

**PLANNING COMMISSION
Meeting Agenda
Monday – October 28, 2013
7:00 PM**

City Council Chambers – 155 NW 2nd Avenue

Commissioner Tyler Smith (Chair)

Commissioner Sean Joyce (Vice Chair)

Commissioner John Proctor

Commissioner John Savory

Commissioner Charles Kocher

Commissioner Shawn Hensley

Commissioner John Serlet

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1. **CALL TO ORDER**
 2. **CITIZEN INPUT ON NON-AGENDA ITEMS**
 3. **PUBLIC HEARINGS (Pages 1 – 49)**
 - a. *A request from Jason Bristol for a Minor Land Partition of a .41 acre site located at 658 NE 10th Avenue into three (3) parcels. The existing single family residence will reside on Parcel 2, Parcel 1 will be suitable for a new single family residence and Parcel 3 will be utilized for future access and utilities purposes benefiting 1065 N. Maple. (MLP 13-03)*
 4. **NEW BUSINESS (Pages 50 – 55)**
 - a. *Continuation of Discussion of Draft Street (Mobile) Vendor Ordinance ie: Food Trucks/Carts*
 5. **FINAL DECISIONS (Pages 56 – 59)**

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

 - a. *MLP 13-03 – Jason Bristol – Minor Land partition of a .41 acre site located at 658 NE 10th Avenue into three (3) parcels.*
 6. **MINUTES (Pages 60 – 61)**
 - a. *October 14, 2013 Planning Commission 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
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City of Canby

MINOR PARTITION STAFF REPORT

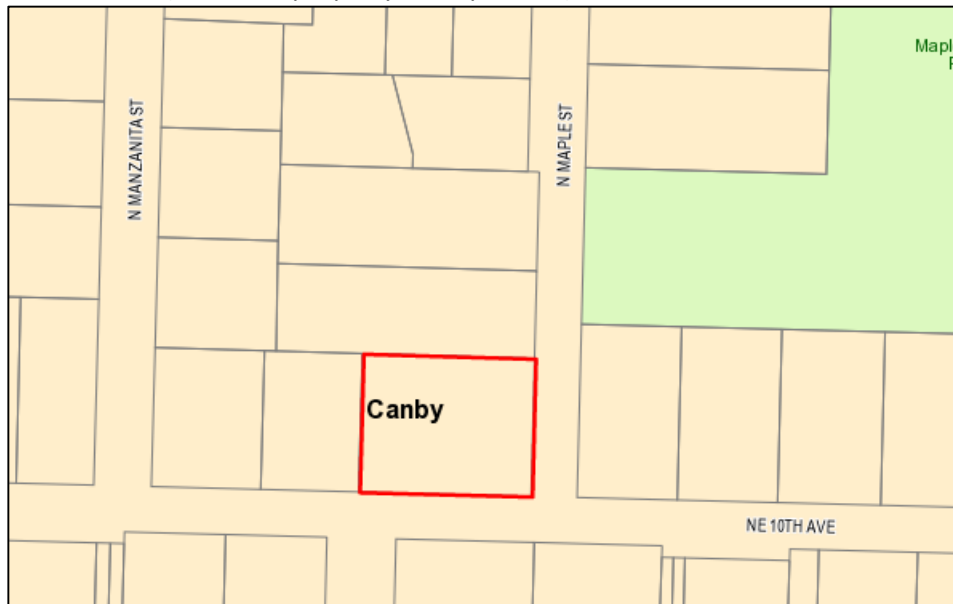
FILE #: MLP 13-03

Prepared for the October 28, 2013 Planning Commission Meeting

LOCATION: 658 NE 10th Ave

ZONING: R-1 Low-Density Residential

TAX LOT: 31E33AB01300 (Bordered property in map below)



LOT SIZE: 0.41 Acre

OWNER: Jason & Jeanne Bristol

APPLICANT: Jason Bristol

APPLICATION TYPE: Minor Partition (Type III)

CITY FILE NUMBER: MLP 13-03

I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

The applicant's narrative states the following:

"This application requests approval for a minor partition to divide property into three parcels. The existing single-family residence will reside on Parcel 2. Parcel 1 will be suitable for a single-family home. Parcel 3 will be utilized for future access and utilities purposes, benefiting 1065 N Maple Street located to the north.

The site is zoned R-1 and is located west of N Maple Street. The site has frontage on NE 10th Avenue and N Maple Street; all access will connect to NE 10th Avenue.

The site is in an area of existing single-family residences with some redevelopment creating new single-family residences.

The site is presently occupied by an existing single-family residence. The site is very nearly flat, with no identified natural resources or physical hazards. A few trees are scattered around the site, including a street tree that will remain on Parcel 1.

The proposed Parcel 2 will continue to have frontage and direct access to NE 10th Avenue. The proposed Parcel 1 will have frontage on both N Maple Street and NE 10th Avenue that will provide a single point of access.”

II.

ATTACHMENTS

- A. Application form and supporting documents
- B. Pre-application minutes
- C. 10th Avenue easement documents
- D. Application narrative
- E. Architectural and site plans
- F. Citizen and agency comments/written testimony

III.

APPLICABLE CRITERIA & FINDINGS

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

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

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

Chapter 16.08 General Provisions

16.08.090 Sidewalks required.

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

Findings: The applicant has indicated in the submitted narrative and at the pre-application conference that a 5 foot sidewalk and curb are proposed along Maple. The planned sidewalks along Maple are not shown on the proposed plat. As a **condition of approval**, the applicant shall submit engineered curb and sidewalk plans and install 5 foot sidewalks along the site's Maple frontage; the proposed plans shall be approved by the City Engineer and by Public Works prior to the issuance of a building permit. In addition, as a **condition of approval**, the applicant shall indicate a 5 foot sidewalk easement along Maple on the final partition plat. Finally, the City Engineer has requested that a 20' curb radius easement be dedicated at the corner of 10th and Maple for future sidewalk ADA ramp purposes; as a **condition of approval**, this 20' radius shall be noted on the final plat.

The applicant proposes to forgo installing curbs and sidewalks along 10th Avenue because the city plans to install sidewalks along 10th Avenue with future Community Development Block Grant (CDBG) funding. The city is currently attempting to obtain sidewalk easements from property owners along 10th Avenue for this project. The applicant has returned the City Engineer's requested sidewalk easement form, which was submitted with the application. As a **condition of approval**, the applicant shall show this easement on the final partition plat.

Note: The city's Transportation System Plan (TSP) calls for at least 6 foot sidewalks for all types of road classifications (Figures 7-4 through 7-6), however the proposed 5 foot sidewalk matches other sidewalks in the vicinity. In addition, the city's proposed sidewalks along 10th Avenue are only 5 feet wide because of limited right of way width.

16.08.110 A-D Fences

Findings: If the applicant proposes fencing, they must comply with the fence regulations of 16.08.110 A-D.

16.08.150 Traffic Impact Study (TIS).

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

Findings: A Traffic Impact Study was not required for this proposal because it was determined that this proposal did not meet the TIS requirements of 16.08.150.

16.08.160 Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the city's basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are

inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have the following:

- A. Adequate street drainage, as determined by the city.*
- B. Safe access and clear vision at intersections, as determined by the city.*
- C. Adequate public utilities, as determined by the city.*
- D. Access onto a public street with the minimum paved widths as stated in Subsection E below.*
- E. Adequate frontage improvements as follows:*
 - 1. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.*
 - 2. For collector and arterial streets, a minimum paved width of 20 feet along the site's frontage.*
 - 3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.*
 - 4. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies.*

Findings:

- Stormwater will be required to be retained on-site, see [Condition of Approval #20](#)
- See discussion of clear vision requirements under Chapter 16.16.
- The development must meet all city public works requirements and the requirements of applicable utility agencies (see [Conditions of Approval #9 & #22](#)) prior to the issuance of a building permit and final partition plat recordation.
- The development will have access onto existing, paved public streets that comply with numbers (2) and (3) above. The city's consulting engineer commented that Maple Street should receive half street improvements as a part of this partition. Staff clarified that this means that Maple Street shall be at width of 17 feet from centerline, as shown in the "Standard Local Street" illustration in Figure 7-6 of the Canby Transportation System Plan (TSP). This is a [condition of approval](#).
- The TSP calls for sidewalk improvements along 10th Avenue (Table 5-1, page 5-5); refer to the discussion of 10th Avenue sidewalks under 16.08.090.

Chapter 16.10 Off Street Parking & Loading

16.10.030 General requirements

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

16.10.050 Parking standards designated

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

TABLE 16.10.050

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

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

Findings: Adequate parking for the proposed new house will be verified when the applicant applies for a building permit.

16.10.070 Parking Lots and Access

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

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

TABLE 16.10.070

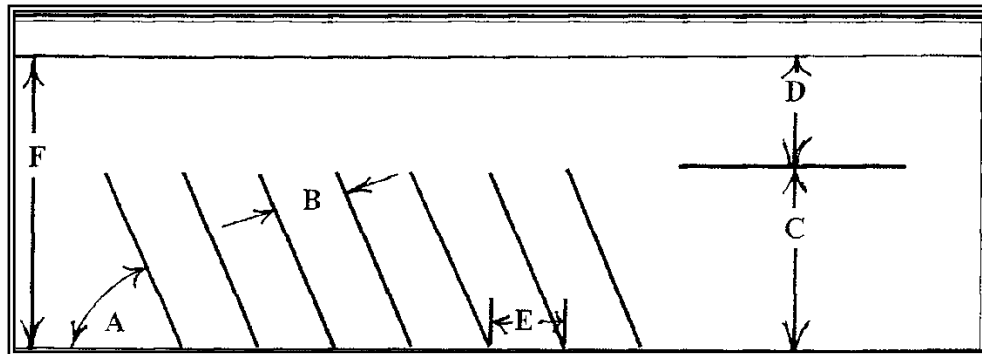
Minimum dimensional Standard for Parking

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

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

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

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



Findings: Parking spaces must meet the dimensional requirements of Table 16.10.070 (“Figure 1” above is an incorrect reference); the parking area dimensions will be verified when the applicant applies for a city Site Plan Permit/county Building Permit and/or a city Street Opening Permit. The proposed driveways meet the dimensions above.

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

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

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

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

B. Access.

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

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

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

improvement, the sidewalk construction shall include construction of the curb and gutter section to grade and alignment established by the Site and Design Review Board.

Findings: See discussion on under 16.08.090.

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

Findings: The applicant is proposing 20 foot driveways on Parcels 1 and 2, meeting the above requirement.

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

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

Findings: The above standard conflicts with Canby’s Public Works Design Standards driveway-to-driveway separation requirement; consistency between the two documents is a needed Code amendment. Public Works Design Standards only require a 10 foot driveway-to-driveway separation (Section 2.211(g)). Staff recommends that the Planning Commission require the less-restrictive 10 foot Public Works standard. Therefore, as a **condition of approval**, all driveway-to-driveway separations shall be 10 feet. See the discussion below for driveway-to-intersection spacing standards.

In addition, the applicant proposes to demolish the existing carport on Parcel 2 and relocate the existing driveway on proposed Parcel 2. As a **condition of approval**, the applicant shall verify with Clackamas County if a permit is needed to demolish the carport structure and, if necessary, obtain a City of Canby Site Plan/Demolition permit. In addition, as a **condition of approval**, the applicant shall obtain a Canby Street Opening Permit in order to relocate the driveway on Parcel 2. Parcel 1 and 3 driveways will be checked for spacing requirements and Public Works requirements when building permits are obtained for proposed new houses on the respective parcels.

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

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

Findings: Per 16.04.670, a vision triangle “means the triangle area at the intersection of two streets, a driveway and a street, or a street and a railroad, two sides of which are measured from the corner intersection of the existing or proposed curb lines to a distance specified in this title. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the curb lines at intersections have rounded corners, the curb lines will be extended in a straight line to their points of intersection”.

The above standard applies to Parcel 1. As a **condition of approval**, Parcel 1’s the intersection-to-driveway spacing, as specified above, shall be 30 feet.

16.16 R-1 Low Density Residential Zone

16.16.010 Uses permitted outright

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

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

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

16.16.030 Development standards

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

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

Findings: The above standard is met on Parcel 2 and is not met for Parcels 1 and 3. The Planning Commission may permit smaller lots in conformance with (B) below.

- B.** *Lot area exceptions:*

- 1.** *The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.16.030.A as part of a subdivision or partition application when all of the following standards are met:*

- a.** *The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than seven thousand square feet and no greater than ten thousand square feet.*

Findings: The applicant proposes Parcel 1 be 6,404 square feet; the applicant submitted two alternative lot line configurations, “Proposed Plot Plan Option 2” and “Proposed Plot Plan Option 3” to illustrate lot lines that meander around the existing house, which the applicant does not wish to demolish, in order to meet the minimum lot size of 7,000 square feet on Parcel 1. However, there are provisions in 16.64.040(E) that indicate that lot lines must be right

angles to the street the lot abuts, so a meandering line may not be the solution to obtaining the minimum lot size of 7,000 square feet. In addition, meandering lot lines are not recommended due to their impractical and illogical lot shapes they create. Therefore, the applicant requests that the Planning Commission permit Parcel 1 to be 6,404 square feet, 596 square feet below the minimum lot size.

