final procedures and recordation.

- A. Following the action of the city in approving or conditionally approving a tentative plat 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.

Findings: No public improvements are proposed or required with this application, with the possible exception to widen the existing sidewalk along S Fir Street to 6’ if the Planning Commission so chooses to require such. Sidewalks are installed on their respective lots at the time of home construction. Staff has recommended that the Planning Commission accept the

existing sidewalk width of 4' and waive upgrading since the remainder of the block is already fully developed.

- 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: A condition of approval states that a surveyed partition plat, prepared by a licensed surveyor or engineer, shall be prepared and recorded at Clackamas County after city review. Clackamas County Surveying reviews pending subdivision plat documents for Oregon Statutes and county requirements after city approval. A condition of approval states that 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. A condition of approval states that the applicant or county shall provide the city with a copy of the final plat in a timely manner after it is recorded at Clackamas County.

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: A condition of approval states that 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. Street trees will have to be placed within a street tree planting easement that may be shared with utilities and the sidewalk. A condition of approval states that the Planning Commission requires a street tree easement to allow planting of street trees on private property on the frontage of each lot that fronts a public street. This means that Parcel 1 shall have a Tree Easement and the developer shall pay the applicable street tree fee associated with that lot frontage adjacent to S Fir Street at the current rate as calculated at one tree per 30' of linear frontage.

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 on 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: A condition of approval verifies that all requirements of applicable utility agencies are met prior to the recordation of the partition plat.

- C. Pedestrian Ways. In any block over six hundred feet in length, a pedestrian way or combination pedestrian way and utility easement shall be provided through the middle of the block. If unusual conditions require blocks longer than one thousand two hundred feet, two pedestrian ways may be required. When essential for public convenience, such ways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands or through green way systems. Sidewalks to city standards may be required in easements where insufficient right-of-way exists for the full street surface and the sidewalk.

Findings: The existing block is not over 600 feet therefore the pedestrian way standard is met.

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: Parcel 3 is slightly less than the standard minimum lot size requirement but the permitted average size for the 3 proposed lots together exceeds the minimum. The lot depth of Parcel 1 was increased in the review process to better account for the impact of the required front and rear setbacks which are calculated differently from the flag lots which have no street frontage.

- B. Minimum Lot Sizes:

1. Lot sizes shall conform with requirements of Division III...

- C. Lot Frontage. All lots shall meet the requirements specified in Division III...

- E. Lot Side Lines. The side lines of lots shall run at right angles to the street upon which the lots face...

Findings: The above sections are met, when accounting for lot size averaging.

- J. Designation of Lots as 'Infill Home' Sites. The Planning Commission may require that homes built on one or more lots adjacent to existing development be subject to any or all of the requirements of 16.21.050 - Infill Homes. Furthermore, for subdivisions where the parent parcel(s) is less than two acres in size, the Planning Commission may require that all homes built on lots in the subdivision be subject to any or all of the requirements of 16.21.050. These requirements are to be shown on the subdivision plat or included in the deed restrictions.

Findings: Designation of infill lots is not recommended by staff because the proposed homes do not meet the definition for infill homes per 16.04.255.

16.64.060 Grading of building sites.

The commission may impose bonding requirements, similar to those described in section 16.64.070, for the purpose of ensuring that grading work will create no public hazard nor endanger public facilities where either steep slopes or unstable soil conditions are known to exist.

Findings: Staff does not propose a grading bond because the site has flat topography with no steep slopes with little possibility for issues.

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 warrant the change.

Findings: No improvements are being required except for the installation of sidewalks. Sidewalk installation will be done at the time of home construction and the city does not customarily collect assurances for residential sidewalk installation. The Planning Commission must decide whether to allow continued use of the existing 4' wide sidewalk.

5. A map showing public improvements "as built" shall be filed with the city engineer within sixty days of the completion of the improvements.

Findings: City does not generally seek "as-built" plans for residential sidewalk installation.

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: No improvements are being required except for the installation of sidewalks; sidewalk

installation will be done at the time of home construction. Staff has suggested allowing the existing 4' sidewalk to remain in its curb tight location. Monumentation requirements are addressed with conditions of approval. Conditions of approval addresses utility agency requirements.

C. Streets

2. ...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.

Findings: A condition of approval addresses monumentation requirements.

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

Findings: A condition of approval addresses street tree requirements.

4. Prior to city approval of the partition plat, all perimeter and back lot line monumentation shall be installed and the 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.

Findings: A condition of approval addresses monumentation requirements.

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: No improvements are being required except for the installation of sidewalks; sidewalk installation will be done at the time of home construction if the need for a new sidewalk is agreed upon by the Planning Commission.

D. Surface Drainage and Storm Sewer System.

3. All new subdivisions in Canby are required to treat stormwater on site. Stormwater 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.

Findings: All residential stormwater must be retained onsite per Chapter 4 of the Canby Public Works Design 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: Customarily, no assurances are collected for residential sidewalk installation. The Planning Commission is to recommend whether to allow the existing 4' sidewalk to remain.

J. Street Lighting System. Streetlights shall be required to the satisfaction of the manager of the Canby Utility Board.

Findings: No new streetlights are proposed.

