

# PLANNING COMMISSION

## *Revised* Meeting Agenda

Monday – August 26, 2013

7:00 PM

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

Commissioner Tyler Smith (Chair)

Commissioner Sean Joyce (Vice Chair)

Commissioner Charles Kocher

Commissioner John Proctor

Commissioner Shawn Hensley

Commissioner John Savory

Commissioner (Vacant)

**1. CALL TO ORDER**

**2. CITIZEN INPUT ON NON-AGENDA ITEMS**

**3. PUBLIC HEARING –**

a. *A request from Melvin Borg for a Minor Land Partition of a 12.52 acre site located at 23397 So. Mulino Road to create three (3) parcels. Parcel 1 will have the existing buildings and access driveway and Parcels 2 and 3 will continue their agricultural use until light industrial development becomes feasible. (MLP 13-01)*

**4. NEW BUSINESS - None**

**5. FINAL DECISIONS**

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

a. **TA 12-01/ZC 12-02/DR 12-03 - Fred Meyer Fuel Facility**

b. **MLP 13-01 – Melvin Borg - Minor Land Partition of a 12.52 acre site located at 23397 South Mulino Road to create three (3) parcels**

**6. MINUTES**

a. June 10, 2013 Regular Meeting Minutes

b. June 24, 2013 Work Session Summary

c. July 8, 2013 Regular Meeting Minutes

d. July 22, 2013 Regular Meeting Minutes

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

**8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

**9. ADJOURNMENT**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001. A copy of this agenda can be found on the City's web page at [www.ci.canby.or.us](http://www.ci.canby.or.us)*

*City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV5.*

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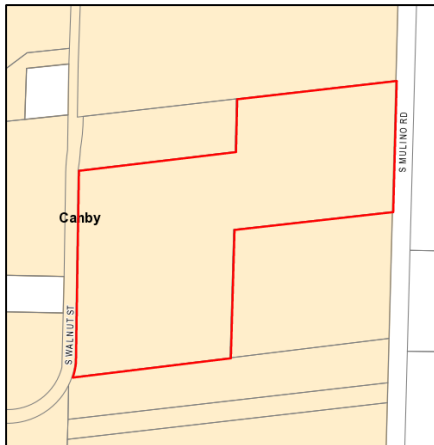


# City of Canby

## MINOR PARTITION STAFF REPORT

FILE #: MLP 13-01

August 26, 2013



**LOCATION:** 23397 S Mulino

**ZONING:** M-1/Canby Industrial (I-O) Overlay Zone

**TAX LOT:** 31E34 02100 (Bordered property in map below)

**LOT SIZE:** 12.52 Acre Site

**OWNER:** Melvin L. Borg

**APPLICANT:** Melvin Borg/ZTEC Engineers, Inc.

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

**CITY FILE NUMBER:** MLP 13-01

### I. PROJECT OVERVIEW & EXISTING CONDITIONS

The applicant proposes to partition the above lot into three (3) total parcels. Parcel 1 (4.8 acres), as shown on the preliminary partition plat, will have the existing buildings and access driveway, which will remain. Parcel 2 (2.9 acres) and parcel 3 (4.8 acres), as shown on the preliminary partition plat, will continue agricultural use until light industrial development becomes feasible.

### II. ATTACHMENTS

- A. Citizen and Agency Comments
- B. Application narratives
- C. Architectural and site plans

### III. APPLICABLE CRITERIA & FINDINGS

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

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.32 Light Industrial Zone
- 16.35 Industrial Overlay (I-O) Zone
- 16.46 Access Standards
- 16.56 Land Division General Provisions
- 16.60 Major or Minor Partitions
- 16.64 Subdivisions-Design Standards
- 16.89 Application and Review Procedures
- 16.120 Parks, Open Space, and Recreation Land General Provisions

## 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 of extension shall be subject to the limitations of the 120-day rule, unless the continuance or extension is requested or agreed to by the applicant.

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

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

## **Chapter 16.08 General Provisions**

### **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:** No public improvements are proposed for this partition. Utilities are available along Walnut Street through partial financing with a Local Improvement District from the owner; parcels 2 and 3 have a sixteen foot wide sidewalk and utility easement along the parcel's western edge (according to the applicant).

As a **condition of approval**, any necessary additional public improvements, including sidewalks and curbs, will be required at the time of development of the lots. Refer to the City Engineer and agency comments that are a part of the Planning Commission packet; the City Engineer's requirements will be applied at the time the properties are developed. Additional public improvements must be reviewed by applicable utility agencies and the city engineer prior to installation.

Canby Utility replied that a utility easement would be required from Walnut Street over to Parcel 1 to allow for Canby Utility electrical service to this parcel. This will be something that the applicant will need to coordinate with Canby Utility to assure Parcel 1 has access to Canby Utility electric service in the future. The existing development on this lot is currently served by PGE and an interagency agreement gives Canby Utility the right to serve new customers which are in the City limits. Northwest Natural replied that they are not opposed to the proposal as long as the existing PUE along the western portion of Parcels 2 and 3 remains intact. As a **condition of approval**, the development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility (CU), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.

Additionally, the county has indicated via email that the proposal may not be approved by the county if the existing access off Mulino remains. Staff anticipates additional comments from the County by the time of the public hearing. As a **condition of approval**, the applicant must meet all county requirements if the partition is to be approved. A solution to the county's requirements may be to construct a new access off Walnut to serve the resulting Parcel 1 that contains the existing home and barns. The County's access standards discourage direct access to a collector functional classification of street when a reasonable alternative exists (Walnut Street in this case). Therefore, as a **condition of approval**, if a new stand-alone driveway is to be installed, then applicant must obtain a city Street Opening Permit so that the city can verify that city access spacing standards on Walnut Street will be met. Alternatively, if a new access is proposed at the time of property development (redevelopment), then access-related standards are reviewed in conjunction with the development review.

**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:** Traffic Impact Studies will be required at the time of development review of the lots.

**Chapter 16.10 Off Street Parking & Loading****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 except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design, and in a manner approved by the Site and Design Review Board. Sidewalks approved by Board may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grade and alignment established by the Site and Design Review Board.

**16.10.070(B)(9): Minimum access requirements for commercial or institutional uses - ingress and egress for commercial uses shall not be less than the following:**

<i>Parking spaces required</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks &amp; curbs (in addition to driveways)</i>
1-4	1	12 feet	None required
5-99	1	20 feet	Curbs required; sidewalk on one side minimum
100-249	2	20 feet	Curbs required; sidewalk on one side minimum
Over 250	As required by Site and Design Review Board	As required by Public Works Director	

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

- a. Unless otherwise herein provided, maximum driveway widths shall not exceed forty (40) feet.
- b. No driveways shall be constructed within five (5) feet of an adjacent property line, except when two (2) adjacent property owners elect to provide joint access to their respective properties as provided by subsection 2.
- c. There shall be a minimum distance of forty (40) feet between any two (2) adjacent driveways on a single property.

- d. The minimum distance between two driveways on one single-family residential lot shall be thirty (30) feet. There is no minimum setback distance between a driveway and the property line for driveways on single-family residential lots.*
- 10.** *Distance Between Driveways and Intersections- Except for single-family dwellings [see subsection (f) below] the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection:*
- a. At the intersection of any collector or arterial streets, driveways shall be located a minimum of fifty (50) feet from the intersection.*
- b. At the intersection of two (2) local streets, driveways shall be located a minimum of thirty (30) feet from the intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the five (5) foot setback between the driveway and property line.*

**Findings:** No public improvements are proposed for this partition. Public improvements will be required at the time of development. New accesses are subject to the access requirements in Chapter 16.10.

### **16.32 M-1 Light Industrial Zone**

#### **16.32.030 Development standards.**

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

**D. Maximum building height:**

- 1. Freestanding signs: thirty feet;*

**F. Other regulations:**

- 1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.*

**Findings:** The above development standards will apply when the properties are developed; lot size standards in 16.32 are superseded by the standards in 16.35 below.

### **16.35 Canby Industrial Overlay (I-O) Zone**

#### **16.35.020 Applicability.**

*It is the policy of the City of Canby to apply the I-O zone to all lands within the Master Plan area and other areas determined by the City, upon annexation or prior to application for development permit. The Master Plan area generally includes the area bound by Highway 99E and 1<sup>st</sup> Avenue to the north, Mulino Road to the east, SE 13<sup>th</sup> Avenue to the south, and Molalla Western Railroad to the west. The I-O zone has the following affect with regard to other chapters of this ordinance:*

- C.** *Replaces selected development standards contained in the C-M, M-1, and M-2 zones, for continuity and quality of site design within the Master Plan area.*

**Findings:** The proposed partition is within the boundaries of the I-O Overlay zone; per above, lot size standards in 16.32 are superseded by the standards in 16.35 below.