If Parcel 3 *is not* included in the calculation, the average lot size of Parcels 1 and 2 meet the above lot size exception standard. The proposed water infiltration chamber area in the rear yard of Parcel 1 was not omitted from this calculation. If Parcel 3 *is* included, the above exception standard is not met.

The area encompassed by Parcel 3 could be designated as an access easement on the final plat, but the owners of the property to the north of this site, at 1065 N Maple, are not ready to develop the property and accept the easement (which is required by the County in order for an easement to be recorded). If Parcel 3 was part of Parcel 1 and/or was not included in the average area of lots created by this partition, then the above exception standard would be met.

To mitigate these issues, a **condition of approval** is proposed that requires the final plat to note that Parcel 3 is a non-buildable future access parcel and if Parcel 3 does not become an access parcel to 1065 N. Maple Street within 10 years from the date the final plat is recorded, then Parcel 3 shall become the property of Parcel 1.

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

Findings: Parcel 3 does not meet this standard, but Lot 2 does - see the discussion above.

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

Findings: More than ten percent of the lots are proposed to be outside of the minimum lot areas for the R-1 zone to allow the creation of infill lots, which can be reasoned as a public benefit. Uniformity in lot configuration and compatibility with the surrounding neighborhood can also be reasoned as a public benefit. See the discussion above.

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

Findings: Parcel 3 does not meet the minimum lot width and needs an exception; see the discussion above.

D. *Minimum yard requirements:*

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

Findings: Street yard setbacks for the proposed new house on Parcel 1 will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

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

Findings: The existing house has an accessory structure that encroaches into rear setback; this is allowed to remain as a non-conforming use. Rear setbacks for the proposed new house will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

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

Findings: The existing house meets the above requirement; interior yard setbacks for the proposed new house will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

E. Maximum building height:

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

Findings: Height requirements for the new house will be verified when the applicant applies for a city Site Plan Permit/County Building Permits. Infill height standards in 16.21 will also apply to the proposed new house, limiting it to no taller than 28 feet; infill height standards contain restrictions on the heights of infill homes in order to maintain the character of existing one-story neighborhoods. The existing house is one-story that does not appear to be over 35 feet.

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

Findings: The above maximum impervious surface requirement will be verified when the applicant applies for a city Site Plan Permit/County Building Permits.

G. Other regulations:

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

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

16.21 Residential Design Standards

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

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

16.21.030 Single family and two-family dwelling design menu.

16.21.040 Main entrances for single family and two family dwellings.

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

16.21.050 Infill Homes

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

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

16.43 Outdoor Lighting Standards

16.43.110 Lighting Plan Required

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

- A. A site plan showing the location of all buildings and building heights, parking, and pedestrian areas.
- B. The location and height (above grade) of all proposed and existing luminaires on the subject property.
- C. Luminaire details including type and lumens of each lamp, shielding and cutoff information, and a copy of the manufacturer’s specification sheet for each luminaire.

- D. Control descriptions including type of control (time, motion sensor, etc.), the luminaire to be controlled by each control type, and the control schedule when applicable.
- E. Any additional information necessary to demonstrate compliance with the standards in this section.

Findings: The standards of 16.43 are applicable to new single family homes.

16.46 Access Limitations on Project Density

16.46.030 Access connection.

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

TABLE 16.46.30

Access Management Guidelines for City Streets*

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

** Measured centerline on both sides of the street

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

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

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

Findings: The applicant is not proposing roads, so the above roadway spacing standards not applicable. The TSP classifies Maple as a Local Street and 10th Avenue as a Neighborhood Route. The above roadway to driveway spacing standards are not applicable to single family driveways; see 16.10.070(B) for discussion of roadway/intersection-to-driveway and driveway-to-driveway spacing standards.

16.46.070 Exception standards

- A. An exception may be allowed from the access spacing standards if the applicant can provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
1. Indirect or restricted access cannot be obtained;
 2. No engineering or construction solutions can be reasonably applied to mitigate the condition; and
 3. No alternative access is available from a street with a lower functional classification than the primary roadway.

- C. The granting of the exception shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.*
- D. No exception shall be granted where such hardship is self-created.*
- E. Reasons for denying access spacing exception applications include, but are not limited to, traffic safety concerns, expected or planned traffic increases due to development or road construction, and emergency service provision issues.*

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

16.56 Land Division Regulation

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

16.60 Major or Minor Partitions

16.60.020 Standards and criteria.

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

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

16.60.040 Minor partitions.

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

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

Findings: The application and this staff report show conformance with the above. Public facilities and services are presently available on the site; see the discussion under 16.08.090 regarding public curb and sidewalk facilities. In addition, Conditions #9 & #22 verify that all requirements of applicable utility agencies providing public facilities are met prior the recordation of the final plat and prior to the issuance of building permits.

16.60.050 Planning Commission action.

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

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

This partition does not propose to create a road or street and is therefore being processed as a minor partition. Parcel 1 will become an infill lot per the definition of "infill lot" in 16.04.255. Per the standard above, Parcel 1 shall be noted as an "infill home" on the final partition plat; this is a **condition of approval**.

16.60.060 Final procedures and recordation.

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

any other pertinent factors, including public comment on the original application.

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

16.64 Subdivisions-Design Standards

16.64.010 Streets

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

Findings: Staff recommends requiring a 12 foot street tree easement along the frontages of all proposed parcels (including Parcel 3 in case it is never used as an access parcel and is absorbed into Parcel 2); this easement may be combined with other utility easements. The City has a newly updated Chapter 12.32, Tree Regulations, which specify tree spacing, planting, species selection, and establishment procedures. Essentially, the Tree Regulations have the applicant pay a fee to the city based on the number of trees to be planted, and then the City Arborist is responsible for the placement, planting and establishment of the trees. Therefore, as a **condition of approval**, the applicant shall dedicate a 12 foot tree easement along the Maple and 10th Avenue frontages of Parcels 1, 2, and 3 and the applicant shall pay the city fee for city establishment of street trees along Maple and 10th Avenue per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. This easement may be combined with other utility and sidewalk easements and shall be measured from the property boundary. All street tree fees shall be paid prior to the recordation of the final plat.

16.64.015 Access

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

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

Findings: Refer to the discussion regarding sidewalks under 16.08.090. TSP access spacing standards match the standards under 16.46.030; refer to the discussion under Chapter 16.46 and under 16.10.070(B) which address (F) above.

16.64.030 Easements

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

Findings: Conditions #9 & #22 verify that all requirements of applicable utility agencies providing public facilities are met prior the recordation of the final plat and prior the issuance of building permits.

16.64.040 Lots

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

Findings: The above standard is not met for Parcel 3. Per 16.60.020, the Planning Commission may exempt the standards of 16.64. Parcels 2 and 3 meet the above standard.

B. Minimum Lot Sizes:

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

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

Findings: See the discussion under Chapter 16.16, R-1 Zone.

16.64.040(C), continued

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

Findings: The TSP classifies Maple as a Local Street, which is a lower street classification than 10th Avenue, which is classified in the TSP as a Neighborhood Route. The applicant proposes to access Parcel 1 off 10th Avenue rather than off Maple and is therefore requesting an exception to the above standard. Per 16.60.020, the Planning Commission may exempt the proposal from some of the design standards of Chapter 16.64.

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

Findings: The above standard is met if the Planning Commission approves “Proposed Plot Plan”; “Proposed Plot Plan Option 2” and “Proposed Plot Plan Option 3” would not meet the above standard.

16.64.070 Improvements

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

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

Findings: Refer to Conditions #11, #12, & #14 which address procedures pertaining to the proposed sidewalk and curbing along Maple. In addition, Conditions #9 & #22 require the final plat to be approved by utility agencies prior to recordation and the issuance of building permits.

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

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

Findings: The applicant proposes infill development on a site where most of the above services are already provided. Refer to the discussion on curbs and sidewalks under 16.08.090 and to Conditions #9 & #22 addressing any potential requirements from utility agencies. Conditions #5 & #13 address street tree requirements. Conditions #2, #3, #4, #11, #12, & #14 address curbing, sidewalk, and street improvements.

C. Streets

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

Findings: Conditions #5 & #13 address street tree requirements.

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

Findings: The applicant proposes infill development on a site where most of the above services are already provided. Refer to the discussion on sidewalks under 16.08.090 and to [Conditions #9 & #22](#) address any potential requirements from utility agencies.

D. Surface Drainage and Storm Sewer System.

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

Findings: [Condition of Approval #20](#) addresses the above standards.

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

Findings: Refer to the discussion on curbs and sidewalks under 16.08.090 and to the discussion of street improvements under 16.08.150(E). This partition will include the installation of a curb and 5 foot sidewalk along the site's Maple Street frontage and the improvement of Maple Street to be at width of 17 feet from centerline, as shown in the "Standard Local Street" in Figure 7-6 of the Canby Transportation System Plan (TSP). As a **condition of approval**, the applicant shall be responsible for installing the curb and street improvements prior to the recordation of the final plat. Alternatively, if the applicant wishes to forgo construction of the curbs and street improvements until after the recordation of the final plat, then the applicant shall pay a bond in accordance with 16.64.070(N-P) to the city as assurance. In addition, as a **condition of approval**, the applicant shall obtain a Street Opening Permit prior to the installation of the curbs and street improvements along Maple so that the city may inspect and approve the curb and street improvements. The sidewalk along Maple shall be constructed when the new home is built, as is the normal process for new homes built as part of partitions or subdivisions.

K. Other Improvements.

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

Findings: Conditions #5 & #13 address the above standards.

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

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

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

N. Agreement for Improvements. Before commission approval of a subdivision plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or execute and file with the city engineer, an agreement specifying the period within which required improvements and repairs shall be completed and provided that, if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and reasonable attorney fees necessary to collect the amounts from the land divider. The agreement shall also provide for reimbursement to the city for the cost of inspection by the city which shall not exceed ten percent of the improvements to be installed.

O. Bond.

1. The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

a. A surety bond executed by a surety company authorized to transact business in the state in a form approved by the City Attorney;

b. A personal bond cosigned by at least one additional person, together with evidence of financial responsibility and resources of those signing the bond, sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement;

c. Cash.

2. Such assurance of full and faithful performance shall be for a sum approved by the city engineer as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of the city inspection.

3. If the land divider fails to carry out provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the cost of expense incurred by the city exceeds the amount of the bond or cash deposit, the land divider shall be liable to the city for the difference.

P. Guarantee. All improvements installed by the subdivider shall be guaranteed as to workmanship and materials for a period of one year following written notice of acceptance by the city to the developer.

Findings: Condition #11 addresses the above provisions.

16.89 Application and Review Procedures

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

A neighborhood meeting is not required for minor partitions. A pre-application conference was held and the minutes of the pre-application meeting are part of the Planning Commission packet and made part of the record.

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

16.120.020 Minimum standard for park, open space and recreation land

- A. Parkland Dedication:** All new residential, commercial and industrial developments shall be required to provide park, open space and recreation sites to serve existing and future residents and employees of those developments.
1. The required parkland shall be dedicated as a condition of approval for:
 - a. Approval of a tentative plat of a subdivision or partition.
 2. The City shall require land dedication or payment of the system development charge (SDC) in lieu of land dedication (Section 4.20.170). In addition, the City may credit private on-site park, open space and recreation area(s) and facilities (Section 16.120.060). The City may approve any combination of these elements. Prior to parkland dedication, a Level I Environmental Assessment of the lands proposed for dedication shall be performed by the applicant as part of the site plan approval for the project.

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

IV. PUBLIC TESTIMONY

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

V. CONDITIONS OF APPROVAL

Staff concludes, with conditions, that the application will meet the requirements for approval. Staff has 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 13-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
 - a. Preliminary Partition Plat dated 8/7/13
 - b. Minor Partition Land Use Application and narrative
 - c. All other materials submitted in conjunction with the MLP 13-03 application

Final plat conditions:

2. The applicant shall show a 5 foot sidewalk easement along Maple Street on the final plat.

3. The applicant shall show a 5 foot sidewalk easement along 10th Avenue on the final plat.
4. A 20' sidewalk curb radius easement shall be noted on the final plat at the corner of 10th and Maple for future sidewalk ADA ramp construction purposes.
5. The applicant shall dedicate a 12 foot street tree easement along the Maple Street and 10th Avenue frontages of Parcels 1, 2, and 3. This easement may be combined with other utility and sidewalk easements and shall be measured from the property boundary.
6. The final plat shall note that Parcel 3 is a non-buildable future access parcel and if Parcel 3 does not become an access parcel to 1065 N. Maple Street within 10 years from the date the final plat is recorded, then Parcel 3 shall become the property of Parcel 1.
7. Parcel 1 shall be noted as an "infill home" on the final plat.
8. The City Engineer or County surveyor shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the final partition plat.
9. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Final Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the 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
10. Clackamas County Surveying reviews **pending partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County** within one year of approval or the applicant must request that the Planning Director approve a one-year extension for recordation of the approved final plat.