K. Other Improvements.

1. Curb cuts and driveway installation are not required of the subdivider but, if installed, shall be according to city standards.
2. Street tree planting is required of the subdivider and shall be according to city requirements.
3. The developer shall make necessary arrangements with utility companies or other persons or corporations affected, for the installation of underground lines and facilities....

Findings: A condition of approval states that a city Street Opening Permit is required when curb cuts are proposed prior to home construction. Otherwise access spacing requirements will be reviewed during the building permit process. A condition of approval addresses street trees. The existing overhead utility lines are not proposed to be undergrounded.

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: A condition of approval states that the City Engineer or County surveyor shall verify that the above standards are met prior to the recordation of the partition plat.

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 public improvements are proposed or indicated to be required except for the 6-foot wide sidewalk unless the Commission requires widening or relocation of a new sidewalk along Parcel 1.

16.86 Street Alignments

16.86.020 General provisions.

- F.** Bikeways and bike lanes shall be provided consistent with the Bicycle Plan element of the Transportation System Plan.
- G.** Pedestrian facilities shall be provided consistent with the Pedestrian Plan element of the Transportation System Plan.

Findings: No bicycle facilities are listed in the TSP for local streets and a 4' wide curb tight sidewalk exists.

16.86.040 Recommended Roadway Standards

Specific standards for roadway design are located in the Transportation System Plan and Canby Public Works Design Standards

Findings: No new streets are proposed or are being required for this proposed partition.

16.89 Application and Review Procedures

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 to applicable agencies. Notice of the meeting was posted at the Development Services Building, City Hall, and Library and published in the *Canby Herald*. This chapter requires a Type III process for minor partitions. A neighborhood meeting is not required for minor partitions and a pre-application conference was not required for this application.

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

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 construction of any future new homes on Parcel 1 and 3 to satisfy 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:

Minor Partition Conditions Unique to This Request:

- 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 14-03, 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 plat drawing titled "Proposed Minor Partition 672 S Fir Street", dated 11.12.14.
 - d.** Submitted citizen and agency comments/written testimony
- 2.** A sewer and water service plan for the new parcels and impact on service to the existing house shall be submitted and approved by City prior to filing the partition plat of record.
- 3.** The applicant shall relocate the existing driveway if necessary to assure it is located within the provided 20' access easement to assure access to Parcel 2.
- 4.** A cross access and maintenance agreement shall be filed of record for each proposed access easement.
- 5.** The applicant shall submit a Tree Protection Plan to indicate which trees can be preserved along the northern boundary of the existing Tax Lot if agreed upon at the public hearing.
- 6.** The applicant/developer shall be required to provide a minimum 36" wide clear path behind the mailboxes to accommodate ADA requirements, and trim all intrusive tree branches and hedge overhang from the existing sidewalk prior to filing the partition plat.
- 7.** All work associated with the required paved driveway or utility installations shall secure a street construction permit and comply with City current Public Works Design Standards.
- 8.** The offsite access and utility easement to serve Parcel 3 shall be recorded prior to filing the partition plat associated with MLP 14-03.
- 9.** The applicant is responsible to either relocate all necessary utility services within the proposed 20' wide access and utility easements to serve Parcel 2 & 3 or provide a private easement across Parcel 1 protecting and assuring continued use of those private service lines where they exist if not in conflict with the proposed footprint of the new home on Parcel 1.
- 10.** The applicant shall pay the current city fee for city establishment of street tree(s) per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code applicable to Parcel 1. The street tree fee shall be paid prior to the recordation of the partition plat.
- 11.** A street tree easement 12 feet wide measured from the front property

line shall be provided along the frontage of Parcel 1 to allow street tree(s) on private property to be planted behind the sidewalk on Parcel. This easement shall be designated on the Partition Plat.

Final Partition Plat Conditions:

- 12.** A final surveyed partition plat shall be prepared by a licensed surveyor for recording the partition plat of record.
- 13.** The applicant shall apply for partition plat approval at the city and pay applicable city fees to gain approval of the final partition plat. Prior to the recordation of the final partition plat at Clackamas County, it must be approved by the city and reviewed by other applicable local agencies. The city will distribute the partition plat to applicable agencies for comment prior to signing off on the plat.
- 14.** The proposed final partition plat must be submitted to the city for review upon filing a Final Plat application within one year of Planning Commission approval of the Minor Partition or the applicant must request in writing that the Planning Director approve a one-year extension.
- 15.** The applicant or county shall provide the city with a copy of the final plat in a timely manner after recorded at Clackamas County.

Monumentation/Survey Accuracy Conditions

- 16.** The county surveyor shall verify that the survey accuracy and monumentation requirements set forth in Oregon Revised Statutes and CMC 16.64.070(M) are met prior to the recordation of the final plat. Installation of the front lot monumentation (along and within street rights-of-way) and the replacement of any existing monuments destroyed during improvement installation shall be confirmed by the city engineer or county surveyor prior to the recordation of the partition plat.
- 17.** Monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92. The city engineer or county surveyor shall verify compliance with this condition prior to the recordation of the final plat.