**16.35.050 Development standards.**

The following subsections indicate the required development standards of the I-O zone. These standards replace the standards of the C-M zone, M-1 zone, and M-2 zone, as follows:

- A.** Minimum lot area: none.
- B.** Minimum lot width and frontage: none.
- C.** Minimum yard requirements (measured from building foundation to right-of-way line):
  - 1.** Street yards(s): 20 feet for buildings up to 25 feet in height; 35 feet for buildings between 25 feet and 45 feet in height. Parking and internal drives (except curb cuts and entrance drives) are prohibited within the required 20 foot street yard.
  - 2.** Interior yard: 10 feet, except 20 feet where abutting a residential zone. Common-wall lot lines (attached buildings), and development which provide shared parking and circulation with abutting developments, are exempt from interior yard standards.
- D.** Maximum building height: 45 feet.
- E.** Maximum lot coverage: 60 percent in the C-M zone; none in the M-1 and M-2 zones.
- F.** Street access (curb cuts) spacing shall be a minimum of 200 feet on designated parkway and collector streets.
- G.** Street right-of-way improvements shall be made in accordance with the circulation plan, and streetscape/street section standards of the Industrial Area Master Plan.
- H.** Building orientation standards. The following standards are intended to ensure direct, clear, and convenient pedestrian access:
  - 1.** Development in the M-1 zone and M-2 zone shall provide at least one public entrance facing the street. A direct pedestrian connection shall be provided between the primary building entrance and public sidewalk.
  - 2.** Developments within the C-M zone shall provide continuous, straight-line pedestrian connections between the street(s), buildings, and parking areas.
- I.** Right-of-way plantings: Street trees and ground cover plantings shall be installed with development, as approved by the City. Shrubs are prohibited within the public right-of-way.
- J.** Metal building exteriors are prohibited, except that the Planning Commission may approve architectural metal elements that accent and enhance the aesthetics of building entrances and office areas.
- K.** Lighting shall be required for all streets, sidewalks, and pedestrian ways. Applications for land division approval and site plan review shall include photometric plans.
- L.** Shared access: The City may require the provision of shared access drives through the land division review process. Shared access drives are intended to maintain adequate driveway spacing and circulation along the designated Parkway and Collector streets.
- M.** All landscaped areas shall be irrigated.
- N.** Other regulations: The C-M zone, M-1 zone, and M-2 zone provide other applicable regulations related to vision clearance, Highway 99E sidewalk width, setback measurement, outside storage, and wireless/cellular tower certification.

**Findings:** The above development and public improvement requirements will apply when the lots are developed. There is one existing curb cut onto Mulino, a county road, which is more than 200 feet from neighboring driveways.



## **16.46 Access Limitations on Project Density**

### **16.46.020 Ingress and egress.**

Ingress and egress to any lot or parcel, the creation of which has been approved by the Planning Commission, shall be taken along that portion fronting on a public street unless otherwise approved by the Planning Commission.

### **16.46.030 Access connection.**

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

**TABLE 16.46.30**

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

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

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

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

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

**Findings:** The above access requirements will apply when the lots are developed and/or when new accesses are installed.

## **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:** The applicant is not proposing public improvements in conjunction with this partition; applicable public improvements will be required when the lots are developed. Subdivision design criteria in Chapter 16.64 are listed in this staff report and apply to partitions per the above section.

**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;
- 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;
- 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.

**16.60.050 Planning Commission action.**

- A. Tentative maps shall be submitted to the commission for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance. The commission may require such dedication of land easements and may specify such conditions or modifications to the tentative map as are deemed necessary to carry out the Comprehensive Plan. In no event, however, shall the commission require greater dedications or conditions than would be required if the parcel were subdivided.

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

The applicant is not proposing public improvements in conjunction with this partition; applicable public improvements will be required when the lots are developed. Utility easements may be required by utility agencies prior to the recordation of the partition plat.

**16.60.060 Final procedures and recordation.**

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

**Findings:** As a **condition of approval**, the applicant shall record the partition plat of this proposed partition within one year of approval or the applicant must apply for a one-year extension of the approved tentative plat. The partition plat shall be recorded at Clackamas County and must meet all Clackamas County standards for plat recordation.

**16.64 Subdivisions-Design Standards****16.64.015 Access**

- C.** *Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access.*
- E.** *Streets shall have sidewalks on both sides. Pedestrian linkages should also be provided to the peripheral street system.*
- F.** *Access shall be consistent with the access management standards adopted in the Transportation System Plan.*

**Findings:** The applicant is not proposing public improvements in conjunction with this partition; applicable public improvements will be required when the lots are developed. Access standards will also apply at the time the lots are developed and/or when new accessways are installed.

**16.64.030 Easements.**

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

1. Length should be kept to a minimum and normally not in excess of two hundred feet;
2. Width should be maximized and shall not be below ten feet. For pathways over one hundred feet long, pathway width shall increase above the minimum by one foot for every twenty feet of length;
3. A minimum of three foot-candles illumination shall be provided. Lighting shall minimize glare on adjacent uses consistent with the outdoor lighting provisions in section 16.43 of this code;
4. Landscaping, grade differences, and other obstructions should not hinder visibility into the pedestrian way from adjacent streets and properties. Fencing along public pedestrian ways shall conform to the standards in Section 16.08.110;
5. Surrounding land uses should be designed to provide surveillance opportunities from those uses into the pedestrian way, such as with the placement of windows;
6. Exits shall be designed to maximize safety of users and traffic on adjacent streets; and
7. Use of permeable surfacing materials for pedestrian ways and sidewalks is encouraged whenever site and soil conditions make permeable surfacing feasible. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards and the manufacturer's recommendations. Maintenance of permeable surfacing materials located on private property are the responsibility of the property owner.

**Findings:** The applicant is not proposing public improvements in conjunction with this partition; applicable public improvements will be required when the lots are developed. Appropriate utility and pedestrian easements will be negotiated when the properties are developed. Any necessary utility easements that are not already in place may be negotiated when the properties are developed, however utility easements may be required by utility agencies prior to the recordation of the partition plat. The city sent notification of this partition to applicable utility agencies for comment; responses are part of the Planning Commission packet. As a **condition of approval**, the applicant is responsible for addressing requirements from utility agencies prior to recordation of the partition plat.

#### **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.
- C. Lot Frontage. All lots shall meet the requirements specified in Division III for frontage on a public street, except that the Planning Commission may allow the creation of flag lots, cul-de-sac lots and other such unique designs upon findings that access and building areas are adequate. Lots that front on more than one major street shall be required to locate motor vehicle accesses on the street with the lower functional classification.

- D. Double Frontage.** Double frontage or through lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- E. Lot Side Lines.** The side lines of lots shall run at right angles to the street upon which the lots face, or on curved streets they shall be radial to the curve, unless there is some recognizable advantage to a different design.
- F. Re-subdivision.** In subdividing tracts into large lots which at some future time are likely to be re-subdivided, the location of lot lines and other details of the layout shall be such that re-subdivision may readily take place without violating the requirements of these regulations and without interfering with the orderly development of streets. Restriction of building locations in relationship to future street rights-of-way shall be made a matter of record if the commission considers it necessary.
- G. Building Lines.** If special building setback lines are to be established in the subdivision plat, they shall be shown on the subdivision plat or included in the deed restrictions. This includes lots where common wall construction is to be permitted between two single-family dwellings.

**Findings:** The proposed partition is in conformance with the above standards.

**16.64.070 Improvements.**

- 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;
  10. Where dedicated or undedicated open space is proposed or provided, it shall be the subdivider's responsibility to provide standard public improvements to and through that open space.
- D. Surface Drainage and Storm Sewer System.**
1. Drainage facilities shall be provided within the subdivision and to connect the subdivision to drainage ways or storm sewers outside the subdivision, if necessary, as determined by the City.

**Findings:** The applicant is not proposing public improvements in conjunction with this partition. If the Planning Commission concurs, applicable public improvements will be required when the lots are developed.

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

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

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

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

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**Findings:** This application is being processed in accordance with Chapter 16.89. Notice of the public hearing was mailed to owners and residents of lots as within 500 feet of the subject development and applicable agencies. Notice of the meeting was posted at the Development Services Building and was published in the *Canby Herald*. This chapter requires a Type III process for minor partitions. A neighborhood meeting was not required because the property is zoned industrial on the edge of town with no surrounding residential property. In addition, a pre-application conference was not required since improvements were not proposed at this time.

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

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

- A. Parkland Dedication:** All new residential, commercial and industrial developments shall be required to provide park, open space and recreation sites to serve existing and future residents and employees of those developments.
1. The required parkland shall be dedicated as a condition of approval for:
    - a. Approval of a tentative plat of a subdivision or partition.

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

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

#### IV. PUBLIC TESTIMONY

Notice of this application and opportunity to provide comment was mailed to owners and residents of lots within 500 feet of the subject properties and to all applicable public agencies. All 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 concluded the following conditions of approval:

1. Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #MLP 13-01, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
  - a. Preliminary Partition Plat dated 7/8/13
  - b. Minor Partition Land Use Application and narrative
  - c. All other materials submitted in conjunction with the MLP 13-01 application
2. Any necessary additional public improvements will be required at the time of development of the lots associated with file #MLP 13-01. Public improvements must be reviewed by applicable utility agencies and the city engineer prior to installation. Future public improvement requirements will incorporate the City Engineer's comments dated 8/6/2013.
3. If a new stand-alone driveway is to be installed, then applicant must obtain a city Street Opening Permit to verify compliance with city access spacing standards.
4. The City Engineer or County Surveyor, as applicable, shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the partition plat.
5. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility Board (CUB), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.
6. The development shall comply with all applicable City of Canby Public Works Design Standards.
7. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Partition Plat to be filed of record to implement this minor

partition approval. Prior to the recordation of the final plat at Clackamas County, it must be approved by the city and all other utility/service providers. The city will distribute the final plat to applicable agencies for comment prior to signing off on the final plat. Applicable agencies may include:

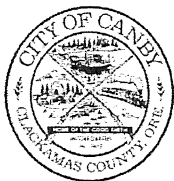
- a. City of Canby Planning: Reviews final plat for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works
  - c. Clackamas County
  - d. Canby Fire District
  - e. Canby Utility
  - f. Northwest Natural Gas
  - g. Canby Telcom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

## 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 13-01 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 13-01 pursuant to the Conditions of Approval presented in this Staff Report in Section V.