Public Improvement Conditions:

11. The applicant shall submit engineered curbing and street public improvement plans and install curbing and street improvements along the site's Maple Street frontage; the proposed curbing and street improvements shall be approved by the City Engineer and by Public Works prior to the recordation of the final plat. If the applicant wishes to install curbs and street improvements after the recordation of the final plat, then the applicant shall pay a bond in accordance with 16.64.070(N)-(P) to the city as assurance.
12. The applicant shall obtain a Street Opening Permit prior to the installation of the curbs and street improvements along Maple Street so that the city may inspect and approve the curb installation and street improvements.
13. The applicant shall pay the city fee for city establishment of street trees along Maple Street and 10th Avenue per the Tree Regulation standards in Chapter 12.32 of the

Canby Municipal Code. All street tree fees shall be paid prior to the recordation of the final plat.

14. The applicant shall submit engineered sidewalk plans and install 5 foot sidewalks along the site's Maple Street frontage; the proposed sidewalks shall be approved by the City Engineer and by Public Works prior to the issuance of a city Site Plan Permit.

Driveway Conditions:

15. All driveway-to-driveway separations shall be 10 feet.
16. Parcel 1's intersection-to-driveway spacing, as specified in 16.10.070(B)(10), shall be 30 feet.
17. The applicant shall obtain a Canby Street Opening Permit in order to relocate the driveway on Parcel 2.

Misc. Conditions:

18. The applicant shall verify with Clackamas County if a permit is needed to demolish the existing carport structure and, if necessary, obtain a City of Canby Site Plan/Demolition permit.
19. The development shall comply with all applicable City of Canby Public Works Design Standards.
20. On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.

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

21. Apply for a City of Canby Site Plan Permit.
22. Prior to the issuance of a City Site Plan Review permit, final construction plans must be approved by the city and all other utility/service providers. This includes, but is not limited to, approval by:
 - a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
 - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items. A non-residential wastewater survey must be submitted for review and approval by the city prior to final building occupancy.
 - c. Canby Fire District
 - d. Canby Utility – water and electric service
 - e. Northwest Natural Gas
 - f. Canby Telcom
 - g. Wave Broadband
23. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical plan review and inspection service for this project. The applicable building permits are required prior to construction.
24. Construction of all required public improvements (Maple Street curb & street widening) and file of record of the Final Partition 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 13-03 pursuant to the Conditions of Approval presented in this Staff Report in Section V.

Sample motion: I move to approve Minor Land Partition File #MLP 13-03 pursuant to the Conditions of Approval presented in this Staff Report in Section V.



City of Canby
 Planning Department
 111 NW 2nd Avenue
 P.O. Box 930
 Canby, OR 97013
 Ph: 503-266-7001
 Fax: 503-266-1574

LAND USE APPLICATION

MINOR/MAJOR PARTITION Process Type II/III

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

Applicant Name: JASON BRISTOL Phone: 503 803 2920
 Address: 21733 S HWY 99E Email: JBRISTOL@WEB-STER.COM
 City/State: CANBY/OR Zip: 97013

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

Property Owner Name: JASON & JEANNE BRISTOL Phone: 503 621 8814
 Signature: _____
 Address: 21733 S HWY 99E Email: JBRISTOL@WEB-STER.COM
 City/State: CANBY/OR Zip: 97013

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

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

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

PROPERTY & PROJECT INFORMATION:

658 NE 10TH AVE, CANBY .41 ACRE 18,015 ft² 1300, SEC. 33, T53 R1E AB
 Street Address or Location of Subject Property Total Size of Property Assessor Tax Lot Numbers

SINGLE FAMILY HOUSING R-1 LOW DENSITY RESIDENTIAL
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

PARTITION TO DIVIDE PROPERTY INTO THREE PARCELS
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
<u>MLP13-03</u>	<u>9-6-13</u>	<u>A/BB</u>		
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE

PO List, Deed coming from Title Company

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

- 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.
 \$1280
- 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.)
 NA
- 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.
 NA
- 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

NA

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

Ten (10) paper copies of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:

- Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
-
- Name of Proposed Partition Plat (subject to review and approval by Clackamas County).
- Partition boundary, parcel lines, parcel dimensions, gross area in square feet of each parcel (excluding the square footage of accessways for flag lots), and proposed public and private easements;
- If any undevelopable tract is proposed to be created, the dimensions, gross area, and purpose of the tract shall be included.
- If any oversized parcels are proposed, which in the opinion of the Planning Director are likely to be further divided in the future, provide an illustration of how the parcel could be further divided in conformance with all CMC standards in a manner which provides for continuation of streets and provides adequate building envelopes.
- Site Plan-the following general information shall be included on the site plan:
 - Property lines (legal lot of record boundaries);
 - Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
 - Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
 - Location of vision clearance areas at all proposed driveways and streets.
 - Location and description of all existing structures (i.e., buildings, signs, fences, mechanical or utility structures, etc.) on the property, including those under construction or pending under an issued building permit. Indicate which structures are to remain and which are to be removed. For structures to remain, call out the distance between the structure and all proposed boundaries of the parcel upon which the structure is located.

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

PARTITION, MAJOR / MINOR – TYPE III: APPLICATION PROCESS

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

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

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

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

- A. Conformance with the text and applicable maps of the Comprehensive Plan;
- B. Conformance with other applicable requirements of the Land Development and Planning Ordinance;
- C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;
- D. No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels; and
- E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.

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

- A. Conformance with the text and applicable maps of the Comprehensive Plan;
- B. Conformance with other applicable requirements of the Land Development and Planning Ordinance;

- C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;
- D. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division;
- E. In no case shall the use of a private road be approved for partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels; and
- F. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions, except however, the Commission shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
 - 1. The establishment of the public street is initiated by the Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
 - 2. The tract in which the street is to be dedicated is a major partition within an isolated ownership of not over one acre or is of such size and characteristic as to make it impossible to develop building sites for more than three dwelling units.

GRANT OF EASEMENT	
Jason Bristol	(Grantor)
Jeanne M. Bristol	(Grantor)
CITY OF CANBY	(Grantee)
After recording return to: City of Canby P.O. Box 930 Canby, OR 97013	

GRANT OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That Jason Bristol and Jeanne M. Bristol, hereinafter called Grantor, grants, bargains, sells and conveys to CITY OF CANBY, a Municipal Corporation in the State of Oregon, its successors and assigns, hereinafter called Grantee, a non-exclusive easement for construction and maintenance of public sidewalks over, across and/or under the following described real property, situated in Clackamas County, Oregon, described as follows, to wit:

A portion of that tract of land conveyed to Jason Bristol and Jeanne M. Bristol under instrument number 2008-061197, Clackamas County Deed Records, Oregon, more specifically described as 5 foot strip of land parallel and abutting the southern and eastern boundary including a 15-foot radius return at the intersection of the two easement lines as shown on the attached Exhibit A.

It is understood and agreed that this easement shall give and convey to the Grantee herein the authority to excavate for, and to construct and maintain the sidewalks with all appurtenances incident there to or necessary there under and across the said premises, including the right to ingress and egress to the general public.

Grantor reserves the right to use the surface of the land for fences, driveways, plantings and related purposes, as long as these uses do not interfere with the operation, maintenance or safety of sidewalks on the granted property. No building shall be placed upon the granted property without the written permission of the City of Canby.

The City of Canby, upon each and every occasion that the sidewalk is inspected, repaired or removed, shall restore the premises of the Grantor, by removing all debris and leaving the ground surface in a neat and presentable condition, with all improvements restored as near as possible to as good a condition as same were prior to any such activities.

Dated this Sept day of 6 2013

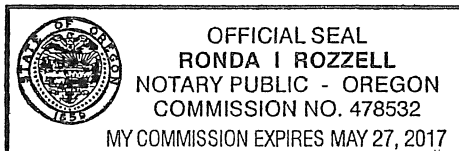
IN WITNESS WHEREOF, the Grantors have executed this instrument on the day and year first written above.

Jason Bristol
Jason Bristol, Grantor

Jeanne M. Bristol
Jeanne M. Bristol, Grantor

STATE OF OREGON, County of Clackamas)ss.

Personally appeared the above named Jason Bristol and Jeanne M. Bristol before me on September 6, 2013 and acknowledged the foregoing instrument to be their voluntary act and deed.



Before Me: Ronda I Rozzell
Notary Public for Oregon

My Commission Expires: May 27, 2017

Public Agency Real Estate Actions

Uniform Relocation Assistance and Real Property
Acquisition Policies Act of 1970

WAIVER AGREEMENT

When a public improvement project requires any government agency to secure private property dedications or easements, the owners of that property are entitled to compensation under federal and state law. Federal law is the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, PL 91-646, and state law is in Oregon Revised Statutes, 35.510, as amended. Both are attached for your reference.

The above federal and state laws alternatively provide the opportunity for property owners to waive their appraisal and offer rights and donate necessary property rights in light of other considerations. To accomplish a donation, you only need to acknowledge that the agency has informed you of the right to compensation and that you wish to waive your rights to an appraisal and offer.

If you elect to waive your rights to appraisal and offer for the property rights as defined in the attached information, please date and sign this Donation Agreement in the space below.

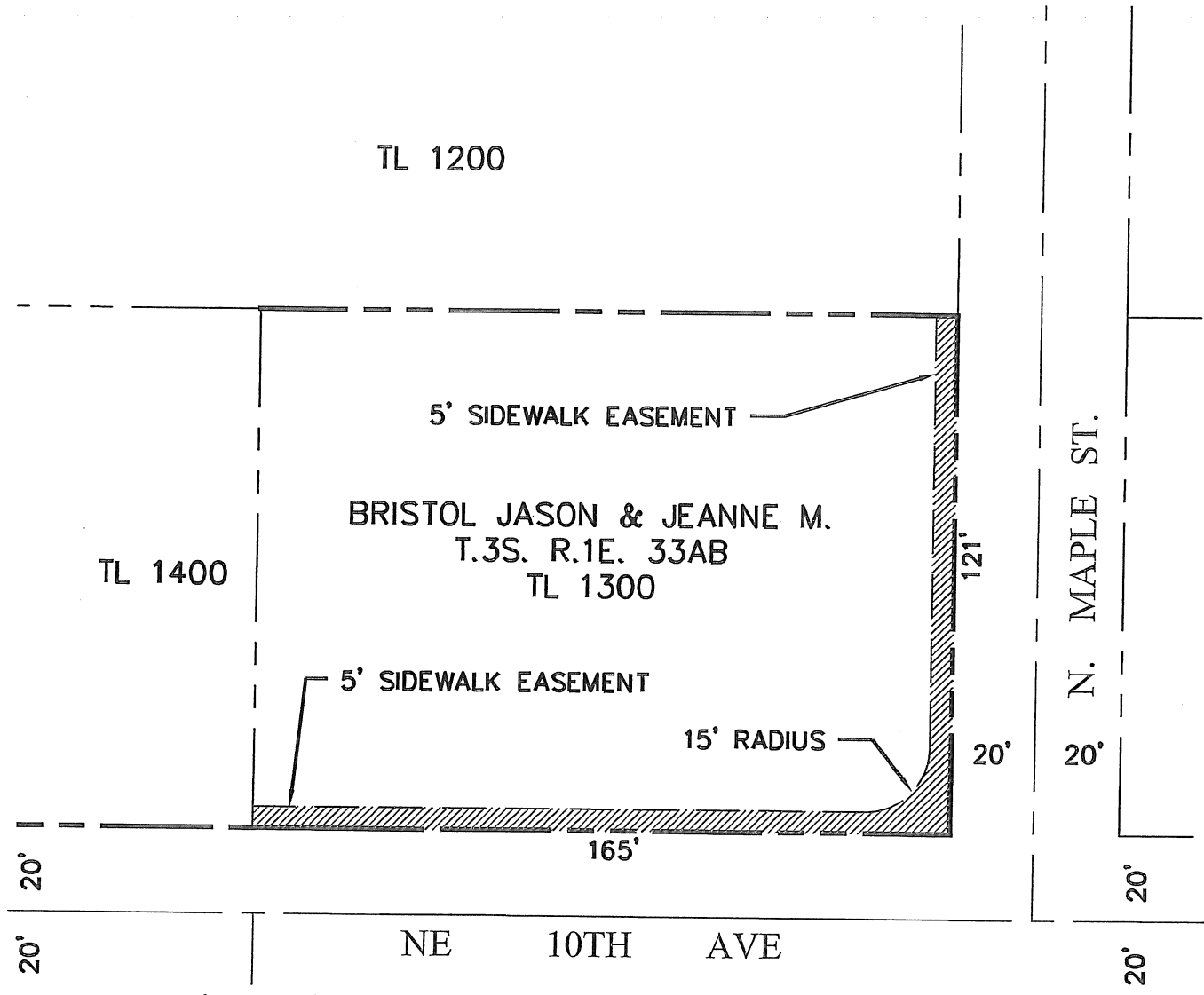
Subject Property: Jason & Jeanne Bristol
T3S, R1E, WM, Section 33AB
Tax Lot 1300

9/6/13 Jason Bristol
Date Signature

JASON BRISTOL, OWNER
Name & Title

9/6/13 Jeanne M. Bristol
Date Signature

Jeanne M. Bristol Owner
Name & Title

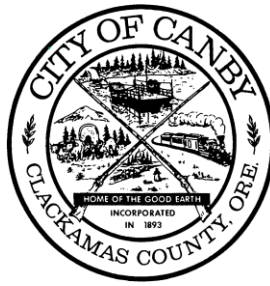


BRISTOL SIDEWALK EASEMENT
CANBY, OREGON

J:\Canby\1514_NE 10TH AVE.dwg\1514_1300-AB.dwg, 7/1/2013 3:28:46 PM

SCALE: 1" = 40'

CURRAN-McLEOD, INC.
 CONSULTING ENGINEERS



Pre-Application Meeting

**658 NE 10th Avenue
July 17, 2013
10:30 am**

Attended by:

Hassan Ibrahim, Curran-McLeod Eng., 503-266-3478
Jason Bristol, Applicant, 503-803-2920
Bryan Brown, Planning Dept., 503-266-0702
Douglas Quan, CU Water Dept., 971-563-6314

Jerry Nelzen, Public Works, 503-266-0759
Dan Mickelsen, Erosion Control, 503-266-0698
Angie Lehnert, Planning Dept., 503-266-7001
Gary Stockwell, CU Electric Dept., 503-263-4307

This document is for preliminary use only and is not a contractual document.