Residential Building Permits Conditions:

- 18.** Construction of all required public improvements, except the public sidewalk, and the recordation of the partition plat must be completed prior to the issuance of building permits and construction of any homes.
- 19.** Six foot sidewalks shall be constructed by the homebuilder and shall be depicted all proposed home construction plans. (In this case, the existing four and one-half foot sidewalk is deemed acceptable for Parcel 1 & sidewalks are not required for Parcel 2 & 3).
- 20.** The new home on Parcel 1 shall comply with the residential design standards of CMC 16.21 and both Parcel 1 and 2 must be evaluated to determine if the

- “infill home” standards are applicable at the time of a building permit.
21. The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for each home.
 22. The homebuilder shall apply for a City of Canby Erosion Control Permit.
 23. On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.
 24. Construction shall comply with all applicable City of Canby Public Works Design Standards.
 25. 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.
 26. Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet and the maximum residential driveway widths shall be 24 feet with an allowed exception for 28 feet for a home with 3 or more garages.

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 14-03 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 14-03 pursuant to the Conditions of Approval presented in this Staff Report in Section V.



City of Canby
 Planning Department
 170 N. 2nd 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: Ed Netter Phone: 503-314-9381
 Address: 1847 S. Fir St Email: netterhomes@hotmail.com
 City/State: Canby OR Zip: 97013 Signature: Ed Netter

Representative Name: _____ Phone: _____
 Address: _____ Email: _____
 City/State: _____ Zip: _____

Property Owner Name: ENC 4, LLC Phone: 503-314-9381
 Signature: Ed Netter, Member Email: Ed Netter
 Address: 1847 S. Fir St Email: netterhomes@hotmail.com
 City/State: Canby OR Zip: 97013

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:

672 S. Fir St, Canby 0.51 AC 41E04AB 4700
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

1 Single Family Residence R-1 LDR
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

Develop 2 new single family lots.
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
<u>NLP14-03</u>	<u>9.24.14</u>	<u>Bob</u>		
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE
	<u>12:30 pm</u>			

SITE AND DESIGN REVIEW APPLICATION – TYPE III–INSTRUCTIONS

All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email. Required application submittals include the following:

Applicant	City
Check	Check

- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of this application packet. The City may request further information at any time before deeming the application complete. |
|-------------------------------------|--------------------------|--|
- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Payment of appropriate fees – cash or check only. Refer to the city’s Master Fee Schedule for current fees. Checks should be made out to the <i>City of Canby</i> .
“Major” Partition – includes the creation of a road or street.
“Minor” Partition – does not include the creation of a road or street. |
|-------------------------------------|--------------------------|---|
- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Mailing labels (1" x 2-5/8") for all property owners and all residents within 500 feet of the subject property. If the address of a property owner is different from the address of a site, a label for each unit on the site must also be prepared and addressed to “occupant.” A list of property owners may be obtained from a title insurance company or from the County Assessor. |
|-------------------------------------|--------------------------|---|
- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of a written, narrative statement describing the proposed development and detailing how it conforms with the Municipal Code and to the approval criteria, including the applicable Design Review Matrix, and availability and adequacy of public facilities and services. <u>Ask staff for applicable Municipal Code chapters and approval criteria.</u>
Applicable Code Criteria for this application includes:
<hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> <hr style="border: 0; border-top: 1px solid black; margin-top: 5px;"/> |
|-------------------------------------|--------------------------|--|
- | | | |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Three (3) copies of a Traffic Impact Study (TIS), conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (<u>payment must be received by the City before the traffic engineer will conduct or review a traffic impact study.</u> Ask staff to determine if a TIS is required. |
|-------------------------------------|--------------------------|--|
- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy in written format of the minutes of the neighborhood meeting as required by Municipal Code 16.89.020 and 16.89.070. The minutes shall include the date of the meeting and a list of attendees. |
|-------------------------------------|--------------------------|---|
- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy in written format of the minutes of the pre-application meeting |
|-------------------------------------|--------------------------|--|
- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the Clackamas County Surveyor’s |
|-------------------------------------|--------------------------|--|

office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.

Applicant City
 Check Check

- If the development is located in a Hazard ("H") Overlay Zone, submit one (1) copy of an affidavit signed by a licensed professional engineer that the proposed development will not result in significant impacts to fish, wildlife and open space resources of the community. If major site grading is proposed, or removal of any trees having trunks greater than six inches in diameter is proposed, then submit one (1) copy of a grading plan and/or tree-cutting plan.

- Ten (10) paper copies of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:
 - Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
 -
 - Name of Proposed Partition Plat (subject to review and approval by Clackamas County).
 - Partition boundary, parcel lines, parcel dimensions, gross area in square feet of each parcel (excluding the square footage of accessways for flag lots), and proposed public and private easements;
 - If any undevelopable tract is proposed to be created, the dimensions, gross area, and purpose of the tract shall be included.
 - If any oversized parcels are proposed, which in the opinion of the Planning Director are likely to be further divided in the future, provide an illustration of how the parcel could be further divided in conformance with all CMC standards in a manner which provides for continuation of streets and provides adequate building envelopes.
 - Site Plan-the following general information shall be included on the site plan:
 - Property lines (legal lot of record boundaries);
 - 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.
 - Location and description of all existing structures (i.e., buildings, signs, fences, mechanical or utility structures, etc.) on the property, including those under construction or pending under an issued building permit. Indicate which structures are to remain and which are to be removed. For structures to remain,

call out the distance between the structure and all proposed boundaries of the parcel upon which the structure is located.