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

# LAND USE APPLICATION

## MINOR/MAJOR PARTITION Process Type II/III

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

Applicant Name: MELVIN L. BORG Phone: 971-219-8821  
 Address: 23397 S. MULINO RD. Email: \_\_\_\_\_  
 City/State: CANBY, OR. Zip: 97013

Representative Name: ZTEC ENGINEERS, INC. Phone: 503-235-8795  
 Address: 3737 SE 8TH Email: CHAS@ZTECENGINEERS.COM  
 City/State: PONT, OR. Zip: 97202

Property Owner Name: MELVIN L. BORG Phone: 971-219-8821  
 Signature: [Signature]  
 Address: 23397 S. MULINO RD. Email: \_\_\_\_\_  
 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:**

23397 S. MULINO RD. 12.52 AC. 351E34-2100  
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

RESIDENTIAL / PASTURE M-1 LIGHT INDUSTRIAL  
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

PARTITION PROPERTY INTO 3 PARCELS  
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY			
<u>SP13-01</u>	<u>7.09.13</u>	<u>BCB</u>	<u>176</u>
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #
			<u>1280.00</u>
			DATE APP COMPLETE

### 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

\$1,280

- One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.
- 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 *City of Canby*.  
 “Major” Partition – includes the creation of a road or street.  
 “Minor” Partition – does not include the creation of a road or street.
- 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.
- 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. **Ask staff for applicable Municipal Code chapters and approval criteria.**  
 Applicable Code Criteria for this application includes:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 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 (payment must be received by the City before the traffic engineer will conduct or review a traffic impact study. Ask staff to determine if a TIS is required.
- 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.
- One (1) copy in written format of the minutes of the pre-application meeting
- 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.
- N/A Location of all proposed utilities, including sewer, water, storm water, electric, telephone, and natural gas; including utility sizes and grades.
- N/A 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.

## ZTec Engineers, Inc.

Civil ♦ Structural ♦ Surveying

3737 SE 8<sup>th</sup> Ave.

John McL. Middleton, P.E.  
Chris C. Fischborn, P.L.S.

Portland, OR 97202

(503) 235-8795

FAX: (503) 233-7889

E-mail: john@ztecengineers.com

Ronald B. Sellards, P.E.

Proposed Partition  
23397 S Mulino Rd. Canby  
TL 2100 Map 3S 1E 34  
Narrative

23397 S. Mulino Rd. occupies an area of 11.75 Ac between S. Mulino Rd and S Walnut St. The property is currently in agricultural use and has one residence. It is zoned M1-Light Industrial. The owners propose to partition the property into 3 parcels.

Parcel 1 (4.7773 Ac.) will have all the existing buildings on the site (one house and three barns). The existing well and septic system/ drainfield for the property will also remain on this parcel. Parcel 1 will only have access to S Mulino Rd., located as shown on the Preliminary Plat. The access is an AC driveway with good visibility north and south on Mulino Rd.

Parcel 2 (2.9420 Ac.) has no on-site improvements. The parcel has frontage on S Walnut St. which has recently been improved. The short term plan for this parcel is to continue the current agricultural use. Future use could be light industrial with vehicular access to S Walnut St and using public sewer, water and other utilities installed in Walnut St as part of improvement project. The Walnut St. improvements were partially financed by this property owner and the owner dedicated 5' of property along the street frontage in document no. 2011-009331.

Parcel 3 (4.8030 Ac.) is the same as parcel 2 with no on-site improvements. It also has frontage on the recently improved S Walnut St. Short term plan is to continue current agricultural use with future use as a light industrial development with vehicular access to Walnut St and using public sewer, water and other utilities installed in Walnut St as part of improvement project. The Walnut St. improvements were partially financed by this property owner and the owner dedicated 5' of property along the street frontage in document no. 2011-009331.

Minor Partition Approval Criteria:

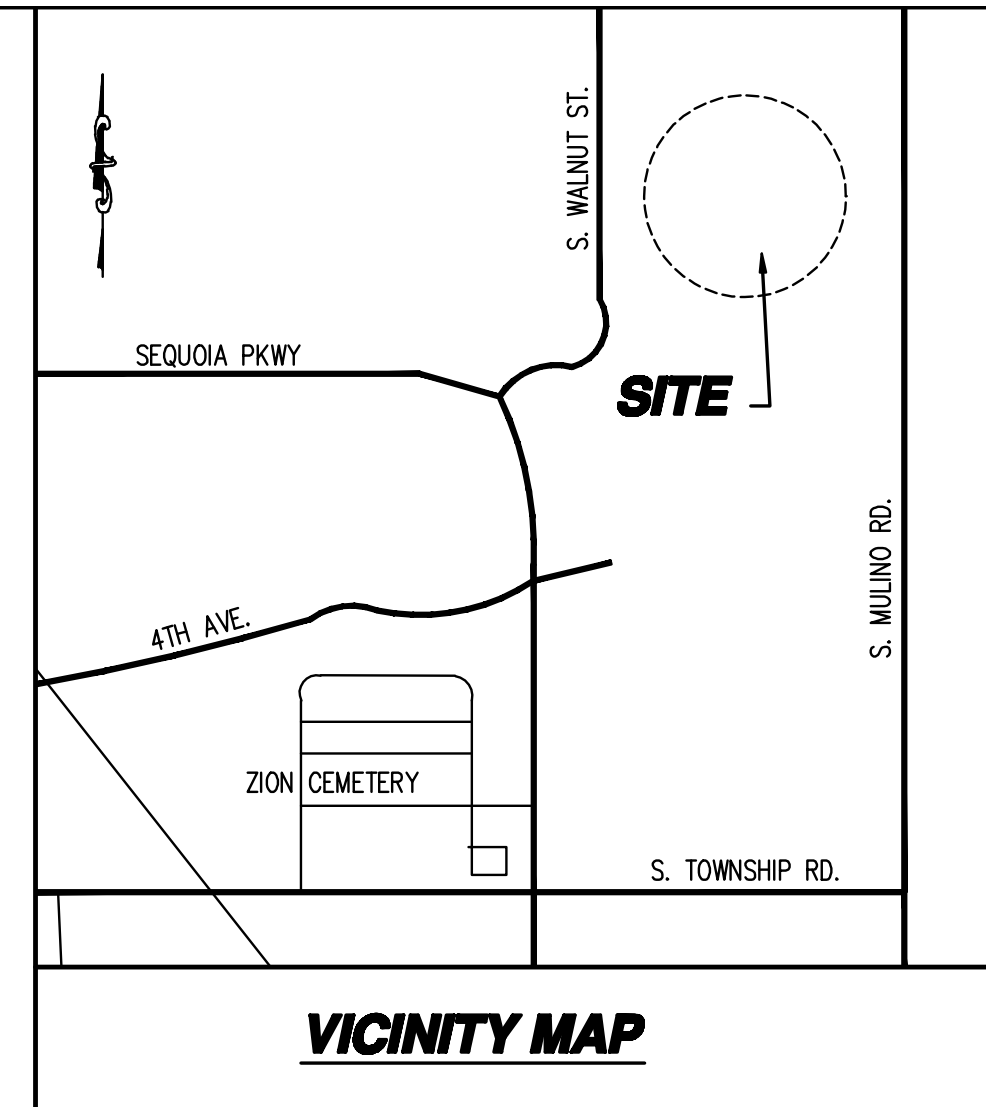
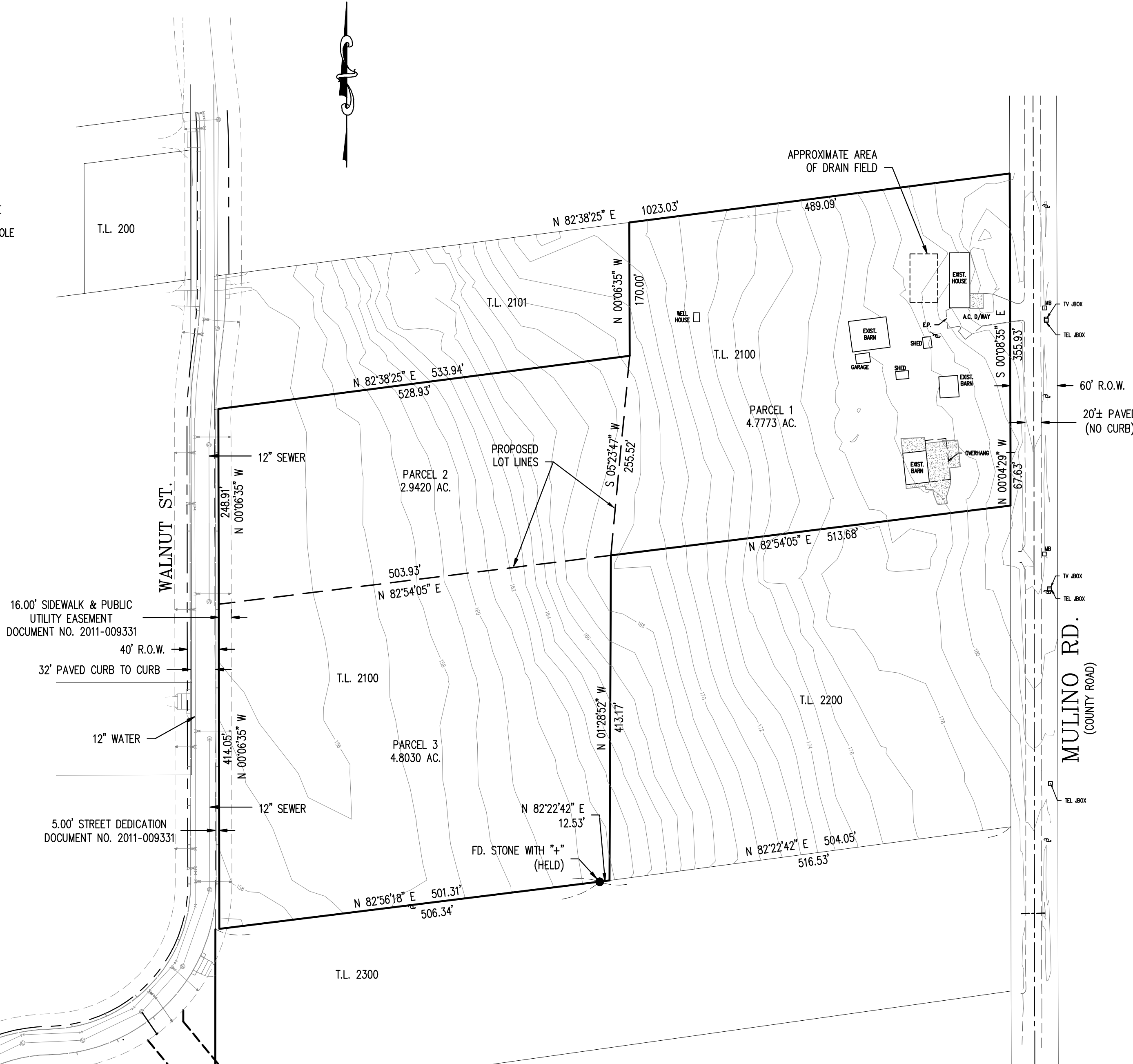
- A. *Conformance with the text and applicable maps of the Comprehensive Plan;* The Comprehensive Map shows this property as being zoned M1-Light Industrial. This proposal will partition off 2 parcels that can be made available for development as Light Industrial sites, fronting on the improved Walnut St. It also leaves the

existing home site on Parcel 1 intact and able to function with on-site water well and on-site sewage disposal system. In the future Parcel 1 can also develop in accordance with the Light Industrial zone probably in conjunction with street and facility improvements on Mulino Rd.