PROPERTY OWNER, Jason Bristol

- The project is located at 658 NE 10th Avenue and zoned R-1. This lot consists of 18,000 square feet and looking to create a buildable lot as well as keep the existing house on a parcel along with an access for the property to the north of this lot.

CURRAN-MCLEOD ENGINEERING, Hassan Ibrahim

- I read your proposal and it states you are creating three lots and I only see two and a Tract A. Bryan stated the way it is designated it appears to be a separate tract which would mean a potential lot and we are recommending it be an easement rather than a separate tract when platted. Jason said he explored that option and stated the easement has to benefit someone. It has to be an access easement to the parcel to the north and at this time they do not want to deal with it. Hassan asked if he could keep it with the existing house and Jason stated he wanted to sell the house. I am looking to create the tract and when the homeowners to the north sell their house or purchase the tract, but for now they do not have the funds. Hassan asked about access from Maple Street. Jason said it is a narrow lot and there is just enough square footage to where they could get a buildable lot behind it, but there is no way to get to it. I was trying to pre-plan for the future. Bryan asked is there some legal plan for you to control and own this parcel and why anyone could place an easement on their own property for future use. Angie stated it would be below the minimum lot size, there is potential leeway if the Planning Commission says there could be a possibility this oddly shaped sub-standard, less than the minimum lot size frontage width could be an easement. Bryan said we have to make sure the County Assessor does not think it is a buildable tract. Angie said you could have it state on the plat it is an access only tract or easement. Jason said he has done this before on the flag lot I created on S Knott Street, the access is a tract and the portion where the duplex is sitting is the lot. I do not recall how it was delineated just for access and utilities, we can make it like we did before on S Knott Street. Bryan said I assume it is possible and I thought the easier route was to make an easement and state the benefits for this lot. Angie said it needs to say on the plat, it is benefitting the lot and Jason said when I am writing the easement it has to say it is benefitting that parcel and they can start using it

immediately, without any compensation. I would not be able to control the tract it would legally be theirs to control. Hassan said in a legal standpoint it would be rightfully theirs. Jason agreed. Bryan said have you seen this before? The fact it is a tract, alerts you immediately on a partial plat file recorded, which it is not a normal lot because it does not have a parcel number and Hassan said they would have to assign it a parcel number and Angie agreed. Jason said I would be paying taxes on both pieces of that property. Bryan said I am just worried about the logistics down the road when lots are assigned tax numbers and then someone might think it will be a buildable tract. Jerry asked if utilities would be running through this tract and Jason said not at this point, but in the future yes, to get utilities back to that parcel. Bryan asked if there is any potential that you could contact the County Surveyor and ask them to visualizing the partition plat and make sure they would accept this kind of tract and not as a buildable tract. Jason said okay. Hassan asked what the City would say about this. Angie said the Planning Commission would have to say okay for a lot less than the minimum lot size and frontage and you could argue your case. Bryan said we would have to be absolutely certain and ensure the Planning Commission it will not be misrepresented down the road as some buildable tract and state it will only be for utility and access purposes to a future lot. Hassan said it will have to be written on the plat.

- This property is surrounded by two streets, N Maple Street and NE 10th Avenue and we will need to have some improvements of curb and sidewalk along both frontages. That will have to be a Condition of Approval. Bryan said he and Angie talked to Matilda and we were thinking she has been working with Curt the past two to three years in securing easements for sidewalk improvements along NE 10th Avenue. Hassan said I am sure Jason has already received the information. Bryan said we are thinking with a minor partition we want to make sure the improvements we require are proportionate to what the benefit or cost of the potential development and what they are going to reap from this. We are thinking along NE 10th Avenue we need to make absolute certain what I believe Curt is securing 5 foot pedestrian easements from all of the property owners and we could not tell whether this property has been dedicated or not. Jason said he had. Bryan wanted to make sure at the minimum we received the easement and since there is not another single sidewalk anywhere up or down NE 10th Avenue, the thought would be unless the City goes in and does the sidewalk improvement project it does not make sense for one property to do a sidewalk. Hassan said he did not know what the Code says for City but in other jurisdictions the concept is that if they are not doing the sidewalks for the same reasons you just stipulated they typically charge a fee in lieu and when the City does the sidewalks the money would go towards the project. Bryan said the problem is getting the easements and Hassan said yes that is the problem getting the easements, Clackamas County will not even touch the project until they secure all the easements. Bryan said we are working towards that goal of getting all the easements, but we will make sure we have all the necessary improvements on N Maple Streets. Hassan inquired, so nothing on NE 10th Avenue and Bryan said yes with the ideal of understanding there are a few other sidewalks on N Maple that do not connect. Dan said there are some sidewalks on NE 10th Avenue by N Pine that do not connect also. Hassan said he was not a fan of doing the intermittent sidewalks and Dan said he was not either, but they are done. Hassan said by the time you develop the street it is old stuff and not in good shape and that is why I am a big advocate of getting the money into a pool and then using it when we do all the sidewalks and curbs at one time. Bryan stated the thought was certainly

if Jason wanted to put in the sidewalk now we should let him do it, but I am worried about what we do with the money if we were to collect. Other cities have authorization in their Codes and we do not have anything setup in our Ordinances to say we collect fees in lieu of sidewalks. We would have to guarantee Jason we would use the money with some reasonable time period, five to ten years and we would build the sidewalk. Doug asked about the property at 10th and N Oak and Bryan said are you talking about the new construction and the answer was yes. There was an existing sidewalk on the N Oak Street side, but not on the NE 10th Avenue side. I was trying to be consistent because this was a vision for City to get this sidewalk project complete and have them completed at one time so they look the same. Doug asked if they collected money for the new construction on N Oak Street and Bryan stated at that time we were more certain we were actually going to do the project and we did not collect. Doug asked you got the easement right? Bryan said I think so, that is my understanding. Hassan asked you have the easement? Jerry said since we are talking about the 10th and N Oak property, I talked to them and told them the grades and they poured the driveway. Now once the improvements come we have to completely remove the entire driveway because it will not meet grades. Currently Ronda, Hassan and I will start securing all the easements and get NE 10th Avenue squared away so we can get this project done. If Jason does not put in curb and sidewalk, what are we doing for driveways? Dan said nearest than I can figure, they at least have to have the approach and the curb and Bryan saying he is not making him do the sidewalk, he needs to have an approach but not like the guy on N Oak Street. Jerry said we fought him on that too, we wanted a curb and Dan stated if there was no approach and it comes out into the gravel, this is wrong. If you get at least the curbs and the approach to the driveway, all you would have to do is tie the sidewalk on either side, you might have an aged driveway approach, but you have to have something. Bryan asked Hassan if he knew if the project on NE 10th Avenue to be a CDBG (Community Development Block Grant) project, does it include curbing as well and Hassan said yes absolutely, curb and sidewalks. Bryan asked was it going to have a planter strip and Hassan said no planter strip, because we do not have the right-of-way, that is why we are getting the 5 foot easement. Bryan said he was not positive and Hassan said just curb tight with sidewalk. Bryan stated he knew it was going to be an issue because we were working on this and we were not positive if the project was going and we did not know for sure what the design was. The guy had a driveway and so you do not want gravel going out onto the existing street and I do not know what you guys do. Jerry said we have already ran into this scenario on 10th Avenue with the Bershears and they concreted their driveway and then paved it. They were not doing any improvements they were just concreting their driveway. Hassan asked what the width of the roadway was and Jerry said it was 40 feet. Dan said the Bershears have curbs. Hassan said 39 feet from curb to curb and Dan said it opens up after N Locust Street. Hassan said the master plan reads NE 10th Avenue to be 36 feet wide, not 40. Ivy to Locust is 40 feet wide on 10th Avenue and then bottle necks down going towards N Pine Street. Angie said that is in the TSP (Transportation System Plan) and Hassan said yes it is a neighborhood route, which states a neighborhood route is between 40 to 64 feet wide and the paved section is 36 feet wide. It states N Maple Street as a local street with 34 foot paved section. I will leave this to be discussed internally as far as curb and sidewalk and frontage. Jason you said something about the easement here, did you sign these forms we supplied you? Jason said yes. Hassan asked where did they go and Jason said I delivered

them to the Planning Department and handed them to, they had to be notarized and the answer was yes. Hassan said he had an extra one and if you did not mind having it signed again. Angie said Matilda might have them and Jerry stated we are now having all the citizens for the NE 10th Avenue project come to the Shop Complex and have Ronda notarize them and we will hold onto them. We will try to find the ones you guys have at Planning, if we can. Bryan said we kind of looked through the stack of easements Matilda had right now and she understood potentially you guys would be redoing them or something. Jason asked if they could look for it and Angie asked him if he remembered who he gave it to and he asked is Carla a notary. He gave it to them back in December.

- Hassan asked about the landscaping on the property and Jason stated most of the landscaping will be removed. He was thinking of keeping a tree, but did not know which one yet. Hassan said there are usually CC&R's which explains, but this is not the case and we need an understanding when the City does the sidewalk project to make sure the landscaping is not in conflict with this project. Jerry said they could shut down the project and we do not want that to happen. Are you keeping the white Cedar? Jason said he did not know, but the majority of the landscaping was going. Hassan said the easement is not owned by the City, we just have the right to access it.

CITY OF CANBY, EROSION CONTROL, Dan Mickelsen

- I talked to Jerry and if you cut the pavement on N Maple Street side we wanted to have pervious asphalt along both sides of the drywell and keep the catch basin there as an overflow. The water is all heading towards the corner and it was just a thought on both sides of the property (NE 10th Avenue and N Maple Street). Hassan said we need to resolve whether Jason will be required to do the curb and sidewalk. Dan said he thought he was required to do the curb and not the sidewalk. Hassan asked Bryan what are the requirements and Bryan said he did not know. The Code states we can ask for as much as half street improvements adjacent to any partition or subdivision, which means if the roadway is not in good shape then they would have to pave the street. That is where we start from, does the pavement need replacing for half the street in front of this property. Jerry said you can talk about the erosion control part of not having curbs, but throwing railroad ties and the like, I really have an issue with. Dan said you have to have something to define them and us and it is easy to tell if they are eroding into the street with having a curb line. Bryan said there is something a little unique about this because it is already partially developed so he is only creating one new tract, do we really think it is fair to require full half street improvements when he is creating one more tract and especially since we have not been doing it apparently on previous projects on 10th Avenue. We were anticipating the City sidewalk project, that is where we were coming from and we want to make sure we can do the City project with the easements and if we stop there on 10th then it is a matter of us working out the curb and if you can do a curb at the sidewalk is that beneficial, we can make him do that. I do not know how you would do the paving for the existing house, I mean there is already a driveway there and he will put in a new driveway and we could wait until the house gets built before we are worried about what type of improvement we need him to do. Hassan asked if he was going to consolidate the two driveways and Bryan said he has them drawn in separately. That is the other thing for the Planning Commission do we make him do it now as a developer or do we make him put in the improvements as a home builder and that is usually when you put in the

driveway and the sidewalks. We were anticipating on this new lot where he is going to build the new house and we are requiring him to build a sidewalk on N Maple Street and we wait and let the City build the 10th Avenue sidewalks, either with City or CDBG money. If we could have met a head of time, Jason would not have to hear all of this. Hassan said ultimately it could be money allocated by the City, we might not be able to get the CDBG to cover the entire project and it would be over several years before you get that kind of money. They usually are not very generous with their grants. Bryan said the logic on this is normally we would require you to do the improvements, but this is one of those situations where it is completely developed all the way around you and there are no improvements you are going to connect to, that is what makes it a gray area. Dan said on Maple Street? Bryan said I think there is reason to do it because there are some other sidewalks. Dan said he did not want to be argumentative over this, but what I will say there is nothing there and we have the opportunity to do it and we have a catch basin on the corner and any kind of disruption is going to run into the catch basin. It will then run into the dry well and that is not a good practice.