- Location and proposed disposition of all existing: driveways, wells, septic tanks, drain fields, easements, drainage ways, and jurisdictional watercourses or wetlands on or abutting the property.
- Location, names, right-of-way width, improvement dimensions, curve radius, and grades of all existing and proposed streets and public access ways within the proposed partition and abutting the partition.
- Identify the classification of all streets in accordance with the Canby Transportation System Plan. Show typical cross-sections of proposed street improvements, including identification of proposed street trees. Provide street center profiles showing the finished grade of all streets as approved by the City Engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
- Location and type of existing and proposed transit facilities.
- Location of all proposed utilities, including sewer, water, storm water, electric, telephone, and natural gas; including utility sizes and grades.
- Indicate on the proposed plans how the proposed parcels meet Canby's solar access standards (only applicable to parcels created in an R-1, R-1.5, or R-2 zoning district).

PARTITION, MAJOR / MINOR – TYPE III: APPLICATION PROCESS

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City, or the City Planner may determine that a pre-application meeting is necessary after an application has been discussed or upon receipt of an application by the City. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and set of preliminary plans to the City Planner, and after receiving the Planner's initials, must then make and take 16 copies of the pre-application materials to the Canby Public Works Department to schedule the pre-application meeting. The City does not charge a fee for a pre-application meeting.
2. Prior to submitting an application, all applicants must hold a neighborhood meeting with surrounding property owners and any recognized neighborhood association representative, pursuant to the procedures described in Canby Municipal Code Section 16.89.070. In certain situations, the Planning Director may waive the neighborhood meeting requirement.
3. At the time an application is submitted to the City, payment of all required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
4. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are routed to various City/State/County departments, as applicable, for their comments. Along with the comments received from others, the application is reviewed for completeness. The City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.

5. Staff investigates the application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
6. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. This material must be posted **by the applicant** at least ten (10) days before the public hearing.
7. The staff report will be available to all interested parties seven (7) days prior to the hearing.
8. The Planning Commission holds a public hearing. The staff report is presented to the Commission. Testimony is presented by the applicant, proponents and opponents, followed by rebuttal from the applicant.
9. The Commission then issues findings of fact which support approval, modification, or denial of the application. A decision may be appealed to the City Council.
10. If an approval or a denial is appealed, City Council holds a public hearing. The staff report is presented and testimony taken, as at the original hearing(s). Unless the City Council decides to hear the appeal de novo, only testimony regarding items already in the record is permitted, and no new information may be entered. In the case of an appeal, the Council may affirm, revise or reverse the action of the Planning Commission in all or in part. The Council may also remand the matter back to the hearing body for further consideration.
11. Prior to construction of any of the subdivision improvements required pursuant to CMC 16.64.070, a preconstruction meeting is held with the City and all applicable utility and service providers. If required, this meeting must be held before issuance of any permits.

PARTITION, MAJOR / MINOR – TYPE III: STANDARDS AND CRITERIA

Under Section 16.60.030 of the Canby Municipal Code, an application for MINOR PARTITION approval shall be evaluated based on the following standards and criteria:

- A. Conformance with the text and applicable maps of the Comprehensive Plan;
- B. Conformance with 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;
- D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels; and
- 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.

Under Section 16.60.040 of the Canby Municipal Code, an application for MAJOR PARTITION approval shall be evaluated based on the following standards and criteria:

- A. Conformance with the text and applicable maps of the Comprehensive Plan;

- B.** Conformance with 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;
- D.** 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;
- E.** In no case shall the use of a private road be approved for partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels; and
- F.** The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions, except however, the Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
 - 1.** The establishment of the public street is initiated by the Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
 - 2.** The tract in which the street is to be dedicated is a major partition within an isolated ownership of not over one acre or is of such size and characteristic as to make it impossible to develop building sites for more than three dwelling units.

Minor Partition Proposal, City of Canby

Owner: ENC 4, LLC, Ed Netter, Member

Applicant: Ed Netter

1847 S Fir Street
Canby OR 97013

Phone: 503-314-8381

Subject Property: T4S R1E Section 04AB Tax Lot 4700

Project summary: Partition one existing lot into three single family lots retaining the existing home on one lot. This will provide two additional building lots for single family homes, and outright use in the zone.

This proposed minor partition is located near the intersection of S. Fir Street and S 6th Avenue. The site currently has one single family home situated so one new lot can be placed in front of it and one additional lot can be placed behind it. The access to the existing home and the rear lot will be by a flag driveway.

The area has a mix of newer and older homes. South Fir Street has a 60 foot right of way, 36 feet of curbed paving and a four foot sidewalk on each side. Access is good to local transportation and services. The site consists of 0.51 acres or 22,215 square feet zoned R-1 and in the comprehensive plan as low density. This area will suffice for three 7000 sq ft lots, but no more.

The zone for this property is R-1, single family residential. The comprehensive plan designation is Low Density Residential. The proposed minor partition will bring the subject parcel up to its maximum density allowed by the comprehensive plan. The applicant plans to remodel the existing home and build two new single family residences. These uses are permitted outright in the subject zone.