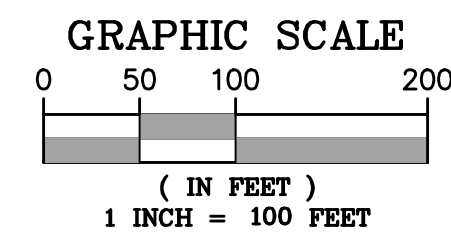
- B. Conformance with all applicable requirements of the Land Development and Planning Ordinance;* The requirements for lots in the M-1 zone are outlined in Chapter 16.32 of the zoning code. The proposed parcels all meet the development standards minimum lot size, minimum lot width and frontage. Future development can meet the height requirement limitation. Setback limitations are minimal in this zone since the property is not adjacent to a residential zone.
- 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;* The parcels all meet the zone requirements with adequate room for a variety of possible light industrial building site requirements. All parcels have direct access to public rights of way. Parcels 2 and 3 have access to a fully improved Walnut St right of way with all required utilities in place. Access points will be determined by future development plans for the parcels. Adjacent parcels to this partition also have access to the same rights of way so this development will not hinder development of the adjacent properties.
- There is a 16' wide sidewalk and utility easement on the west side of Parcels 2 and 3. This easement is adjacent to the right of way of SW Walnut St. and was created by document 2011-009331. The City can determine any additional utility easements they will require and these can added to the final partition plat.
- 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 city standards is not necessary to insure safe and efficient access to parcels;* All parcels have access to public rights of way, no private roads are required.
- 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.* Parcels 2 and 3 have access to all required public facilities recently installed in Walnut St with the financial participation of this property owner. Parcel 1 has private water and on-site septic drainfield facilities. This functions well for the existing use of parcel 1. In the future public sewer and water facilities will be available in Mulino Rd and at that time Parcel 1 could be developed in accordance with the M-1 zone.

**LEGEND**

- MONUMENTS FOUND AS NOTED
- I.R. IRON ROD
- I.P. IRON PIPE
- FD. FOUND
- (M) MEASURED
- x — EXISTING FENCE
- ⊗ EXISTING FIRE HYDRANT
- EXISTING CATCH BASIN
- ⊙ EXISTING STORM MANHOLE
- ⊙ EXISTING SANITARY MANHOLE
- ⊗ EXISTING WATER VALVE
- ⊗ EXISTING GAS VALVE
- ☆ EXISTING LIGHT POLE
- ⊙ EXISTING STREET SIGN
- ⊙ EXISTING UTILITY POLE
- EXISTING CONTOUR
- R.O.W. RIGHT OF WAY



**CANBY TRANSPORTATION PLAN**  
 WALNUT ST. - LOCAL INDUSTRIAL STREET (LOW IMPACT DESIGN)  
 MULINO RD. (COUNTY RD.) - INDUSTRIAL COLLECTOR, TRUCK ROUTE  
 NO EXISTING TRANSIT FACILITIES EITHER STREET



JOB#: W4077-1  
 DATE: 5-31-13  
 SCALE: 1"=100'  
 DRAWN: JHH  
 CHKD: CCF  
 FILE: W40771PRE  
 PLOT: 7-8-13

**ZTEC ENGINEERS INC.**

3737 S.E. 8TH AVE., PORTLAND, OREGON 97202  
 PH: (503) 235-8795 FAX: (503) 233-7889

LOCATED IN THE N.E. 1/4 AND THE S.E. 1/4  
 SECTION 34, T.3S., R.1E., W.M., IN THE CITY  
 OF CANBY, CLACKAMAS COUNTY, OREGON

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

OREGON  
 JULY 17, 1981  
 CHRIS FISCHBORN  
 1944  
 RENEWAL DATE: 1/1/2014

MEL BORG

23397 S. MULINO RD.

**PRELIMINARY PARTITION PLAT**

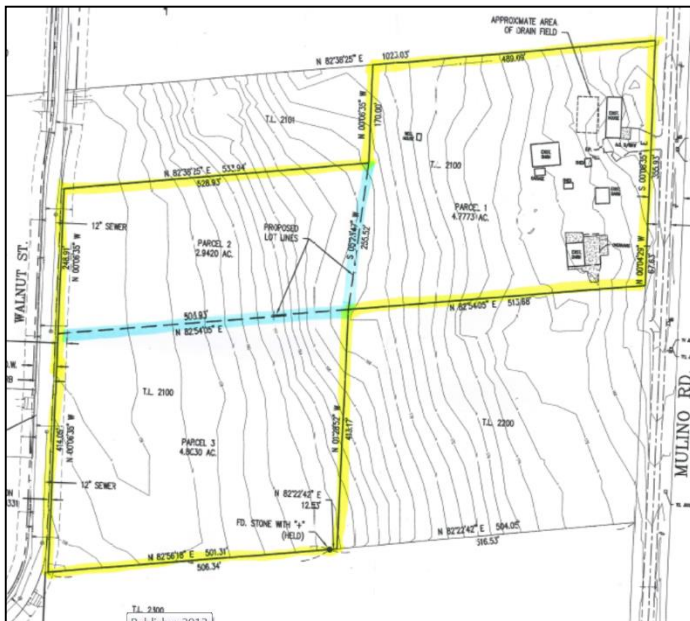




# City of Canby

## NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The purpose of this Notice is to invite you to a Public Hearing at a Planning Commission meeting on Monday, August 26, 2013 in the City Council Chambers, 155 NW 2<sup>nd</sup> Ave and to comment on a proposed Minor Land Partition (MLP 13-01) from Melvin Borg and ZTEC Engineers to partition a 12.52 acre site located at 23397 So. Mulino Road into three (3) parcels. Parcel 1 will have the existing buildings and access driveway and Parcels 2 and 3 will continue their agricultural use until light industrial development becomes feasible.



**Comments due**– If you would like your comments to be incorporated into the City’s Staff Report, please return the Comment Form by Wednesday, August 14, 2013.

**Location:** 23397 So. Mulino Road

**Tax Lot:** 31E34 02100

**Lot Size and Zoning:** 12.52 acres, M-1/Canby Industrial Overlay (I/O) Zone

**Owner:** Melvin Borg

**Applicant:** Melvin Borg/ZTEC Engineers, Inc.

**Application Type:** Minor Land Partition

**City File Number:** MLP 13-01

**Contact:** Angie Lehnert at 503-266-0686

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

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

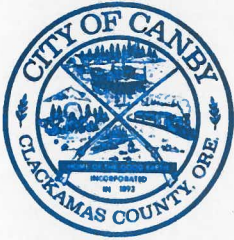
**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, August 16, 2013 at the City’s website: <http://www.ci.canby.or.us> Copies are available at \$0.25 per page or can be emailed to you upon request.

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

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.32 Light Industrial Zone
- 16.35 Industrial Overlay (I-O) Zone
- 16.46 Access Standards
- 16.56 Land Division General Provisions
- 16.60 Major or Minor Partitions
- 16.64 Subdivisions-Design Standards
- 16.89 Application and Review Procedures
- 16.120 Parks, Open Space, and Recreation Land General Provisions

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

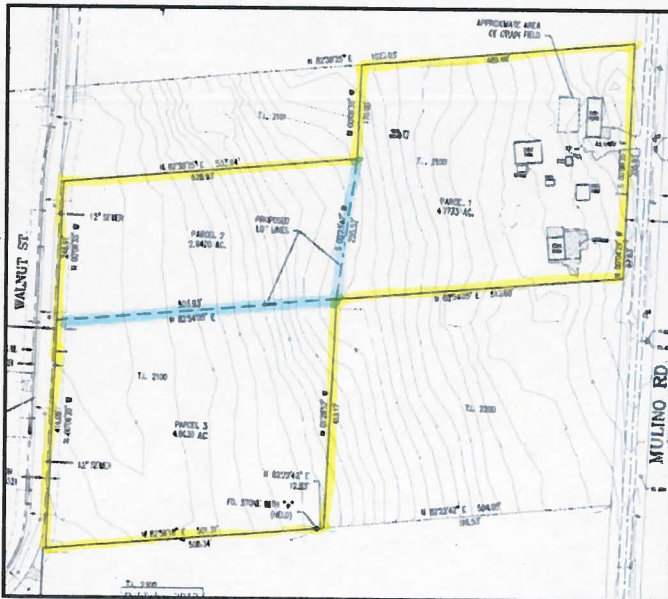




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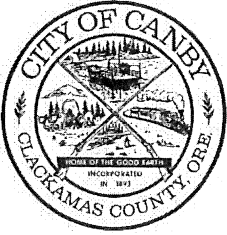
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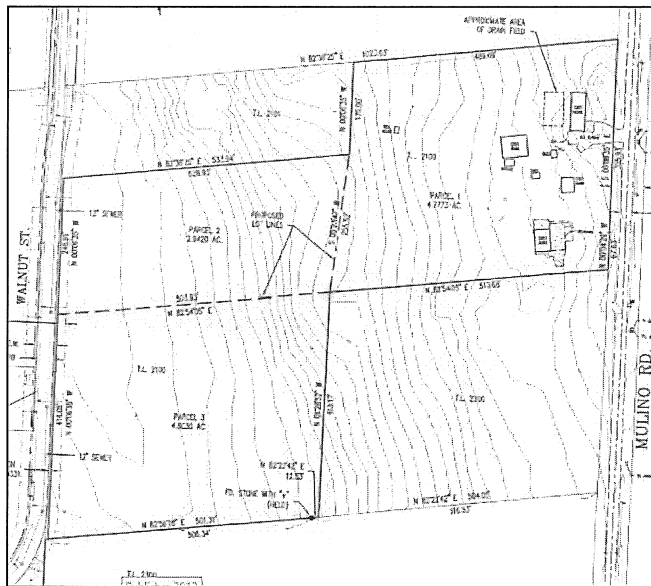