- I think you should stub water and sewer into Tract A before the sidewalk and curb go in and place it behind the sidewalk. If you put those services into Tract A for 1065 N Maple it would make it a lot easier for making the future lot more appealing to be built on. Just a suggestion. Jason asked what would be the benefit and Dan said if you were going to put in curb and sidewalk you would not have to dig them up for the utilities.
- Before you do any dirt work on the site you will need to have an erosion control application.

CITY OF CANBY, PUBLIC WORKS, Jerry Nelzen

- Were you planning on putting in curbs and sidewalks in? Jason said I was kind of hoping the 10th Avenue project would be picking up the curb and sidewalk. On N Maple Street I was thinking I would be doing the curb and sidewalk. If you look at it, it would be a huge expense and I purchased this house at the top of the market, I did not get a great deal on it and everything that adds on will obviously eat away at it.
- How many sewer services are you wanting? Jason said there is already one for the existing house, but I will need to put one in for the new parcel and then do the Tract A at a later date. Bryan said you could just make it apart of this tax lot and Jason said in the long term I do not want to own this house, it is a rental and I do not foresee being a landlord.
- On the new service you will need to put in a 6 inch 3034 pipe with a 6 inch “Y” cleanout and I would like it to hit dead center in the future sidewalk. The cleanout would need a brooks box and a one-way sweep the main. You would not have to do anything to the existing. Jerry asked where the original sewer line was located and Jason showed Jerry where the cleanout was located by the house’s foundation. Jerry said we just fixed a sewer lateral up the road by Manzanita and it was 10-1/2 feet to the top of the pipe and it is just spaghetti in there with fiber optics and other utilities. Jerry asked Jason if he could look at the existing cleanout. Bryan asked if the new construction would be coming off of 10th or Maple and Hassan said there is an option either way, depending on where the kitchen and bathrooms will be located. Dan said he would have great fall to 10th and not have to disrupt any pavement like he would if he went to Maple. Hassan said I was just thinking if the utilities were towards the back it would have been a straight shot from N Maple rather than going the

entire length of the lot. Jason said we are good either way and Hassan said absolutely, whatever makes better sense for the new construction.

CANBY UTILITY, ELECTRIC DEPARTMENT, Gary Stockwell

- The existing house is serviced from N Maple Street and it appears to go down the lot, but I really cannot tell where the property line is with all the bushes, they are quite an adventure. Basically it comes along the north property line and then into the existing house. I will need an easement for the existing house. We have a form for you to fill in the legal description and get it notarized and we will get it recorded. Hassan said you are going to file a partition plat and Jason said yes. Hassan asked if the easement could be shown on the partition plat and Gary said yes it could but as long there is an easement recorded on the plat.
- The point of contact for the new home will most likely be the pole at the corner of NE 10th Avenue and N Maple Street. The pole looks like it is behind curb and I think it will be okay because moving it will take most of your profit out of this project. The underground cables are a main source from N Maple Street to NE 34th Place, some of these runs of cable are quite lengthy and to pull them out and put in new equipment to a new location of the pole would be quite expensive.
- Does the City still require the 12 foot frontage easement of the property for the PUE (public utility easement)? Bryan said we only do it if you need it, it was my understanding when they changed the statute several years back. You will have to request it. Gary said because of the overhead line on the frontage, it appears a 12 foot easement would be prudent on NE 10th Avenue and of course the easement for power to the existing house. I do not need anything on the N Maple side. Bryan said looks like the water and sanitary sewer are probably in the existing 40 foot right-of-way, but your overhead lines are not, is that what you are saying. Gary said correct, if this drawing is correct my poles are property side of right-of-way. Bryan asked if he could get by with something less than the 12 feet. Gary said he would have to see a survey and where the overhang is on the poles. Bryan said this map is kind of a survey. Gary stated consider standard pole construction, if I went up there and put a cross arm on a pole, basically I have center line of pole and 5 feet. Easements will be needed for us to get our equipment in and work without being on private property. They cannot shut you down because your tire, outrigger or backhoe is on their property and we do our work, clean it up and leave. In any case to be determined by City of Canby or survey I will need an easement on the NE 10th Avenue side and of course a 6 foot easement for the whole length of the existing electrical service. Jason said okay.

CANBY UTILITY, WATER DEPARTMENT, Douglas Quan

- Not much to water, you will need another service. We will tap the main line in NE 10th Avenue and all you have to do is pay the cost. Jason said I do not think the survey shows it, but the hedge on the east side I believe the water service for the existing house is located. What we might do is use that meter for the new construction and put in a new service to the existing house. Doug said the description reads to tap the new one in from NE 10th Avenue for the old pre-existing house, which is fine. You just need to mark where you want it at and Jason said okay. Doug stated you will need to pay the main to meter and the meter drop in fee along with the SDC (system development charge). Gary said if you modify the meter to the existing house and it pre-dates the SDC's there may be an SDC due. Doug stated there

could be the possibility and Jason asked who made the decisions and the answer was Matt Michel, Manager of Canby Utility.

CITY OF CANBY, PLANNING DEPARTMENT, Angie Lehnert

- The Planning Department has summarized everything in the memo. Angie handed Jason a copy of the memo. The lot line meanders and was the sole purpose of having it meander to meet minimum lot size and Jason said yes. Angie said it would benefit this property to have straight lot lines, we can ask the Planning Commission to reduce the minimum lot size to have a straight line. Bryan said when we do that we need to meet this and this and too basically shrink it, technically they do not meet the first one. Angie said it would be essentially the same for Tract A because it would not meet the minimum lot size. Bryan said either way it is in a gray area, but there is a provision that might give them the availability to shrink the lot and you also end up with a property that goes below the 60 foot width. Angie stated that would be something else to consider and we listed all the applicable Code sections in the memo. There are also access standards for you when you are planning your driveways.
- You have the fee schedule.
- We are not requiring you to do a traffic study.
- I placed an application form with the memo.
- Jerry asked about the street trees on N Maple Street. Bryan said we probably should do a street tree requirement. Jason said we are going to keep one tree, but I would need to look at the property to tell you which one I am wanting. Jerry asked if the hedge was going and Jason said yes.
- Bryan said we do have a tree ordinance and Angie said it was not very descriptive, we can look into it.
- Jason asked if the driveway spacing was adequate and Bryan said he wrote the driveway spacing in the memo and I think it is 30 feet from the N Maple Street's curb to the edge of the driveway. Angie said the spacing from driveway to driveway is approximately 5 to 10 feet. Bryan said you need to make sure it is 30 feet after you shrink the lot size width down to have a straight lot line and I do not think this moves, but we need to make sure. Jason said I can do three versions of this project; one being the straight lot line; second being the jogged one and thirdly I really did not like the dog legged one because it went so far back, it still kept the 15 foot setback. Bryan said he would turn in the straight line, which shows the size and say it is your preferred option, but this is option 2 and we will see if we can get it approved. Angie stated there is a provision for a right angle to the street, which Bryan said there is a right angle here.

MINOR PARTITION PRE-APPLICATION

658 NE 10th St., Canby, OR

Applicant

Jason Bristol
21733 S. Hwy 99E
Canby, OR 97013
jbristol@web-ster.com
Cell 503.803.2920

Project Description

Existing Conditions

The subject property is 0.41 acres (18,015 square feet) in area and contains an existing single-family residence.

The site has street frontage on N.E. 10th Ave. and side frontage on N. Maple St..

The site is zoned R-1 as are adjacent properties. It is also zoned R-1 in the comprehensive plan, however, the properties to the South across N.E. 10th Ave. are zoned R-1.5. The subject property is surrounded by single-family residences.

Proposal

This application requests approval of a minor partition to divide the property into three parcels. The existing single-family single-story residence will reside on Parcel 1 with approximately 35% impervious surface. Parcel 2 will be suitable for a single-family single-story residence if completely build out would have approximately 50% impervious surface. Tract A will be utilized for future access and utilities purposes, benefiting 1065 N. Maple St., the parcel to the North.

N.E. 10th Ave. will continue to provide access for the existing single-family residence as well as a private driveway servicing Parcel 2.

Public Facilities and Services

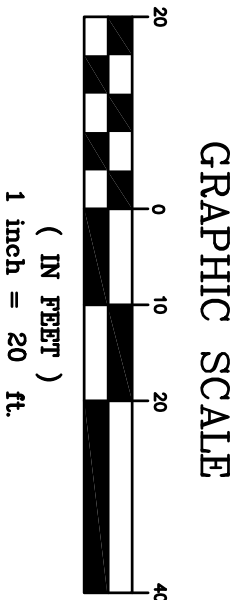
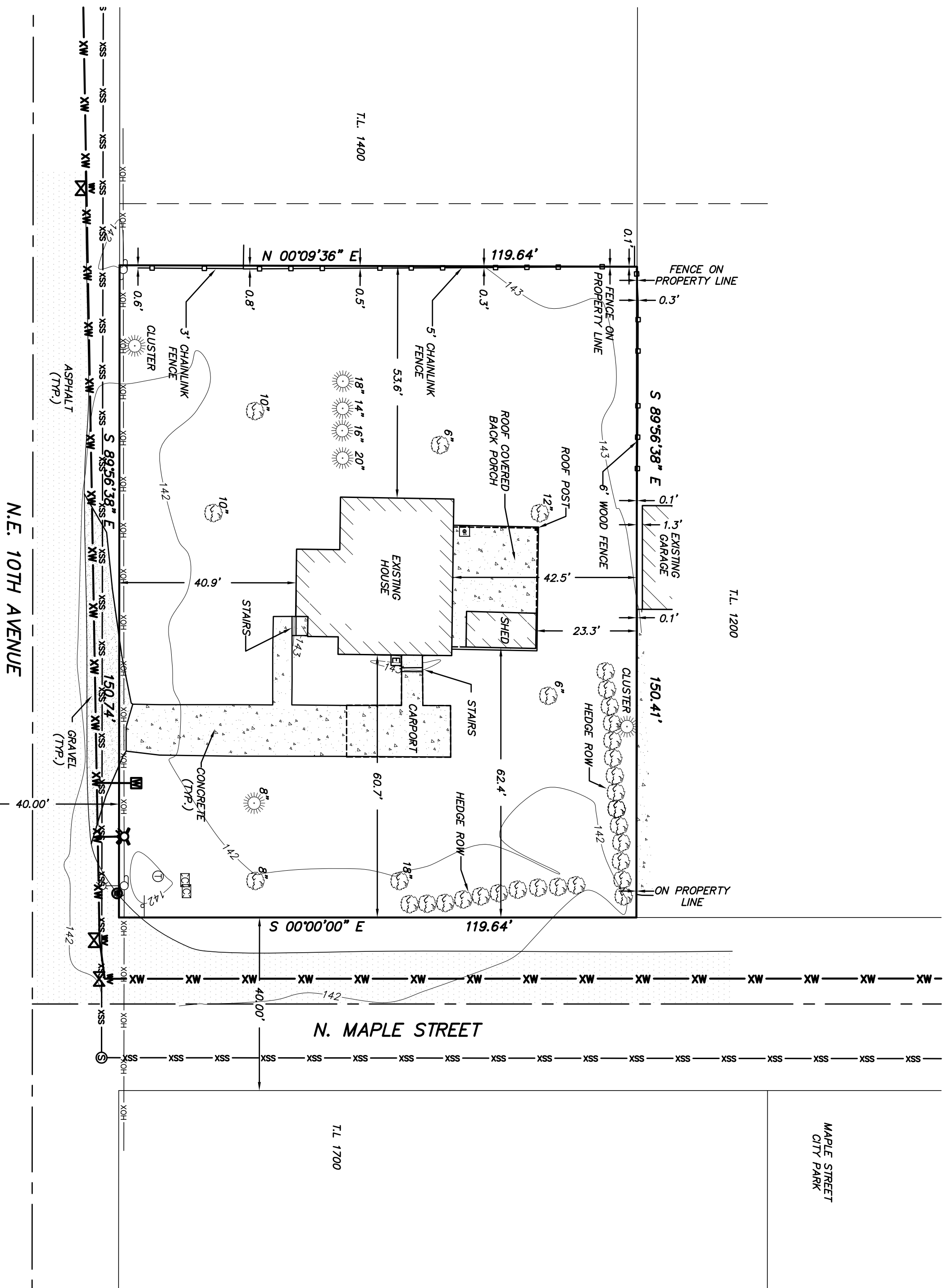
1. Sanitary Sewer: City of Canby provides sewer to the area. An existing sanitary line in N.E. 10th Ave. will continue to serve Parcel 1 and the newly created Parcel 2.
2. Water Service: City of Canby provides water to the area. Parcel 1 is currently being supplied by an existing water line in N. Maple St. This water line will be changed to supply Parcel 2. A new water line will be installed from an existing water line in N.E. 10th Ave. to service Parcel 1.
3. Storm Water: Storm water will be managed on site through the installation of a high capacity infiltrator chamber for residential downspout drainage system. The

design of this system will be reviewed and approved through the building permit process.