The area of impervious surface is expected to be no more than 2000 sq ft per dwelling and about 2800 sq ft for the paved access way. That totals 8800 sq ft of impervious surface or about 40% of the total, substantially less than the allowed 60%.

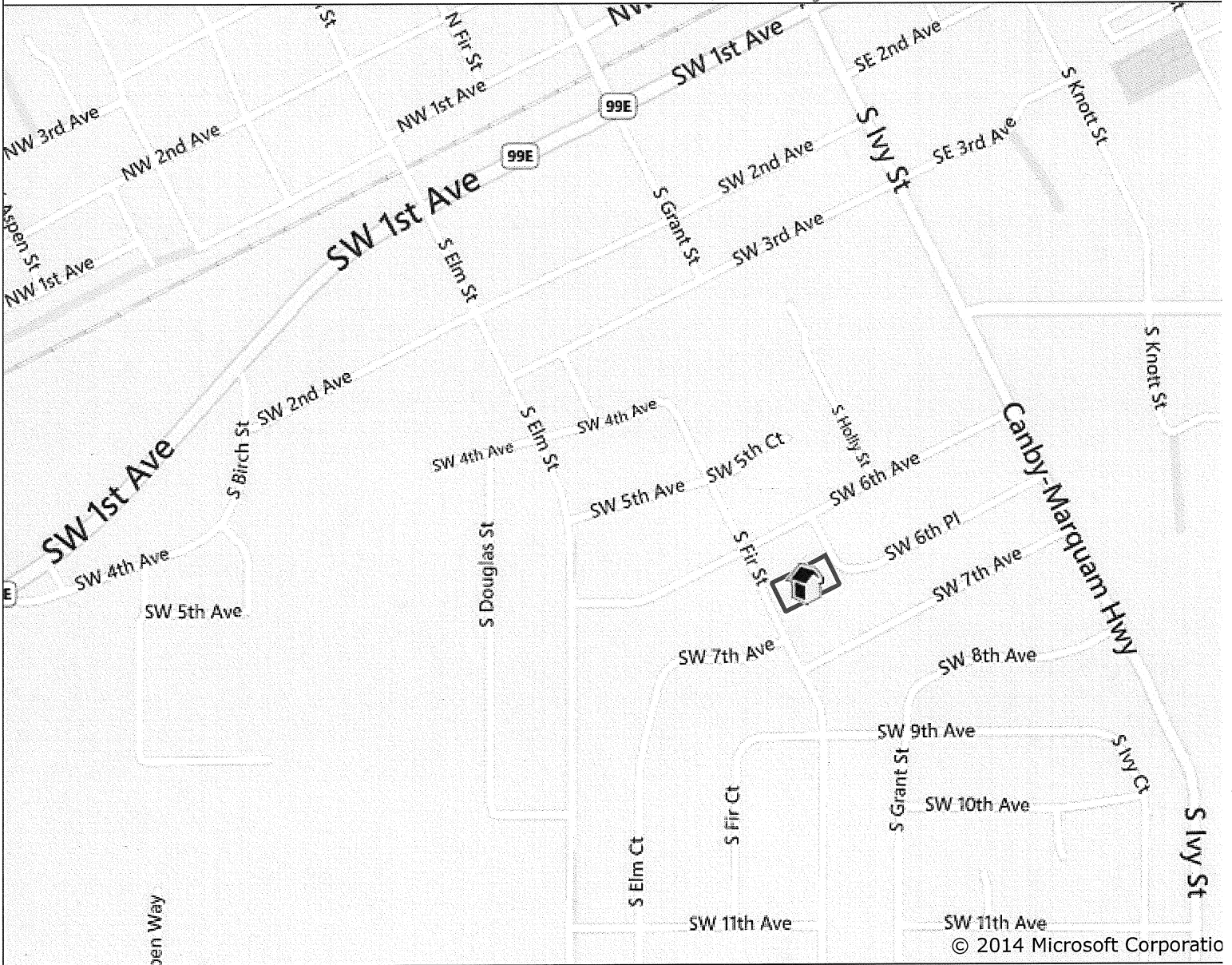
Neighboring structures are a mix of one and two storey older homes. The subject is totally surrounding by the R-1 zone. All development will be in accordance with the height restrictions required by the height of neighboring structures.

On the advice of staff no traffic impact study is being used, no pre-application meeting is being held and no neighborhood meeting is being held.

Map View

Vicinity Map
1" = 400'