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- 16.56 Land Division General Provisions
- 16.60 Major or Minor Partitions
- 16.64 Subdivisions-Design Standards
- 16.89 Application and Review Procedures
- 16.120 Parks, Open Space, and Recreation Land General Provisions

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



**From:** [Hixson, Robert](#)  
**To:** [Laney Fouse](#)  
**Cc:** [Angeline Lehnert](#); [Kent, Ken](#)  
**Subject:** RE: Public Hearing -Minor Land Partition - 23397 S Mulino Rd  
**Date:** Monday, August 12, 2013 8:33:30 AM

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Hi Laney,

Please send all future land use notices to Ken Kent, in addition to me. Ken also works on land use proposals and covers for me while I am on vacation or otherwise away from the office. I was on vacation last week, so I have just received this notice today, with a due date two days from now.

I will not likely be able to prioritize this new project ahead of other work that is in process with deadlines that are approaching. Please provide a minimum of two weeks' notice for comments for future proposals requiring County review. This will typically provide sufficient time to schedule work time to address a new project. This notice provided only a one week comment period. If I had been on vacation for two weeks, which is not unusual, the comment period would have closed prior to my return to the office. Also, was there a pre-app meeting for this proposal? I do not recall one, but that does not mean that I was not sent a notice.

It appears that this partition fronts a portion of Mulino Road, a collector road, and is under County jurisdiction. We will need to perform a site visit and will have concerns regarding access, access spacing, sight distance, pavement width, pavement condition, shoulder width, etc. With frontage on Walnut Street (likely a City of Canby local street), access to Mulino Road will not be recommended and the existing access to Mulino Road will likely be recommended to be permanently closed. These concerns could have been provided to the applicant if the County had attended a pre-app meeting.

Please let me know if there is additional time for review and evaluation. If additional time is not available, I will plan to recommend denial due to the access to Mulino Road being in conflict with the County Roadway Standards.

Ken's e-mail is [kenken@co.clackamas.or.us](mailto:kenken@co.clackamas.or.us) and his phone number is 503-742-4673.

If you have any questions or require further clarification, please reply to this e-mail message or call me at the listed phone number

Sincerely,

Robert Hixson

Clackamas County, DTD Engineering

150 Beaver Creek Road Oregon City, OR 97045

503-742-4708 (phone) 503-742-4659 (fax)

[roberth@co.clackamas.or.us](mailto:roberth@co.clackamas.or.us)

Office hours: 6:30 AM – 5:00 PM Monday through Thursday

***DTD HOURS - BEGINNING JULY 8, 2013:***

*Second and Third floor permit lobbies open Monday – Friday, from 8:00 AM – 3:00 PM.*



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

**In Re:**

<b>Application of Great Basin Engineering, for Text and Map Amendments and Site Design Review</b>	) ) ) ) )	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER  TA 12-01/ZC 12-02/DR 12-03</b>
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**NATURE OF THE APPLICATION**

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

**HEARINGS AND PROCEDURAL POSTURE**

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. On December 5, 2012, the City adopted the order approving the applications for TA 12-01 and ZC 12-02 supported by findings and conclusions. Subsequently, that decision was appealed to the Land Use Board Appeals (“LUBA”) and LUBA remanded the decision of the City Council for further consideration in a Final Opinion and Order. (LUBA No. 2012-097 June 4, 2013) (“Final Opinion and Order”). On July 17, 2013, the City Council directed the Planning Commission to consider the LUBA remand in conjunction with its review of DR 12-03 and make a recommendation to the City Council.

The Planning Commission considered application DR 12-03 after a duly noticed hearing on July 23, 2012, during which time the Planning Commission also considered TA 12-01 and ZC 12-02. For administrative efficiency, the City stayed DR 12-03 pending resolution of TA 12-01 and ZC 12-02. The Planning Commission held a second hearing on January 28, 2013, and approved the application for DR 12-03 in a document represented by Findings, Conclusion and Final Order dated February 11, 2013. Subsequently an appeal was taken to the City Council of the Planning Commission’s approval of DR 12-03. In the intervening time, the Applicant made certain improvements to its design plan. On July 17, 2013, the City Council directed the

Planning Commission to consider the modified site plans and make a recommendation to the City Council to inform its decision on the pending appeal of DR 12-03.

On July 22, 2013, the Planning Commission held a hearing to consider the LUBA remand and revised design for DR 12-03. These findings and conclusions are entered into the record to support the Planning Commission's recommendation to the City Council on the consolidated applications for TA 12-01, ZC 12-02 and DR 12-03. The City Council will be the final decision maker for the three consolidated applications.

The applications are consolidated because the Applicant has elected to use the statutory allowance in ORS 227.175(1), which modifies the goal-post rule under ORS 227.178(3)(a). The City processed the applications on different timelines pursuant to the requirements of the DCO and for administrative efficiency but the applications remain consolidated under the statute.

The record in this consolidated proceeding includes all materials, recordings, writings, submissions, and testimony for TA 12-01, ZC 12-02 and DR 12-03. The record was physically present and available for review by the Planning Commission at the time of the Planning Commission hearing on July 22, 2013.

## **FINDINGS AND CONCLUSIONS**

After hearing testimony on July 22, 2013, the Planning Commission voted to recommend approval of TA 12-01, ZC 12-02 and DR 12-03, as modified. In support of its recommendation, the Planning Commission adopts the findings set forth in this document and incorporates as additional findings the staff report dated July 22, 2013, along with referenced attachments thereto. The Planning Commission adopts the findings and conclusions set forth in the above-referenced materials to the extent that they do not conflict with the following supplemental findings contained within this document.

The Planning Commission makes the following findings and conclusions to support its recommendation to the City Council:

## **THE LUBA REMAND ISSUES**

LUBA remanded the City's approval of the TA 12-01 and ZC 12-02 in a Final Opinion and Order dated June 4, 2013. On remand, the Planning Commission reviewed the evidence with respect to the two identified issues and makes the following findings:

1. The first issue relates to whether the Transportation Planning Rule ("TPR") applies to the zone and map amendment approved by the Planning Commission and City Council. As LUBA set forth the issue:

“[The city decision] requires further analysis under the TPR . . . [to] evaluate the square footage and hence the generation capacity of the most traffic intensive use allowed in the C-2 zone that could reasonably [be] constructed on the subject property, given the different footprint, height, setback, and floor area ratios that would apply to the two sub-areas. If that analysis showed that

constructing the use under the OHC standards would increase traffic generation compared to constructing the use under the CC standards, then further analysis is necessary under the TPR. If not, then the City could conclude that no further analysis is necessary and the TPR is satisfied.” Final Opinion and Order p. 8-9.

The Applicant has submitted a supplemental analysis prepared by Group McKenzie. That letter and the analysis contained therein make clear that, in accordance with LUBA’s direction, the change of the overlay from CC to OHC in fact decreases the amount of potential development on the subject site. Very simply, considering the allowable footprint and height in the OHC and CC zones, it is clear that the CC zone allows for a greater building area than does the proposed OHC zone. Further, when parking requirements and reasonable expectations for realistic development are added to the equation on the site, the effect is further compounded. As Group Mackenzie points out, these square footage numbers drive the calculation for the transportation demands and thus, the reduction in square footage allowable in the OHC zone results in a commensurate reduction in trip generation from the existing CC designation. Based upon this evidence and the LUBA’s direction set forth in the Final Opinion and Order it is clear that the Applicant has appropriately addressed any TPR requirements and the Planning Commission recommends that the City Council find that the requirements under the TPR have been satisfied.

2. LUBA also requested that the City consider the impact of the potential future pedestrian crossing identified in the Transportation System Plan (TSP). As LUBA said:

“The City’s findings do not appear to consider the conflicts, if any, between uses allowed under the OHC subarea and a future pedestrian crossing in the area, as contemplated by the TSP, or explain why such conflicts need to be considered for purposes of CMC 16.88.160(D)(1).

\* \* \*

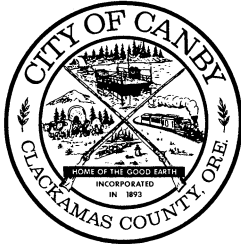
“Because the City did not appear to consider the question at all, and the decision must be remanded in any event under the first assignment, remand is also warranted under this assignment of error for the City to adopt findings considering the future pedestrian crossing listed in the TSP to the extent it is relevant to the amendment, and balancing that consideration against other relevant considerations, or explaining why no such consideration is required under CMC 16.88.160(D)(1).”

The revised TIA addresses the issues related to the crosswalk. While it is unclear whether the requirement in the TSP has any applicability to the subject application, Group Mackenzie prepared a response to LUBA’s request to have more information about the impact of the crosswalk. Group Mackenzie’s analysis demonstrates that the addition of the crosswalk across Hwy 99, in the proximity to the subject site, would present no future problems. It does not change the conclusion that all intersections and site driveways will operate within acceptable capacity standards for all analysis scenarios, including scenarios with full access, limited access (right in-right out), and no access to

Hwy 99E. The Planning Commission recommends that the City Council find that CMC 16.88.160(D)(1) has been considered and is not negatively impacted by the possibility of a crosswalk in this location.