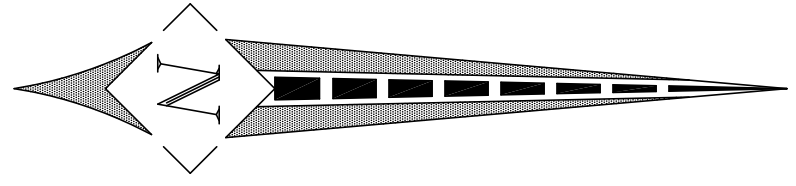
4. Streets: This application proposes no new streets.

EXISTING CONDITIONS MAP

TAX LOT 1300
 N.E. 1/4 SECTION 33, T.3S., R.1E., W.M.,
 CITY OF CANBY, CLACKAMAS COUNTY, OREGON
 FEBRUARY 28, 2013 SCALE 1"=20'



MAPLE STREET
 CITY PARK



SURVEY NOTES:
 THE DATUM FOR THIS SURVEY IS BASED UPON THE VERTICAL CONTROL FROM A FOUND CITY OF CANBY BENCHMARK NO. 11, BEING A MANHOLE RIM AT THE INTERSECTION OF 5TH AVENUE AND N. IVY STREET. THE ELEVATION = 149.76'. IT IS BASED UPON A USGASS BENCHMARK ELEVATION = 152.67'. IT IS LOCATED ON THE FIRST STEP OF THE KELLY BROTHERS BUILDING AT THE N.W. CORNER OF N.W. 1ST AVENUE AND N. GRANT STREET.
 A TRIMBLE S6-SERIES ROBOTIC INSTRUMENT WAS USED TO COMPLETE A CLOSED LOOP FIELD TRAVERSE.
 AREA OF SUBJECT PARCEL: 18,015 SQUARE FEET.
 THE BASIS OF BEARINGS FOR THIS SURVEY IS PER MONUMENTS FOUND AND HELD PER RECORD OF SURVEY RECORDED UNDER PRIVATE SURVEY SIZ2011-014, RECORDS OF CLACKAMAS COUNTY.
 THE PURPOSE OF THIS SURVEY IS TO RESOLVE AND DETERMINE THE PERIMETER BOUNDARY OF THE SUBJECT PROPERTY TO SHOW ALL PERTINENT BOUNDARY ISSUES AND ENCROACHMENTS. NO PROPERTY CORNERS WERE SET IN THIS SURVEY.
 NO WARRANTIES ARE MADE AS TO MATTERS OF UNWRITTEN TITLE, SUCH AS ADVERSE POSSESSION, ESTOPPEL, ACQUISITION, ETC.

- LEGEND**
 Some Symbols shown may not be used on map
- | | | | |
|--|-------------------------|--|---------------------------|
| | DECIDUOUS TREE | | TRAFFIC SIGNAL POLE |
| | EVERGREEN TREE | | ELECTRICAL POWER PEDESTAL |
| | STORM SEWER MANHOLE | | COMMUNICATIONS PEDESTAL |
| | SANITARY SEWER CLEANOUT | | COMMUNICATIONS MANHOLE |
| | CATCH BASIN | | OVERHEAD LINE |
| | SANITARY SEWER MANHOLE | | GAS LINE |
| | WATER VALVE | | ELECTRICAL LINE |
| | WATER METER | | COMMUNICATIONS LINE |
| | FIRE HYDRANT | | SANITARY SEWER LINE |
| | BOLLARD | | STORM DRAIN LINE |
| | GAS VALVE | | WATER LINE |
| | GAS METER | | FENCELINE |
| | SIGN | | ELECTRIC RISER |
| | MAILBOX | | UTILITY RISER |
| | UTILITY POLE | | HEAT PUMP |
| | LIGHT POLE | | |
| | ELECTRIC METER | | |

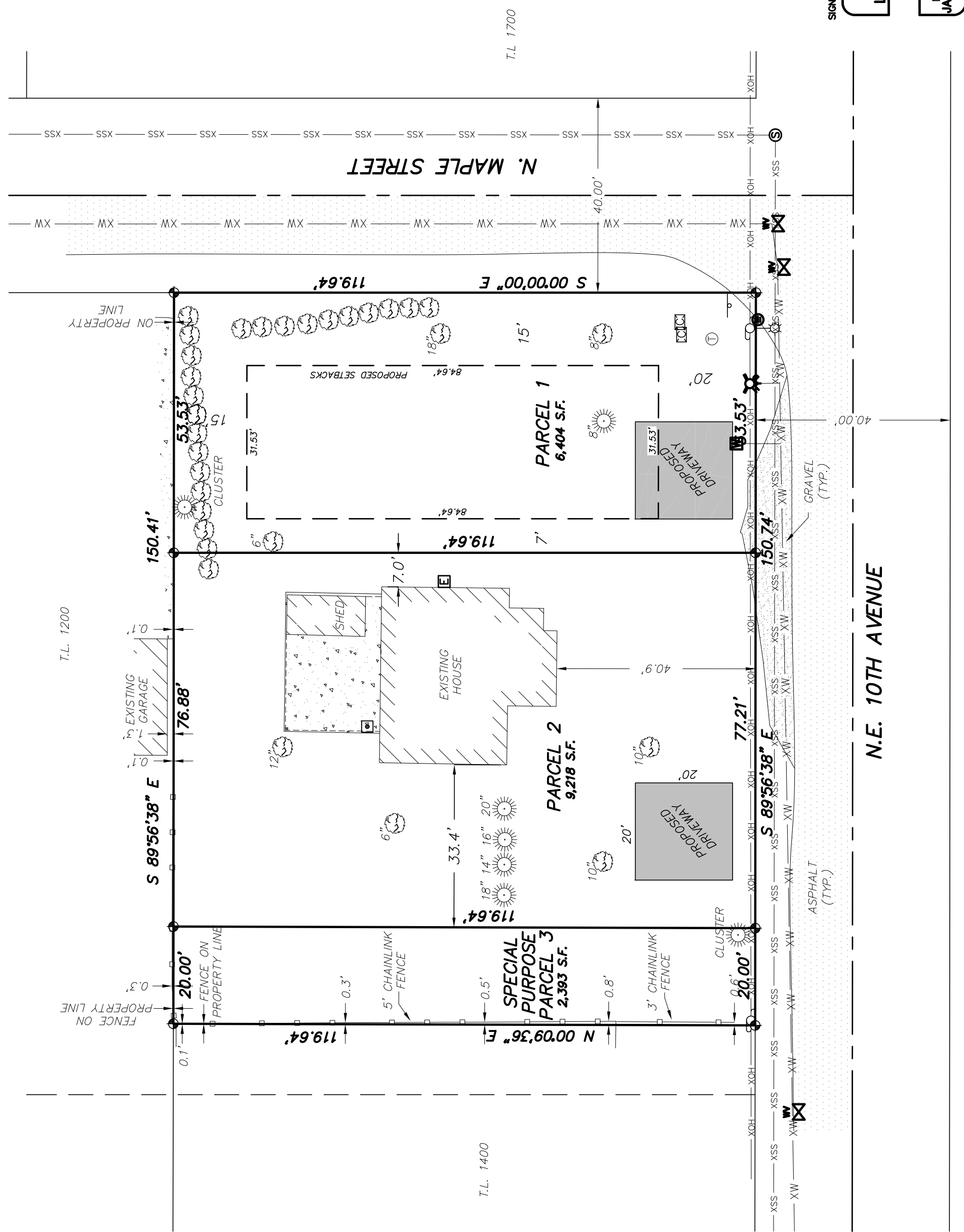
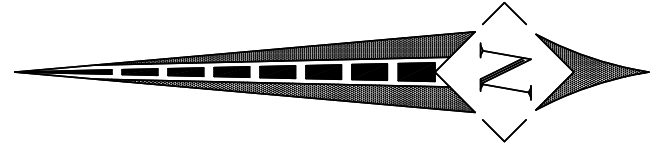
CENTERLINE CONCEPTS
 LAND SURVEYING, INC.
 729 MOLALLA AVE., SUITE 1 & 2
 OREGON CITY, OREGON 97045
 PHONE 503.650.0188 FAX 503.650.0189
 DRAWN BY: CJB CHECKED BY: JBB CLIENT NAME: BRISTOL
 M:\PROJECTS\BRISTOL-10TH STREET

PROPOSED PLOT PLAN
 PARTITION- 658 NE 10TH ST.
 CITY OF CANBY, CLACKAMAS COUNTY

Scale: 1"=20'

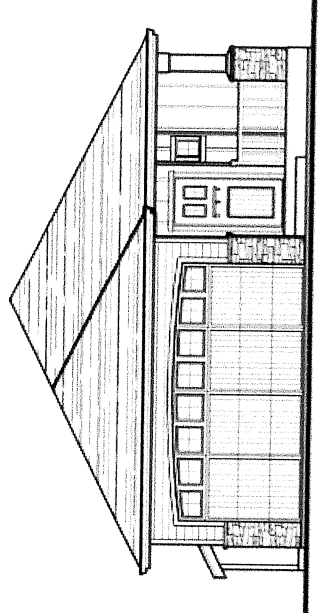
CLIENT: BRISTOL
 ORIG. DATE: 8/7/2013
 DRAWN BY: MPW
 SHEET NO. 1 of 1

SIGNED ON:
REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON NOVEMBER 30, 2007
JAMES BURTON BROWN
 60379
 VALID THROUGH DECEMBER 31, 2013

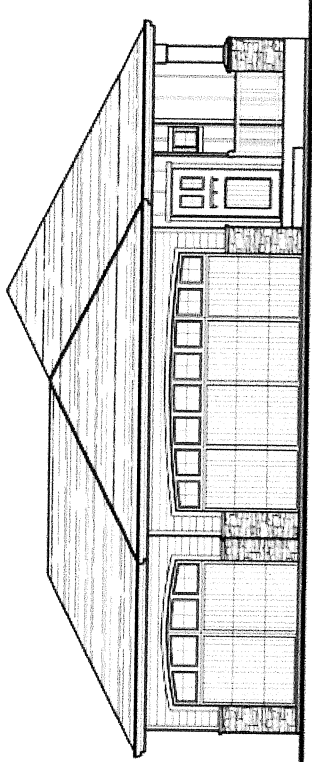


NORTHWEST HOME DESIGNING, INC.
4928 109TH STREET SW LAKEWOOD, WA 98499 (253) 584-6309 FAX: (253) 588-0607
www.NHDHomePlans.com

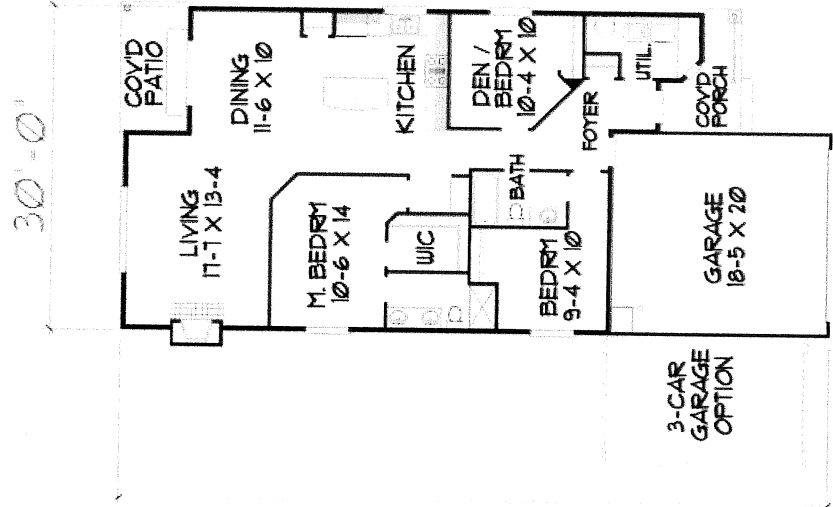
CHECKED
DRAWN BY
DESIGN
8003
SHEET NUMBER
STUDY SET
OF



FRONT ELEVATION



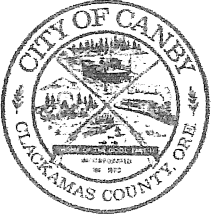
FRONT ELEVATION W/ 3-CAR GARAGE OPT.