Property Address: 672 S FIR ST, CANBY, 97013

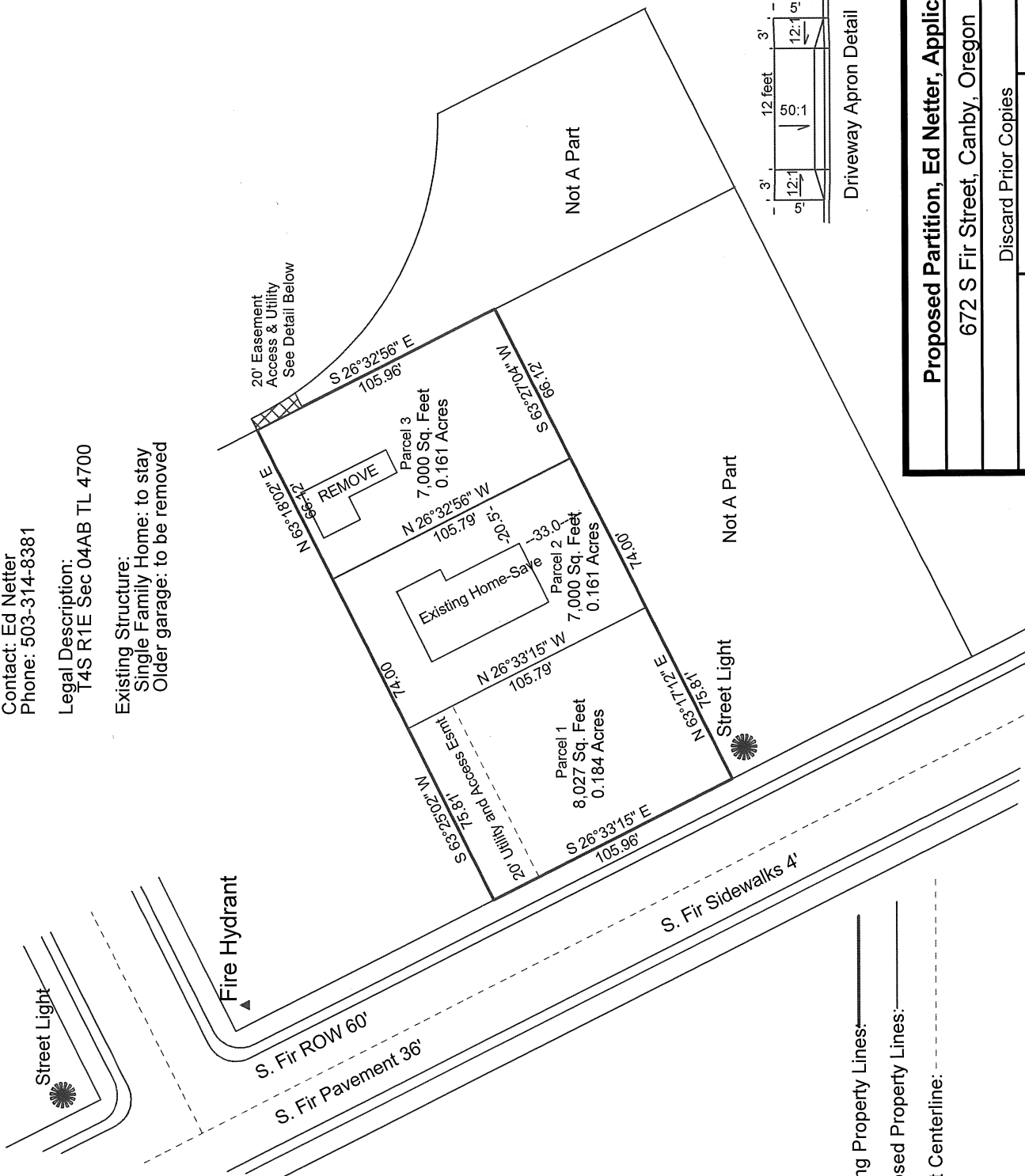




Owner: ENC 4 LLC
 Contact: Ed Netter
 Phone: 503-314-8381

Legal Description:
 T4S R1E Sec 04AB TL 4700

Existing Structure:
 Single Family Home: to stay
 Older garage: to be removed



Proposed Partition, Ed Netter, Applicant	
672 S Fir Street, Canby, Oregon	
Discard Prior Copies	
DATE: 11/12/2014	SCALE: 1" = 60'
DRAWN BY: A. Manuel	

Existing Property Lines: _____
 Proposed Property Lines: _____
 Street Centerline: - - - - -

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

Written comments to be included in the Planning Commission’s meeting packet are due by noon on Thursday, November 13, 2014. Written comments can also be submitted up to the time of the **Public Hearing on Monday, November 24, 2014** and may also be delivered in person to the Planning Commission during the **Public Hearing at 7 pm.**

Application: Minor Land Partition: MLP 14-03/Applicant: Ed Netter

COMMENTS:

1. Canby Utility would like to see a 12' easement on the west side of Parcel 1, along S fir St. due existing overhead lines.

2. Canby Utility will need a 10' easement on the N side of parcel2 and Parcel 3, to provide electrical service to the property

YOUR NAME: Gary Stockwell

EMAIL: gstockwell@canbyutility.org

ORGANIZATION or BUSINESS (if any): Canby Utility Electrical Dept.

ADDRESS: PO Box 154 Canby, OR. 97013

PHONE # (optional): 503 263 4307

DATE: 11-10-14

CITY OF CANBY –COMMENT FORM

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Application: Minor Land Partition: MLP 14-03/Applicant: Ed Netter

COMMENTS:

1. The existing 4.5 feet wide sidewalk is in good condition and no changes are needed. However, the developer will be required to provide a minimum of 36" wide clear path between the back of the existing mail boxes to accommodate ADA requirements.
2. All the intrusive branches from the existing hedge at the back of the existing sidewalk must be trimmed.
3. The submitted plan doesn't show how the existing driveway and the new driveway within the new 20-foot utility easement will be impacted.
4. The developer shall provide a sewer and water plan for serving the new parcels and identify any impact on the existing utilities serving the existing residence.
5. All trench repairs and work in the public right of ways shall comply with the City current Public Works Standards.
6. We have no concerns with the proposed access to parcel 3.