### **SITE DESIGN REVIEW**

The Planning Commission approved DR 12-03 in a decision dated February 11, 2013. Upon the City Council's direction to review the Applicant's modifications to the site plans, the Planning Commission recommends that the City Council find that the proposed modifications improve the design of the proposed use both aesthetically and as a matter of safety, and comply with the DCO. To resolve the pending appeal of DR 12-03, the Planning Commission recommends that the City Council affirm the Planning Commission decision of March 20, 2013 with the express amendment of that decision by deleting condition A.2. since it has become moot, and deleting condition A.15 and the findings relating thereto since the proposed sign now meets the requirements of the City of Canby Sign Code.



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

<b>A REQUEST FOR A MINOR LAND</b>	)	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER</b>
<b>PARTITION FOR</b>	)	<b>MLP 13-01</b>
<b>AT 23397 S. MULINO</b>	)	<b>MELVIN BORG/ZTEC ENGINEERS</b>

**NATURE OF THE APPLICATION**

The Applicant has sought an approval for a Minor Land Partition #MLP 13-01 resulting in three (3) total parcels on property described as Tax Lot 31E3402100, Clackamas County, Oregon. The property is zoned Light Industrial (“M-1”) under the Canby Municipal Code (“CMC”) and is in the Canby Industrial Overlay Zone (I-O).

**HEARINGS**

The Planning Commission considered application MLP 13-01 after the duly noticed hearing on August 26, 2013 during which the Planning Commission approved by a \_\_\_\_ vote to approve MLP 13-01. These findings are entered to document the approval.

**CRITERIA AND STANDARDS**

In judging whether or not a Minor Land Partition application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Other applicable code criteria and standards were reviewed in the Staff Report dated August 26, 2013 and presented at the August 26, 2013 meeting of the Canby Planning Commission.

**FINDINGS AND REASONS**

The Planning Commission considered application MLP 13-01 after the duly noticed hearing on August 26, 2013 during which the Planning Commission approved by a \_\_\_\_ vote to approve MLP 13-01. These findings are entered to document the approval.

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

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



2. Any necessary additional public improvements will be required at the time of development of the lots associated with file #MLP 13-01. Public improvements must be reviewed by applicable utility agencies and the city engineer prior to installation. Future public improvement requirements will incorporate the City Engineer's comments dated 8/6/2013.
3. If a new stand-alone driveway is to be installed, then applicant must obtain a city Street Opening Permit to verify compliance with city access spacing standards.
4. The City Engineer or County Surveyor, as applicable, shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the partition plat.
5. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility Board (CUB), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.
6. The development shall comply with all applicable City of Canby Public Works Design Standards.
7. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the final plat at Clackamas County, it must be approved by the city and all other utility/service providers. The city will distribute the final plat to applicable agencies for comment prior to signing off on the final plat. Applicable agencies may include:
  - a. City of Canby Planning: Reviews final plat for depiction of the conditions of approval determined by the Planning Commission
  - b. City of Canby Engineering/Canby Public Works
  - c. Clackamas County
  - d. Canby Fire District
  - e. Canby Utility
  - f. Northwest Natural Gas
  - g. Canby Telcom
  - h. Wave Broadband
8. **Clackamas County Surveying** reviews **pending subdivision and partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County** within one year of approval or the applicant must apply for a one-year extension of the approved preliminary plat.



**I CERTIFY THAT THIS ORDER** approving **MLP 13-01** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013

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

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

\_\_\_\_\_  
Attest

**ORAL DECISION: August 26, 2013**

**WRITTEN DECISION: August 26, 2013**

**Ayes:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Ayes:**  
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\_\_\_\_\_

**Noes:**  
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\_\_\_\_\_

**Noes:**  
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\_\_\_\_\_  
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**Abstain:**  
\_\_\_\_\_

**Abstain:**  
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**Absent:**  
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**Absent:**  
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**MINUTES**  
**PLANNING COMMISSION**  
June 10, 2013 at 7:00 PM  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Tyler Smith, Sean Joyce, Charles Kocher, Shawn Hensley, and John Savory

**ABSENT:** Commissioner John Proctor

**STAFF:** Bryan Brown, Planning Director; Angie Lehnert, Associate Planner; Laney Fouse, Planning Staff; Renate Mengelberg, Economic Development Director; Greg Ellis, City Administrator; Amanda Zeiber, Asst. City Administrator/HR Director; Penny Hummel, Library Director; Marty Moretty, Library Office Supervisor

**OTHERS:** Carrie Richter, Paul Refi, Troy Ainsworth, Eric Wilcox, Bob Cornelius Matt Michael; Frank Berg, Robert Backstrom, Jeanette and David Van Tassel

**1. CALL TO ORDER**

Chair Smith called the meeting to order at 7 pm.

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

**3. PUBLIC HEARINGS**

- a. Public Hearing to consider approval of a revised **Site and Design Review** to build a new public library to be located at 162 NW 2nd Ave in the C-1 Downtown Commercial/Core Commercial subarea of the Downtown Overlay Zone (**DR 13-01**).

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

Commissioners responded they had no conflict, ex parte contact and had not visited the site.

Chair Smith stated no objections had been made by any audience member or Planning Commissioner regarding comments about the Library at the last hearing. Those comments were made prior to any knowledge this application would be remanded back to the Planning Commission. The discussion and comments are part of the record. No audience member stated any objections.

***Staff Report:***

Bryan Brown, Planning Director entered the staff report into the record. Chair Smith asked for clarification regarding staff presenting the report and also being representatives for the application. Mr. Brown explained staff would be presenting the report and the City had a team of people who would explain the application and answer any questions the Commission might have.

***Applicant:***

Mr. Brown stated two sets of findings were included in the Commissioners' packets, one for approval of the application and one for denial. If the Planning Commission considered approval, staff is recommending a change in two of the conditions of approval.

Mr. Brown stated Carrie Richter, Land Use Attorney will focus on concerns the Planning Commission had identified at the last hearing, such as the mass, bulk, size and height of the building, and the issue of the ownership and signature on the application form in regards to the Commission's ability to approve or deny the application.

Mr. Brown stated Eric Wilcox and his team from FFA Architecture will address the Commission's concerns regarding the design of the private drive to the south and how it will function. He said they will also discuss the changes in the landscape plan how it now meets the code and no longer requires a variance application.

Mr. Brown explained the adjacent parking lots are not a part of this application. He said DKS had completed a traffic study and there is newly revised one-way driveway which flows from Holly St. out onto 1<sup>st</sup> Ave with the issue of the radius and the width at the drop off box being addressed by FFA Architecture and DKS.

Mr. Brown said Greg Ellis, City Administrator was in the audience as part of the City Team and would be available to discuss negotiations regarding the specific location of the proposed Library.

Mr. Brown explained the intent of having the signature line on the application was so there could not be any land use action done on a property where the owner was not aware of it. He stated Matt Michaels was fully aware of this application and it was common practice to put conditions of approval on an application so it would alleviate concerns the Commission might have.

Mr. Brown stated a new narrative had been provided which discusses the landscape issue and other changes needed. Chair Smith questioned when the meeting between the Canby Utility Board and the City regarding the purchase of the proposed property would be held. Mr. Brown stated it would be on Tuesday June 11<sup>th</sup>, the day after this meeting.

Angie Lehnert, Associate Planner addressed the Commission stating Condition #3 had been revised to address the new driveway and circulation. She explained Condition #16

addressed the property owner's signature and requires all property owner's consent must be obtained prior to issuance of a building permit.

Chair Smith questioned why tonight's meeting was not being held after the meeting with Canby Utility. Mr. Brown stated the timing was critical with this application. Chair Smith stated one of the Planning Commission's concerns was the General Public would see this process as the Commission doing favors or creating a special processes the public would not be able to use. Mr. Brown explained the City Council is the deciding body and they chose to evoke the state statute allowed them to remand it back to the Planning Commission.

There were questions regarding the wording on condition #3, where it states the applicant should consider eliminating on street parking. Mr. Brown explained in this instance with buildings right up to property lines, slow traffic, DKS did not consider elimination of on street parking needed to be a requirement.

***Proponents:***

Carrie Richter, Attorney with Garvey, Schubert and Baer stated she has been working with the City for approximately 10 years as Special Land Use Council.

Ms. Richter addressed the issues the Commissioners had concerns with at the original hearing the height of the building, the Floor to Area Ratio (FAR), and the owners signature on the application. Chair Smith stated it was not the FAR that concerned the Commission, it was their interpretation that a two story building was required in the downtown zone.

Ms. Richter stated if Canby's Planning Code intended to exclude single story buildings it would have been clearly stated. Instead it is in the Purpose Statement that the FAR is required to be at least 80% giving the Planning Commission the ability to approve single story buildings in the zone.

Chair Smith stated the Commission can determine whether the Purpose Statement should be used as criteria for approval on an application. Ms. Richter used the Canby Herald building as an example of a one story structure in the Downtown overlay zone. She added that a two-story Library structure would provide no transition for the historic City Hall building.

Ms. Richter addressed the owner signature issue. She stated if the City cannot get land use approval, they would not purchase the property, but according to the Planning Commission's interpretation of the code, they can't get land use approval unless they own the land.

Ms Richter understands the Commission's concern regarding treating private developers differently than the City, but she believes this is a different issue. Canby Utility is aware

of the land use application, they have not opposed it and they have asked for this condition to be imposed.

She added the obligation for the signature is a completion criteria, the Planning Director has the authority to and chose to deem the application complete. She added there is case law that once an application has deemed complete you cannot go back and say it didn't include a requirement of completion. Normally situations such as this would be handled by adoption of a condition of approval, which is proposed with this application.

Ms Richter stated one of the differences between this application and the previous one is there is now an agreement between Canby Utility and the City but no sales agreement has been signed.