TOTAL = 1,374 Sq. Ft.
 GARAGE = 385 Sq. Ft.
 OPTIONAL 3-CAR GARAGE = 613 Sq. Ft.

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0-99

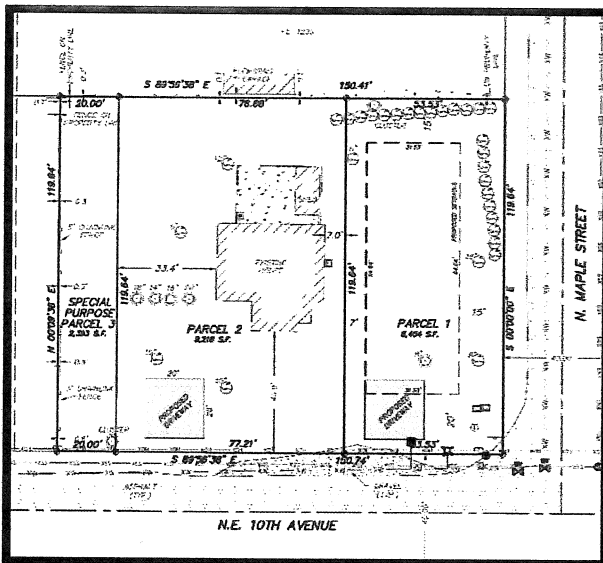


City of Canby

NOTICE OF PUBLIC HEARING & REQUEST FOR COMMENTS

The purpose of this Notice is to invite you to a Public Hearing at a Planning Commission meeting on Monday, October 28, 2013 at 7 pm in the City Council Chambers, 155 NW 2nd Avenue and to comment on a proposed Minor Land Partition (MLP 13-03) from Jason Bristol to partition a .41 acre site located at 658 NE 10th Avenue into three (3) parcels. The existing single family residence will reside on Parcel 2, Parcel 1 will be suitable for a new single family residence and Parcel 3 will be utilized for future access and utilities purposes benefiting 1065 N. Maple.

Comments due– If you would like your comments to be incorporated into the City’s Staff Report, please return the Comment Form by Wednesday, October 16, 2013.



Location: 658 NE 10th Avenue

Tax Lot: 31E33AB01300

Lot Size and Zoning: .41 acres, R1 Low Density Residential

Owner: Jason & Jeanie Bristol

Applicant: Jason Bristol

Application Type: Minor Land Partition

City File Number: MLP 13-03

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.

How can I review the documents and staff report? Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, October 18, 2013 and can be viewed on the City’s website: <http://www.ci.canby.or.us> Copies are available at \$0.25 per page or can be emailed to you upon request.

Applicable Criteria: Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.16 R-1 Zone
- 16.21 Residential Design Standards
- 16.43 Outdoor Lighting Standards
- 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.

Mugsy

From: "Mugsy" <mugsy@canby.com>
To: "city of canby" <lehnerta@ci.canby.or.us>
Sent: Tuesday, October 15, 2013 10:03 AM
Subject: Notice of Public Hearing

My Name is Peggy Tucker, and along with my husband Tom live at 1065 N. Maple St.

As a property owner of 1065 N Maple st. for the last 38 years, I have watched this property go down hill. Lack of manitenance, garbage pick up, traffic concerns , and Police being called to this rental property

We had concerns about the said property, and contacted Code enforcement, at that time I asked to talk to the property owner. We received a call and asked that something be done with the overgrown hedge/hedges on this property. We have taken care of trimming the hedge that lines our drive way, and at a later date this again was discussed with Jason Bristol.

At that time, we had contact with him, and discussed future plans for said property.

We have concerns that the increase of traffic to this property could inpact traffic flow onto Maple, or from Maple to 10th. We would like to have guarantee that it is stictly inforced as a single story home.

Hopefully by allowing this project to be built, it will keep the neighborhood standards that are set by surrounding home owners intacted.

I am for this plan MLP 13.03, and if I have any questions later, I will direct to you

Thank you

Tom and peggy Tucker
1065 N Maple St.
Canby, OR. 97013

CITY OF CANBY –COMMENT FORM

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

By mail: Planning Department, PO Box 930, Canby, OR 97013
In person: Planning Department at 111 NW Second Street
E-mail: lehnerta@ci.canby.or.us

Written comments to be included in the Planning Commission’s meeting packet are due by *noon on Wednesday, October 16, 2013*. Written comments can also be submitted up to the time of the **Public Hearing on Monday, October 28, 2013** and may also be delivered in person to the Planning Commission during the **Public Hearing at 7 pm**.

Application: Minor Land Partition, Applicant: Jason Bristol, City File #: MLP 13-03

COMMENTS:

YOUR NAME: _____

EMAIL: _____

ORGANIZATION or BUSINESS (if any): _____

ADDRESS: _____

PHONE # (optional): _____

DATE: _____

Thank you!

October 15, 2013

MEMORANDUM

TO: Ms. Angeline Lehnert, Associate Planner
City of Canby

FROM: Hassan Ibrahim, PE
Curran-McLeod, Inc.

**RE: CITY OF CANBY
658 NE 10TH AVENUE LAND PARTITION (MLP 13-03)**

We have reviewed the submitted application on the above mentioned project and have the following comments:

1. Currently there are no curbs or sidewalks along the site frontage with NE 10th Avenue or N. Maple Street. The City is acquiring sidewalk easements from the adjoining property owners to improve NE 10th Avenue. The developer needs to execute the sidewalk easement forms available at the City Shops Complex. The developer will also be required to dedicate a 5-foot wide sidewalk easement on N. Maple Street. Both sidewalk easements may also be dedicated as part of the Partition Plat to be recorded with Clackamas County.
2. The developer will be required to construct half street improvements on N. Maple Street to local street standards as set forth in the City of Canby Public Works Design Standards.
3. The developer will be required to dedicate 20-foot right-of-way corner radius at the southeast corner of the site.
4. All on-site stormwater generated from the new impervious surfaces shall be disposed on-site in conformance with the City of Canby Public Works Design Standards. The disposal facility for water quantity must be sized to convey the runoff following the 25-year 24-hr storm event recurrence.

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Application: Minor Land Partition, Applicant: Jason Bristol, City File #: MLP 13-03

COMMENTS:

*We have no objections to the division of lot MLP 13-03
 However we have a few concerns. We would hope Jason Bristol
 would be a more conscientious landlord. We have talked to
 Code Enforcement about the existing home appearance & they said
 they had notified Mr Bristol that there was nothing else
 they could do. It is now worse than when they notified him.
 The renters have piled yard debris & other garbage & left it in
 their front yard. The other neighbors on NE 10th & Maple Ln.
 care about the appearance of their homes this home does not.
 With a second house on this lot someone should be
 checking on them regularly to see maintenance & upkeep are done.
 The police have been to the existing house several
 times in our 3 years of living here. We just worry about
 our neighborhood deteriorating.*

*Also we received a letter a year ago about
 donating 5 ft of property on 10th St for curbing & sidewalks.
 would this affect the property under consideration*

YOUR NAME: Charles & Phyllis Galin
EMAIL: - - -
ORGANIZATION or BUSINESS (if any): - - -
ADDRESS: 673 NE 10th
PHONE # (optional): - - -
DATE: Oct 13, 2013

Thank you!

16.08.145 Street (Mobile) Vendor Permit.

Any person who exhibits goods or services for sale or for offer from a vehicle, truck, trailer, tent, cart, canopy, shipping container, other structure or display stand, including a mobile production kitchen, shall first obtain permit approval to operate in compliance with this section and all other applicable sections of the Canby Municipal Code, utility agency service requirements, and applicable State and County health licensing and inspection requirements.

A. Exemption. Street Vendor operations that can operate within a 90 day time period, with one 90 day extension, shall seek a Temporary Vendor permit pursuant to the requirements of Section 16.08.140 of the Canby Municipal Code.

B. General Application Approval Requirements

1. A request for a Street Vendor permit which does not otherwise qualify for processing as a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89.
2. An application for a Street Vendor permit shall include a site plan designating the location and layout of the street vendor's operation drawn to scale, which includes existing lot lines, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed vendor's enclosure, structures, equipment, furnishings, signage, outdoor inventory, and utility service pathways when applicable.
3. The Street Vendor activity shall be an outright permitted use in the zoning district in which it is located; or if the use is conditionally permitted in the zoning district, a Conditional Use Permit as authorized in Section 16.50 and the associated application process and approval outlined in Section 16.89 shall be required prior to issuance of a Street Vendor permit. *(Designate the Street (Mobile) Vendor as a use permitted outright subject to the provisions of Section 16.08.145 in each of the following zoned districts (C-1, C-R, C-C, C-2, C-M, M-1, M-2)*
4. Any signage displayed by a Street Vendor must be in compliance with Chapter 16.42 sign standards and secure a Sign permit for a sign to be erected for more than 30 days.
5. All Street Vendor's must secure a City of Canby business license.
6. Street Vendor's located on private property shall enter into a signed contract/agreement with the property owner and shall submit a letter addressed to the City of Canby signed by the owner attesting to an agreement to allow the Street Vendor applicant to locate on their property and outlining any special arrangements or restrictions, including the designated Street Vendor site, utility service arrangements, use of restroom facilities,

trash removal, or other pertinent operational or appearance requirements.

7. Street Vendors to be located on City parks or property, or on public street rights-of-way shall conform to the Street Vendor provisions of this section and to review and approval by the City Administrator of a “public space” permit upon the recommendations of the Planning, Public Works, and Police Departments with any additional standards or restrictions determined to be appropriate to protect the peace, safety, and welfare of the general public.

C. General Standards and Permit Criteria

1. Street Vendors shall not operate in a manner which will interfere with or obstruct the free passage of pedestrian or vehicles along any street, sidewalk or parkway.
2. Street Vendor shall pick-up, remove, and dispose of all trash or refuse within a 250-foot distance in either direction which consists of materials originally dispensed from the Street Vendor and to provide a litter receptacle which is clearly marked with a sign requesting its use by patrons.
3. Mobile Street Vendor’s who park and operate on the public rights-of-way of the City shall carry the type and amount of liability insurance required of any vehicle, cart, or trailer under state law to operate on the public streets.
4. No set hours of operation during the day or night, days of the week, or days within a year are imposed by the City but such operation restrictions are permitted and must be followed when set by agreement with the private property owner and shared with the City in the Letter of Agreement submitted with the street vendor application.
5. The City encourages Street Vendor’s to enter into restroom-access agreements with adjacent or nearby brick-and-mortar businesses, but they are not obligated to do so as a part of the Street Vendor permit.
6. A Street Vendor shall be located on a paved or hard surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in landscaped areas.
7. A Temporary Vendor shall comply with applicable zoning district height limitations, vision clearance areas, and conditions of approval of previous land use decisions for a developed property that might apply to the Street Vendor designated site.

8. A Street Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.
9. The private property owner and the street vendor permit holder shall be jointly and severally responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the revocation the Street Vendor permit.

D. Design and Appearance Standards

1. Street Vendor enclosures and their accessory items visible from the street shall be kept in good repair and maintained in a safe and clean condition in conformance with the following:
 - a. Vendor enclosure shall not have missing siding, skirting or roofing.
 - b. Vendor enclosure shall not have more than 10 percent of any side experiencing rust, peeling paint, corrosion or other deterioration.
 - c. Vendor enclosure shall not have components or attachments in disrepair in a manner that causes an unsafe condition.
 - d. Tents and canopies associated with Vendors shall not have:
 1. Tears in the tent/canopy material that exceed 6 inches
 2. Mold on more than 10 percent of the material
 3. A lack of anchoring that complies with Building Code
 4. Broken or non-functioning supports
2. Street Vendor structures used to provide shelter to customers shall only be tents, canopies and similar membrane structures. Other structures for customer shelter are not allowed. This does not preclude the use of awnings attached to and supported by a mobile or fixed unit or umbrellas designed for café or picnic tables. All canopies, tents and other membrane structures erected on food and beverage Street Vendor sites shall comply with Building Code anchoring and engineering standards and Fire Code standards.
3. Carts shall limit the visual effect of accessory items not used by customers, including but not limited to tanks, barrels and miscellaneous items by either storing them in containers or use of screening techniques that substantially limit views of such items from the street and sidewalk. Screening could be temporary fencing or landscaping in pots or planters. Storage containers could be small sheds or storage units. Screening shall:
 - a. Significantly limit views of items within 3 feet of the ground; and
 - b. Allow views through the site between 3 and 10 feet to ensure surveillance of the site for crime prevention
4. For Street Vendors utilizing drive-through service, the following standards shall apply:

- a. Each drive-up lane or window where sales occur shall provide a minimum of 45 feet – 2 vehicles – queuing distance as measured from the rear of the service window or point of service along the queuing path.
- b. The width and turning radius of drive-up aisle shall be approved by the Planning Director.
- c. The queuing stacking area shall not interfere with safe and efficient access to other parking areas on the property.