YOUR NAME: Hassan Ibrahim - Curran McLeod (City Engineer's Office)
EMAIL: _____
ORGANIZATION or BUSINESS (if any): _____
ADDRESS: _____
PHONE # (optional): _____
DATE: 11.14.14

Laney Fouse

From: Kizer, Daniel <Daniel.Kizer@nwnatural.com>
Sent: Thursday, November 06, 2014 3:26 PM
To: Laney Fouse
Subject: RE: Request for Comments - Minor Land Partition NW Natural Comments 672 Fir St
Attachments: Tentative Plat_Mlp 14-03_Revised 11.05.14.pdf

Hi Laney,

The gas service to 672 Fir Street in Canby is idle and crosses the proposed Parcel 1. At this time we don't know if the Applicant desires to retain gas service to 672 Fir Street.

Any future home on Parcel 1 can not be constructed over the gas service that currently services the existing structure at 672 Fir Street (to be on future Parcel 2).

There are several options available to the Applicant / Developer:

- 1) Request for the gas service to be cut and capped.
- 2) Request for new gas service for Parcel 1 and Parcel 3 and relocation of gas service to parcel 2 existing house. (there may be a charge to relocate service for Parcel 2).
- 3) Provide a 10-foot wide gas utility easement across Parcel 1 for the benefit of Parcel 2. This may be problematic as the gas service crosses the building footprint for Parcel 1.

Thanks,
Dan Kizer, P.E.
Resource Center Engineer
Salem District and Lincoln County District
Daniel.kizer@nwnatural.com
Phone (503) 226-4211 x 8166
Cell (503) 931-3219

From: Laney Fouse [mailto:FouseL@ci.canby.or.us]
Sent: Wednesday, November 05, 2014 4:17 PM
To: Laney Fouse
Subject: Request for Comments - Minor Land Partition

Please find attached the tentative plat for the proposed Minor Land Partition (MLP 14-03) at 762 S Fir St.

Thanks, Laney

Laney Fouse
Planning & Economic Development

CITY OF CANBY –COMMENT FORM

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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

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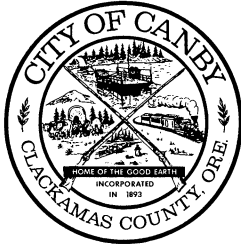
Application: Minor Land Partition: MLP 14-03/Applicant: Ed Netter

COMMENTS:

To the Planning Commissioners:

We have lived at the corner of 6th Avenue and 6th Place for 34 years. Our back yard borders 672 S. Fir Street. We have anticipated the proposal of dividing this property into flag lots for years. Our only concern relates to the cedar trees which border Mr. Netter's property, our property and our neighbors. These trees provide shade and greatly enhance the landscaping of our back yards. We would not oppose this land partition unless these trees were being considered for removal, or if they were to be damaged in the process of construction. Since these trees are along the boundary line and there is a driveway already established, we do not see any need for them to be disturbed. Thank you.

YOUR NAME: Lee & Jeannine Wibbels
EMAIL: lwibbels@canby.com
ORGANIZATION or BUSINESS (if any): -
ADDRESS: 345 SW 6th Ave, Canby OR 97013
PHONE # (optional): 503-266-4883
DATE: Nov. 10, 2014



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

A REQUEST FOR A MINOR LAND) FINDINGS, CONCLUSION & FINAL ORDER
PARTITION) MLP 14-03
AT 672 S. Fir Street) ED NETTER

NATURE OF THE APPLICATION

The Applicant has sought approval for a Minor Land Partition #MLP 14-03 creating 3 parcels in a flag lot arrangement with two access easements for the development of detached single-family homes on parcel 1 and 3 and retaining the existing home on parcel 2 on property located at 672 S Fir Street and described as Tax Map/Lot 431E04AB 04700, Clackamas County, Oregon. The property is zoned Low Density Residential (“R-1”) under the Canby Municipal Code (“CMC”).

HEARINGS

The Planning Commission considered application MLP 14-03 after the duly noticed hearing on November 24, 2014 during which the Planning Commission approved MLP 14-03. These findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not a Minor Land Partition application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated November 12, 2014 and presented at the November 24, 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 and applied Conditions of Approval in order to ensure that the proposed development will meet all required *City of Canby Land Development and Planning Ordinance* approval criteria.

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

•

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report along with the additional findings concluded at the public hearing and noted herein, concluding that the Minor Land Partition application meets all applicable approval criteria, and recommending that File #MLP 14-03 be approved with the Conditions of Approval reflected in the written Order below.