There was a discussion regarding the Purpose Statement's intent, which is to require two-story buildings in the downtown zone and how it would work with the existing and historical buildings that are one story at this time. Ms. Richter explained preference would be given to a two-story complex, but in this situation, where the historic City Hall will remain on the site, there would be no transition from the single story. She added that a two-story complex would not achieve the goal of a full length pedestrian friendly street front.

Paul Refi, FFA Architecture said they had met with the Fire Department and received some clarity on the requirements for the alley. He said the Fire Department was not requiring the full width of the alley to be paved it just needs to be obstruction free and with that they were able to add landscaping by way of a planting strip most of the length of the alley except along the area where the book drop off is located so permeable paving would be used at the drop off site. He said the cement ramp on the west wall of the City Hall building will no longer be needed, since there are other accesses available and, by removing the ramp the bicycle rack can be moved closer to the building, and a structural grass which allows grass to grow will be used allowing the amount of landscaping in that area to be increased and gets the landscape coverage to 8% well over the requirement of 7.5%.

Mr. Refi explained they started with the desire to work with the design of the 1937 historic City Hall Building, creating a unique design opportunity. Their solution, he said, melded the old with the new, by recessing the common entrance and as the structure moves away from City Hall it steps up in height. He said, they have included a brick parapet to incorporate the brick from City Hall, and believed the brick, glass and aluminum design bridges the old City Hall Design and with today's modern one.

There was discussion regarding the code requirement of the second story to look like a residential structure and how this design meets that. The design standards require a store front look on the ground floor and a more residential look to the top portion. This design reduces the glass on the top to a smaller scale and separates the glass with bands on both the top and bottom for more details.

The Commission asked for clarity on the increases in landscaping and where they would be located. The landscape plan will now include a 6' wide strip along most of the driveway, removing the old Fire Station driveway allowed more landscaping, removal of the old cement ramp on the west side of City Hall allows the bicycle ramp to be moved closer to the building which will allow structural grass to be installed in that area. The Commission asked for clarity on what "structural grass" was. It is a plastic form that is installed about 3" below grade and allows grass to grow on the top, it is not intended for vehicles to drive on, but it will support the weight of a Fire Truck's outriggers.

Greg Ellis, City of Canby Administrator addressed the Commission. He stated that the ownership issue is being worked on and a tentative agreement has been drawn up. He agreed that the Planning Commission shouldn't give the City special treatment, but also believes the City should not be held to a higher standard. The Commission has traditionally allowed applications by imposing conditions of approval. Chair Smith stated the usual practice would be to have an approved purchase agreement with a condition the sale is contingent upon approval of the land use application. Mr. Ellis stated there may be terms that need to be decided in the executive session and not be public knowledge until it goes before the City Council where the terms can be talked about in a public setting. There would hopefully be a public session on the June 19<sup>th</sup>.

***Opponents:***

None

***Neutral:***

Robert Backstrom, Canby citizen, stated he was fairly neutral on this issue, but he had read Mayor Hodson's blog regarding the Library becoming obsolete in 10 years and it would only be half paid for. He said the City Council had first voted to not proceed with the project, and one councilor changed his vote. He said there is no guarantee the City Council would vote to go forward and asked the Commissioners to go slow in making this decision.

***Rebuttal:***

Troy Ainsworth, FFA Architecture addressed the Commission. He stated his company has been working on this project for over 3 years, and did the needs assessment before then. He stated his company plans for the long term, they usually plan for 15 to 20 years, past 20 years is difficult to predict. They designed the project to the best of their ability for the long term.

Chair Smith, asked if the research was done 3 years ago and whether it is only good for 12 more years. Mr. Ainsworth explained they have updated it every year using new data, when the 2010 Census numbers came out they incorporated those new figures into the data. Chair Smith asked if the building size had changed at all, Mr. Ainsworth stated it had not.

Carrie Richter responding to statements the City should not fund the Library; stated funding is not an approval criteria.

Greg Ellis, clarified the City Council will not be meeting tomorrow; they will be meeting on the June 19<sup>th</sup>.

***Commissioner Deliberation:***

Commissioner Joyce said the architect did a great job on the landscaping. He said under the Conditions of Approval item #3B should be stricken. He said he did not have a problem with the ownership issue because previously the Commission had approved a Site and Design Review for the Fred Meyer store prior to them actually owning the property on which they now reside. He said the Commission should not hold the City to a higher standard than the private population and vice versa. Commissioner Joyce said the two-story issue is an area of the code he feels conflicts with itself.

Commissioner Kocher said he likes the design of the Library, how it appears to be a two-story building and the change in the landscaping.

Commissioner Savory said he appreciates the effort on the addition of landscaping. He said he is still uncomfortable without a signed agreement stating transfer of the land has been made. He said he cannot move beyond the fact the maximum lot coverage insures the development will be a minimum of two floors.

Commissioner Hensley said he was impressed by the landscaping. He said he has a problem with the ownership of land issue because the property owner, Canby Utility, is still not comfortable giving their consent and he did not want to give an upper hand to the City.

Chair Smith said he did not see anything changes from when they made their last decision. He said the City Council did not reverse anything, they did not issue any interpretation, and they did not say we got this wrong and they want us to reconsider it with this factor. He said he has concerns with the land ownership because there is no signed contract. And, he said the Commissioners would be doing something amiss if they approved this under the current code.

***Motion:***

Commissioner Savory made a motion to deny the DR 13-01 based on 1) CDC 16.41.010 is currently an approval criteria and the building is not two-story and 2) the City is currently not the owner of all of the property. Commissioner Hensley seconded. Motion passed 3/2.

**4. NEW BUSINESS**

- a. Food cart policy discussion

Commissioners and staff held a discussion on a process needed that would allow permanent foot carts and other small scale vendors in the City of Canby.

Commissioners agreed they would like to see this type of business but there needs to be process which includes time limits, design standards, what types of carts could be used, and determine application costs.

Jeanette spoke briefly to the Commission explaining that their food cart was the first mobile processing unit in the State of Oregon and they need the space for their cart to get their product to market.

Commissioners directed staff to put a process together and bring it back the Planning Commission for their review.

**5. MINUTES**

- a. Regular Planning Commission Minutes, May 28, 2013.

***Motion:***

Commissioner Kocher made a motion to approve the May 28, 2013 minutes as presented, Commissioner Hensley seconded. Motion passed 5/0.

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

- a. Mr. Brown said the June 24th meeting will consider the Fred Meyer application which was remanded back to the Planning Commission by the Land Use Board of Appeals (LUBA).

**7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

- a. None

**8. Adjournment**

***Motion:***

Commissioner Savory made a motion to adjourn, Commissioner Hensley seconded. Motion passed 5/0. Meeting adjourned at 9:29 pm



PLANNING COMMISSION  
WORK SESSION SUMMARY  
June 24, 2013 at 7:00 PM  
City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Tyler Smith, Sean Joyce, Charles Kocher, Shawn Hensley, and John Savory and John Proctor

**STAFF:** Bryan Brown, Planning Director, Angie Lehnert, Associate Planner

**OTHERS:** Allen Manuel, and Brian Christensen

Planning Commission Chair Tyler Smith called the Work Session to order at 7:00 pm in the City Council Chambers.

The Planning Commission met in a Work Session to discuss the problems with the Development Concept Plan (DCP).

Bryan Brown, Planning Director said a few months ago he was approached by a property owner with 0.7 acre property he wanted to annex but after hearing about the Development Concept Plan decided it was beyond his means. Mr. Brown said he has encountered other property owners over the past four years who had similar problems with the DCP requirement and that is why he placed this on the agenda, to maybe help both the small and large property owners.

Mr. Brown said he is hesitant to delete the DCP because so much work went into, back then more annexations were denied. He said he was working for the City at the time the DCP was adopted but times have changed since ordinance passed in 2008.

Mr. Brown said the DCP was appropriate at the time because we have large areas that are not planned out and the Council did not like piecemeal annexations; the development concept plan is

Commissioners agreed they are in favor of making it easier for small property owners to get annexed into the City, but they need to layout the groundwork for exceptions to the DCP.

Allen Manual a local realtor and former developer that spearheaded NE Redwood. He said he started with his first annexation request in 1999, which failed three times and he invested \$30,000 of his own money along with others who also invested \$30,000. But, he said, they have gotten nowhere. Mr. Manuel said he thinks the only successful person would be a national developer with national money who essentially could buy all the land and put a project together. He said the way he sees it is that the DCP has cut local developers out of development process in the City. He said the DCP is a good concept but there is no one to lead the charge.

Commissioners agreed there needed to be

- clarification of the language in the DCP;
- the addition of language for small scale annexation with provisions for 1 or 2 lots and 5 acres or less and,
- ways to make it easier for one person to complete the DCP successfully.

Chair Smith said he would appreciate some work on it by staff and then send him the modified versions of the DCP.

Chair Smith adjourned the work session at 8:02 pm.

**MINUTES**  
**PLANNING COMMISSION**  
 July 8, 2013 at 7:00 PM  
 City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Sean Joyce, Charles Kocher, Shawn Hensley, and John Savory

**ABSENT:** Commissioner Tyler Smith, and John Proctor

**STAFF:** Bryan Brown, Planning Director; Angie Lehnert, Associate Planner;

**OTHERS:** John Serlet, Canby resident

**1. CALL TO ORDER**

Vice Chair Joyce called the meeting to order at 7 pm.

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

**3. PUBLIC HEARINGS**

- a. *Site and Design Review - The applicant is proposing a 6 unit fuel-dispenser station which includes a canopy, underground fuel storage tanks, an attendant kiosk, equipment kiosk, restroom, dumpster, storage shed, propane fueling area, and an air/water pad. (Fred Meyer DR 12-03/TA 12-01/ZC 12-02)*

Prior to reading the Public Hearing format and opening the Public Hearing, Vice Chair Joyce said that staff had information to share on how the Commissioners would proceed.