E. Prohibited Street Vendor Activity

- 1. Stopping and waiting for customers in unauthorized locations not previously approved by the issued Vendor Permit.
- 2. Operation within 50 feet of a brick and mortar businesses operation selling similar items.
- 3. In angled downtown parking spaces (allowed or posted parallel on-site parking with point of customer service on the sidewalk side only)
- 4. A Street Vendor displacing one or more private parking spaces which are determined to result in a non-conforming parking code standard on the property.

SOME ISSUES TO CONSIDER:

- When, where and how Street (Mobile) Vendors should be allowed, including in what locations in the city, where on a site, hours of operation.
- How carts and the sites on which they operate should look.
- How the carts get water and electricity, how they dispose of wastes and whether they should provide restrooms.
- How accessory items such as tents, decks, awnings and outdoor seating should be handled.
- Coordination among the City and jurisdictions that provide health and liquor licenses.
- The need for clear rules and review processes. A lack of compliance with the Code, including carts that fail to get a permit or fail to renew a permit.
- The need to establish appropriate fees for Street Vendors.

ADDITIONAL STREET VENDOR QUESTIONS TO CONSIDER

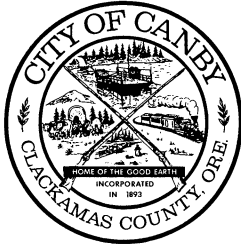
- 1) Should mobile vendors be allowed to set up semi-permanently on public property? This raises possible legal issues of allowing a business to operate on city property for personal profit without compensation to the property owner – the City. This might also be a potential problem for those operating on the public ROW from a suitable parallel parking space in a commercial zone area? Some cities' have allowed food trucks to park and operate in the public street when not within 30 feet of an intersection, blocking a commercial driveway or clear vision area.
- 2) Should we be aiming at accommodating more than just food and beverage vendors? Draft ordinance is currently anticipates other possible retail vendors that might want to operate on a permanent basis.
- 3) Should we allow vendors to occupy a site without any time limit constraints? Can they be continuous in their chosen, arranged, and approved location(s) on a continuous basis for years?
- 4) Staff agrees that "standards" would help ensure individual vendors and possible groupings or "pods" of vendor carts are well-managed and attractive. We are not sure what standards will help us get their considering the wide variety of vendor facilities possible and without imposing restrictions which might drive up costs and potentially make compliance cost prohibitive.
- 5) Should our regulations distinguish between drive-through facilities and walk-up facilities?
- 6) Should our usual Parks and Transportation System Development Charges apply? Parks SDC's are \$400/employee. A typical vendor facility might occupy 150 square feet in size. The applicable SDC Methodology for determining the employment density (square feet per employee) for a business service like a food vendor cart is 350 square feet per employee. For this example, the SDC fee would equal:

$$150 \text{ (size of vendor facility)} / 350 \text{ (sf. per employee)} = 0.428 \times \$400 \text{ (per employee rate)} \\ = \$171.20$$

Transportation SDC's are:

Fast Food Restaurant = \$32,936/T.S.F.G.F.A. 150 sf. facility = \$4,940

Quality Restaurant = \$7,916/T.S.F.G.F.A. 150 sf. Facility = \$1,187



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

A REQUEST FOR A MINOR LAND PARTITION AT 658 NE 10TH AVE)))	FINDINGS, CONCLUSION & FINAL ORDER MLP 13-03 JASON BRISTOL
---	-------------	---

NATURE OF THE APPLICATION

The Applicant has sought an approval for a Minor Land Partition #MLP 13-03 resulting in three (3) total parcels on property described as Tax Lot 31E33AB01300, Clackamas County, Oregon. The property is zoned Low Density Residential ("R-1") under the Canby Municipal Code ("CMC").

HEARINGS

The Planning Commission considered application MLP 13-03 after the duly noticed hearing on October 28, 2013 during which the Planning Commission approved by a ____ vote to approve MLP 13-03. These findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not a Minor Land Partition application shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Other applicable code criteria and standards were reviewed in the Staff Report dated October 28, 2013 and presented at the October 28, 2013 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

The Planning Commission considered application MLP 13-03 after the duly noticed hearing on October 28, 2013 during which the Planning Commission approved by a ____ vote to approve MLP 13-03. 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:

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report, concluded that the Minor Land Partition application meets all applicable approval criteria, and recommended that File #MLP 13-03 be approved with the Conditions of Approval stated below. The Planning Commission decision is reflected in the written Order below.

ORDER

Approval of this application is based on submitted application materials and all written and oral 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 13-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. The Planning Commission concludes that, with the following conditions, the application will meet the requirements for Minor Land Partition approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **MLP 13-03** is approved, subject to the following conditions:

1. Approval of this application is based on submitted application materials and public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #MLP 13-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
 - a. Preliminary Partition Plat dated 8/7/13
 - b. Minor Partition Land Use Application and narrative

c. All other materials submitted in conjunction with the MLP 13-03 application

Final plat conditions:

2. The applicant shall show a 5 foot sidewalk easement along Maple Street on the final plat.
3. The applicant shall show a 5 foot sidewalk easement along 10th Avenue on the final plat.
4. A 20' curb radius easement shall be noted on the final plat at the corner of 10th and Maple for future sidewalk purposes.
5. The applicant shall dedicate a 12 foot street tree easement along the Maple Street and 10th Avenue frontages of Parcels 1, 2, and 3. This easement may be combined with other utility and sidewalk easements and shall be measured from the property boundary.
6. The final plat shall note that Parcel 3 is a non-buildable future access parcel and if Parcel 3 does not become an access parcel to 1065 N. Maple Street within 10 years from the date the final plat is recorded, then Parcel 3 shall become the property of Parcel 1.
7. Parcel 1 shall be noted as an "infill home" on the final plat.
8. The City Engineer or County surveyor shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the final partition plat.
9. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Final Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the 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
10. Clackamas County Surveying reviews **pending partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County** within one year of approval or the applicant must request that the Planning Director to approve a one-year extension for recordation of the approved final plat.

Public Improvement Conditions:

11. The applicant shall submit engineered curbing and street public improvement plans and install curbing and street improvements along the site's Maple Street frontage; the proposed curbing and street improvements shall be approved by the City Engineer and by Public Works prior to the recordation of the final plat. If the applicant wishes to install curbs and street improvements after the recordation of the final plat, then the applicant shall pay a bond in accordance with 16.64.070(N)-(P) to the city as assurance.
12. The applicant shall obtain a Street Opening Permit prior to the installation of the curbs and street improvements along Maple Street so that the city may inspect and approve the curb installation and street improvements.
13. The applicant shall pay the city fee for city establishment of street trees along Maple Street and 10th Avenue per the Tree Regulation standards in Chapter 12.32 of the Canby Municipal Code. All street tree fees shall be paid prior to the recordation of the final plat.

14. The applicant shall submit engineered sidewalk plans and install 5 foot sidewalks along the site's Maple Street frontage; the proposed sidewalks shall be approved by the City Engineer and by Public Works prior to the issuance of a city Site Plan Permit.

Driveway Conditions:

15. All driveway-to-driveway separations shall be 10 feet.
16. Parcel 1's the intersection-to-driveway spacing, as specified in 16.10.070(B)(10), shall be 30 feet.
17. The applicant shall obtain a Canby Street Opening Permit in order to relocate the driveway on Parcel 2.

Misc. Conditions:

18. The applicant shall verify with Clackamas County if a permit is needed to demolish the existing carport structure and, if necessary, obtain a City of Canby Site Plan/Demolition permit.
19. The development shall comply with all applicable City of Canby Public Works Design Standards.
20. On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards.

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

21. Apply for a City of Canby Site Plan Permit.
22. Prior to the issuance of a City Site Plan Review permit, final construction plans must be approved by the city and all other utility/service providers. This includes, but is not limited to, approval by:
 - a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
 - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items. A non-residential wastewater survey must be submitted for review and approval by the city prior to final building occupancy.
 - c. Canby Fire District
 - d. Canby Utility – water and electric service
 - e. Northwest Natural Gas
 - f. Canby Telcom
 - g. Wave Broadband
23. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical plan review and inspection service for this project. The applicable building permits are required prior to construction.
24. Construction of all required public improvements (Maple Street curb & street widening) and file of record of the Final Partition Plat.

MINUTES
PLANNING COMMISSION
 October 14, 2013, 7:00 PM
 City Council Chambers – 155 NW 2nd Avenue

PRESENT: Commissioners Tyler Smith, Charles Kocher, John Proctor, John Savory, Shawn Hensley and John Serlet

ABSENT: Commissioner Sean Joyce

STAFF: Bryan Brown, Planning Director, Angie Lehnert, Associate Planner, Renate Mengelberg, Economic Development Director, Jamie Stickel, Main Street Manager, Councilor Ken Rider. Laney Fouse, Planning Staff

OTHERS: David Van Tassel, Al Tate

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 – None

4. NEW BUSINESS

- a. Chair Smith welcomed newly appointed Planning Commissioner John Serlet.
- b. Review and Discussion of Draft Street (Mobile)Vendor Ordinance (i.e. Food Trucks/Carts)

Bryan Brown, Planning Director entered his staff report into the record and presented discussion material for the Draft Street (Mobile) Vendor Ordinance.

Several questions arose in the first round of discussion by the Commissioners about the Street (mobile) Vendor Ordinance. While there was some support for entrepreneurship that mobile street vending would bring, there was also some hesitation for problems that might arise if they are allowed.

Commissioners agreed the ordinance would need to include design standards which would help ensure well-managed and attractive carts without imposing restrictions and driving up the associated fees which could potentially make complying with the ordinance cost prohibitive for small-scale vendors.

There was discussion to exclude mobile vendors from public rights-of-way because of the possible legal issues of allowing a business to operate on City property for personal profit without compensation to the City. The Planning Director noted that City's that have successfully allowed use of the public rights-of-way have most often done so when invited due to special events. There was also discussion around allowing mobile vendors to set up on private lots, provided the owner of the property agrees and the ordinance standards have been met. Also discussed were time limit constraints, safety and sanitation standards, accommodating other possible retail vendors rather than just food and beverage vendors (i.e. arts and crafts or retail nurseries) and whether mobile vendors should be charged the same fees that other businesses are charged such as Parks and Transportation System Development charges.

David Van Tassel, who is the owner of a mobile food production (manufacturing) commercial kitchen which produces salsa, said he has been trying to get his business going for the last 8 years. Mr. Van

Tassel had previously approached Planning staff for permission to install a permanent food manufacturing cart on private property owned by Cutsforth Thriftway but the City does not have a process to permit that type of mobile operation on a permanent basis. It was decided that Mr. Van Tassel could either operate as a home business or for staff to explore an alternative ordinance solution separate from the draft Street Vendor ordinance as a possible way for him to operate, recognizing that since his business does not involve vending from his mobile facility it really does not fit well with the draft Street Vendor ordinance.

City of Canby Economic Development Director Renate Mengelberg spoke in favor of mobile street vendors. She said she sees these mobile vendors as a great entrepreneurship opportunity because it adds new products and services to the marketplace, demonstrates and responds to a demand, it meets a niche or goes out of business, generates activity in our downtown and makes the area interesting and vibrant. Ms. Mengelberg agrees there is a need to establish standards because the carts do not have to be trashy and unattractive.

Jamie Stickel, Main Street Manager said she agreed with Ms. Mengelberg and that street vendors would bring more choices to the downtown and some of these businesses do turn into brick and mortar businesses. She said she is all for rules and regulations to help keep Canby beautiful and there are ways to make the food carts fit a standard and they would be a fun addition to Canby.

Al Tate, Canby resident, said he agreed there are two separate issues, one dealing with food carts and the other one a production facility. He said he was not in support of food carts.

Chair Smith said since it was not an official public hearing and they could not take any official action to pass anything, that he would entertain a motion to table this for continued review at the next Planning Commission meeting where a possible decision on if and how to move forward might be made.

Commissioner Savory moved to table the issue of the Draft Street (Mobile) Vendor Ordinance until the next Planning Commission meeting, Commissioner Serlet seconded the motion. Motion passed 6/0.

5. FINAL DECISIONS - None

6. MINUTES - August 26, 2014 – Minutes

Commissioner Hensley made a motion to accept the minutes as presented, Commissioner Savory seconded the motion. Motion passed 6/0.

7. ITEMS OF INTEREST/REPORT FROM STAFF

- a. Next Planning Commission meeting – Monday, October 28, 2013 – Public Hearing on a proposed Minor Land Partition (MLP 13-03) from Jason Bristol to partition a .41 acre site located at 658 NE 10th Avenue into three (3) parcels.
- b. New Planning Commission handbook
- c. Mobile Street Vendor draft ordinance – make modifications at next meeting
- d. Dec. 23, 2013 – Planning Commission meeting may be cancelled if items can be successfully shifted before or after that date.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT - Commissioner Savory moved to adjourn, Commissioner Hensley seconded, and motion passed 6/0. Meeting adjourned at 8:43 pm.