ORDER

The Planning Commission concludes that, with the following conditions, the application meets the requirements for Minor Land Partition approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **MLP 14-03** is approved, subject to the following conditions:

General Partition Conditions:

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 14-03, 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 plat drawing titled "Proposed Minor Partition 672 S Fir Street", dated 11.12.14.
 - d. Submitted citizen and agency comments/written testimony
2. A sewer and water service plan for the new parcels and impact on service to the existing house shall be submitted and approved by City prior to filing the partition plat of record.
3. The applicant shall relocate the existing driveway if necessary to assure it is located within the provided 20' access easement to assure access to Parcel 2.
4. A cross access and maintenance agreement shall be filed of record for each proposed access easement.
5. The applicant shall submit a Tree Protection Plan to indicate which trees can be preserved along the northern boundary of the existing Tax Lot if agreed upon at the public hearing.
6. The applicant/developer shall be required to provide a minimum 36" wide clear path behind the mailboxes to accommodate ADA requirements, and trim all

intrusive tree branches and hedge overhang from the existing sidewalk prior to filing the partition plat.

7. All work associated with the required paved driveway or utility installations shall secure a street construction permit and comply with City current Public Works Design Standards.
8. The offsite access and utility easement to serve Parcel 3 shall be recorded prior to filing the partition plat associated with MLP 14-03.
9. The applicant is responsible to either relocate all necessary utility services within the proposed 20' wide access and utility easements to serve Parcel 2 & 3 or provide a private easement across Parcel 1 protecting and assuring continued use of those private service lines where they exist if not in conflict with the proposed footprint of the new home on Parcel 1.
10. The applicant shall pay the current city fee for city establishment of street tree(s) per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code applicable to Parcel 1. The street tree fee shall be paid prior to the recordation of the partition plat.
11. A street tree easement 12 feet wide measured from the front property line shall be provided along the frontage of Parcel 1 to allow street tree(s) on private property to be planted behind the sidewalk on Parcel. This easement shall be designated on the Partition Plat.

Final Partition Plat Conditions:

12. A final surveyed partition plat shall be prepared by a licensed surveyor for recording the partition plat of record.
13. The applicant shall apply for partition plat approval at the city and pay applicable city fees to gain approval of the final partition plat. Prior to the recordation of the final partition plat at Clackamas County, it must be approved by the city and reviewed by other applicable local agencies. The city will distribute the partition plat to applicable agencies for comment prior to signing off on the plat.
14. The proposed final partition plat must be submitted to the city for review upon filing a Final Plat application within one year of Planning Commission approval of the Minor Partition or the applicant must request in writing that the Planning Director approve a one-year extension.
15. The applicant or county shall provide the city with a copy of the final plat in a timely manner after recorded at Clackamas County.

Monumentation/Survey Accuracy Conditions

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

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

Residential Building Permits Conditions:

- 18.** Construction of all required public improvements, except the public sidewalk, and the recordation of the partition plat must be completed prior to the issuance of building permits and construction of any homes.
- 19.** Six foot sidewalks shall be constructed by the homebuilder and shall be depicted all proposed home construction plans. (In this case, the existing four and one-half foot sidewalk is deemed acceptable for Parcel 1 & sidewalks are not required for Parcel 2 & 3).
- 20.** The new home on Parcel 1 shall comply with the residential design standards of CMC 16.21 and both Parcel 1 and 2 must be evaluated to determine if the “infill home” standards are applicable at the time of a building permit.
- 21.** The homebuilder shall apply for a City of Canby Site Plan Permit and County Building Permit for each home.
- 22.** The homebuilder shall apply for a City of Canby Erosion Control Permit.
- 23.** On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.
- 24.** Construction shall comply with all applicable City of Canby Public Works Design Standards.
- 25.** 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.
- 26.** Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12 feet and the maximum residential driveway widths shall be 24 feet with an allowed exception for 28 feet for a home with 3 or more garages.

I CERTIFY THAT THIS ORDER approving **MLP 14-03** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 24th day of November, 2014

 Tyler Smith
 Planning Commission Chair

 Bryan Brown
 Planning Director

 Attest

ORAL DECISION: November 24, 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: November 24, 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>				

Jason Bristol
21733 S. Hwy. 99E
Canby, OR 97013

November 7, 2014

Canby Planning Commission
111 NW 2nd Ave.
Canby, OR 97013

Dear Planning Commission Chair and Commissioners,

Let me begin by expressing my thanks to all of you for your support of my application for PUD 14-01/SUB 14-01 Emerald Garden Townhomes. I am very excited about this project and the positive impact it will have in the downtown area.

I am writing this letter to request a modification to the approved application. After reviewing the construction bids for the installation of the infrastructure, it has become apparent the proposed pavers are far more expensive than originally believed. This has driven the cost of the project beyond the budget. The intent of the pavers was to ensure a maximum impervious surface of 70% was met on each of the 15 lots. Replacing the pavers with asphalt would increase the impervious surface on each lot, but the overall maximum impervious surface of the PUD will still meet the requirement at 69.2%.

This modification would not significantly change the look of the project as the pavers are at ground level and would only have been seen internally within the project and not from either fronting public street. Although the pavers provide for drainage due to their pervious nature, they were not needed for drainage on this project. Runoff from other asphalt pavement areas is being collected in catch basins and disposed of into a private drywell together with runoff from the roof tops. Runoff from the area where the pavers would have been located would be collected by adding a couple of catch basins. I have attached an email from Oregon Department of Environmental Quality UIC Senior Hydrologist Matthew Kohlbecker demonstrating that I already have approval from DEQ for the drywell on my project.

With this, I respectfully request the modification of the approved plan to replace the pavers with asphalt pavement and catch basins.

Sincerely,



Jason Bristol