Angie Lehnert, Associate Planner said it has come to staff's attention that the Council must first give the Planning Commission direction to review the Land Use Board of Appeals (LUBA) items because the LUBA appeal concerned the Council's final decision and not those of the Planning Commission. She said an agenda item asking the Council to direct the Planning Commission to review the re-consolidated the three application files and recommend a final decision has been made for the Council's July 17, 2013 meeting. Ms. Lehnert said that staff is recommending the Public Hearing be continued to a date certain of July 22, 2013, the next Planning Commission meeting.

John Serlet, Canby citizen spoke briefly to the Commissioners to say he thought Fred Meyers fuel station would be a good addition to the community.

***Motion:***

Commissioner Savory made a motion to continue the Public Hearing on ***Fred Meyer DR 12-03/TA 12-01/ZC 12-02*** to wait for more clarification from the City Council's July 17, 2013 meeting until a date certain of July 22, 2013. The motion was seconded by Commissioner Hensley. Motion passed 4/0.

4. **NEW BUSINESS** - None
5. **MINUTES** - None
6. **ITEMS OF INTEREST/REPORT FROM STAFF**
  - a. Discussion about the next Planning Commission meeting on July 22, 2013.
  - b. Appeal to City Council on the Planning Commission's denial on the Library application.
7. **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION** - None
8. **Adjournment**

***Motion:***

Commissioner Savory made a motion to adjourn, Commissioner Hensley seconded. Motion passed 4/0.

Meeting adjourned at 8:16 pm.

**MINUTES**  
**PLANNING COMMISSION**  
 July 22, 2013, 7:00 PM  
 City Council Chambers – 155 NW 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Charles Kocher, John Proctor, John Savory, and Shawn Hensley

**ABSENT:** Commissioners Tyler Smith and Sean Joyce

**STAFF:** Bryan Brown, Planning Director, Angie Lehnert, Associate Planner, Laney Fouse, Planning Staff, and Councilor Clint Coleman, Planning Commission Liaison

**OTHERS:** Jim Coombes, Steve Abel, Mike Connors, Roger Skoe, Vicki Lang, Jake Tate, Brent Ahrend, Todd Mobley, Dave Kimmel, and Lee Leighton

**1. CALL TO ORDER**

Commissioner Savory called the meeting to order at 7 pm.

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

**3. PUBLIC HEARING**

- a. The applicant is proposing a 6 unit fuel-dispenser station which includes a canopy, underground fuel storage tanks, an attendant kiosk, equipment kiosk, restroom, dumpster, storage shed, propane fueling area, and an air/water pad.  
 (Fred Meyer DR 12-03/TA 12-01/ZC 12-02)*

Commissioner Savory read the public hearing format and opened the public hearing. Commissioners said they had no conflicts; Commissioners Proctor, Kocher and Savory had no ex parte contact Commissioner Hensley said he had a brief conversation with Commissioner Savory.

Associate Planner Angie Lehnert entered her staff report into the record which included some history of the application, design revisions the applicant is proposing, a response to some of the LUBA remand issues, and Planning Commission's decision options and motions.

She pointed out the entire Fred Meyer record and the Traffic Study were on the dais.

Ms. Lehnert presented the Commissioners with three decision options which included 1) Re-approve DR 12-03 with the revised designs, support Fred Meyer's additional as a response to the LUBA remand issues & recommend approval of DR 12-03/TA 12-01/ ZC 12-02 to Council; 2) Make a new decision recommending denial of the design revisions to DR 12-03 and then otherwise recommend approval of TA 12-01/ZC 12-02 and recommend that the Council uphold the original Planning Commission approval of DR 12-03; or 3)Recommend the Council deny DR 12-03/TA 12-01/ ZC 12-02.

***Applicant:***

Steve Abel, Stoel-Rives attorney for Fred Meyers pointed out it is a city's prerogative to separate processes and deal with it how they want and it did not take away the applicant's ability to maintain those two processes as a consolidated application. Mr. Abel said the LUBA remand was just asking the City to take a look at their decision again with regard to any significant change or impact on the transportation system with the zone change.

Lee Leighton reviewed some of the design changes which includes an arbor wall designed to create a similar association as a building wall does with pedestrians. Mr. Leighton also presented an extensive list of plants, trees and shrubs for the site's landscaping composition.

Jake Tate, Great Basin Engineering, Civil Engineer, presented the sign changes and discussed the civil engineering for stormwater filtration and collection on the site.

Commissioner Kocher said he likes the new design using the arbor wall because it provides more safety for pedestrians.

Commissioner Proctor asked about the reliability of the system and how often the lines would clog up. Mr. Tate said any system will clog up if it is not cleaned. He said Fred Meyer's has a detailed operations manual issued to each fuel facility which defines a regular maintenance schedule so the pipes are cleaned regularly.

Commissioner Hensley asked about the overall maximum capacity of the unit. Mr. Tate responded they could hold just under 2400 cu. ft.

Brent Ahrend, MacKenzie (*formerly Group MacKenzie*), traffic engineer explained their changes to the transportation analysis which included new trip generation data, a list of the additional intersections they considered, information regarding a potential Hwy. 99E pedestrian crossing, and also provided was a neighborhood through-trip study. Mr. Ahrend said ODOT has permitted a full access driveway on SE Hwy. 99E and on SE 2<sup>nd</sup> Avenue. He said a potential Hwy. 99E pedestrian crossing on the Locust St. intersection would conflict with the full-access driveway on Hwy. 99E. Mr. Ahrend said a satisfactory system functioning in right-in/right-out/no 99E access scenarios shows that a crossing could be added without causing unacceptable transportation system performance.

Steve Abel said the changes made to the pole sign now meets the code and he thinks they are offering a much better proposal for this site. He said they feel they have responded to LUBA's request for clarification from the City.

***Proponents:*** None

***Opponents:***

Michael Connors, Hathaway, Koback and Connors, submitted a letter from the Save Downtown Canby group into the record which discusses the procedural issues saying the Fred Meyers applications are not re-consolidated and must be processed separately, and how the applicant failed to address both LUBA remand issues.

Dave Kimmel, PDG Planning Design Group, addressed his concerns about the proposed 12 fuel dispensers on the site which he indicated the site is not big enough to accommodate delivery trucks and the traffic which would flow through it.

Todd Mobley, Lancaster Engineering, said his company conducted a review of the applicant's Traffic Impact Study which overestimates the development potential of the site in both the Core Commercial Overlay Zone and Outer Highway Commercial Zone. He also provided detailed analysis of the potential impacts that would increase traffic in the surrounding area.

Mike Connors said one of the things his client has been trying to do is to get Fred Meyers to analyze the impact additional traffic will have at this site. Mr. Connors also said he doesn't believe the trellis wall meets the intent of the code because it is not a building.

***Neutral:***

None

***Rebuttal:***

Steve Abel said the applications have always been consolidated and it is clear under Oregon law the Planning Commission can process them separately and still have a consolidated application. He said Fred Meyers went through the analysis which LUBA asked for and discovered no significant impacts with traffic in either zone.

Commissioner Savory asked Mr. Abel for clarification regarding the trellis and whether it is defined as a building. Mr. Abel said it is the wall of a building under the City's definition in the code.

Brent Ahrend responded to Commissioner Hensley question as to why the Traffic Study did not include the intersection at Hwy 99E and Juniper and Hwy 99E and Knott and because a study of those intersections had not been requested by the applicant.

Commissioner Savory closed the public hearing at 8:46 pm.

***Commissioner Discussion:***

Commissioner Kocher wanted clarification the City Council had already approved the change to the subarea boundary. Mr. Brown said yes it had been previously approved by the Council and the Council has directed the Commission to give them a recommendation based on tonight's discussion on the pedestrian crossing and the TPR. Commissioner Kocher said a crosswalk at Locust Street was just a suggestion was not a definite but thought a crosswalk at Knott Street would be a much better idea. Commissioner Hensley agreed.

Commissioner Proctor said he likes the design, and agrees a crosswalk at Knott would be better spot for a crosswalk than one at Locust. He said he is still hesitant about the traffic issues.

Commissioner Hensley said he likes the new plan a lot better because the applicant took into consideration all the issues being raised. He said the City will have traffic issues no matter what they do.

Commissioner Savory said he agrees this is a much improved design. He said in regards to the pedestrian crosswalk there is nothing cast in stone and it is something ODOT may or may not require.

Commissioner Proctor moved to affirm the Planning Commission's previous approval of the Fred Meyer Site Design Review #DR 12-03 with the revised designs, the findings submitted addressing the LUBA remand issues, and to approve the re-consolidated DR 12-03/TA 12-01/ZC 12-02 application as follows:

- I move to re-approve DR12-03 with the revised site design proposal for the fueling station based on the designs included in the record and further explained in staff's April 19, 2013 memo;
- I move that we recognize that Applicant's three requested approvals (the Text Amendment #TA 12-01, Map Amendment # ZC 12-02, and the Site Design Review #DR 12-03) are a single, consolidated application and therefore incorporate the record and decision from #TA 12-01/ZC 12-02 into the record of #DR 12-03 and incorporate the findings and conclusions from Ordinance No. 1365 as a part of this approval for #DR 12-03, resulting in a single record and decision for the fueling station and its three consolidated applications; and
- Furthermore I would like to direct the Applicant to prepare findings supporting approval of the consolidated applications with specific instruction to delete the original Planning Commission finding and condition concerning the monument sign because we find that the sign as now proposed meets the sign standards of Table 3 under 16.42.050 for pole and wall signs.

Commissioner Hensley seconded the motion. Motion passed 4/0.

4. **NEW BUSINESS** - None

5. **FINAL DECISIONS** - None

6. **MINUTES** - None

7. **ITEMS OF INTEREST/REPORT FROM STAFF** - None

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

9. **ADJOURNMENT**

Commissioner Kocher made a motion to adjourn. Commissioner Hensley seconded. Motion passed 4/0. Meeting adjourned at 8:58 pm.