

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

**City Council Chambers – 155 NW 2<sup>nd</sup> 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**
  - a. A request from Jason Bristol for a Minor Land Partition of a .41 acre site located at 658 NE 10<sup>th</sup> 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**
  - a. Review and Discussion of Draft Street (Mobile) Vendor Ordinance ie: Food Trucks/Carts*
- 5. FINAL DECISIONS**

*(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 10<sup>th</sup> Avenue into three (3) parcels.*
- 6. MINUTES**
  - 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.*

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# City of Canby

## MINOR PARTITION STAFF REPORT

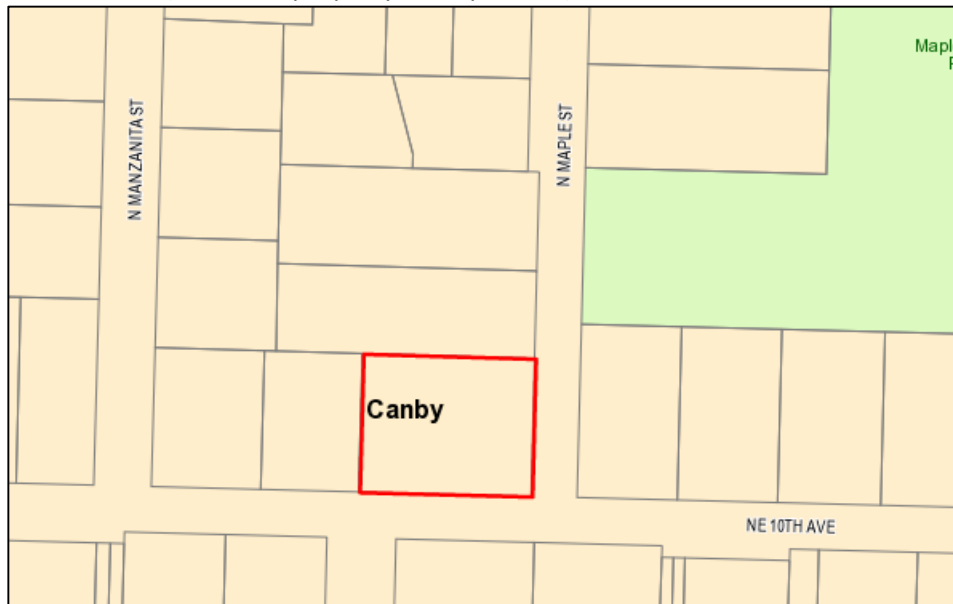
FILE #: MLP 13-03

Prepared for the October 28, 2013 Planning Commission Meeting

**LOCATION:** 658 NE 10<sup>th</sup> 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 10<sup>th</sup> Avenue and N Maple Street; all access will connect to NE 10<sup>th</sup> 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 10<sup>th</sup> Avenue. The proposed Parcel 1 will have frontage on both N Maple Street and NE 10<sup>th</sup> Avenue that will provide a single point of access.”*

## **II.** ATTACHMENTS

- A. Application form and supporting documents
- B. Pre-application minutes
- C. 10<sup>th</sup> 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**

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### **16.08.090 Sidewalks required.**

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

**Findings:** The 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 10<sup>th</sup> 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 10<sup>th</sup> Avenue because the city plans to install sidewalks along 10<sup>th</sup> Avenue with future Community Development Block Grant (CDBG) funding. The city is currently attempting to obtain sidewalk easements from property owners along 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> Avenue (Table 5-1, page 5-5); refer to the discussion of 10<sup>th</sup> Avenue sidewalks under 16.08.090.

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

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### ***16.10.030 General requirements***

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

### ***16.10.050 Parking standards designated***

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

**TABLE 16.10.050**

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

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

**Findings:** 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**

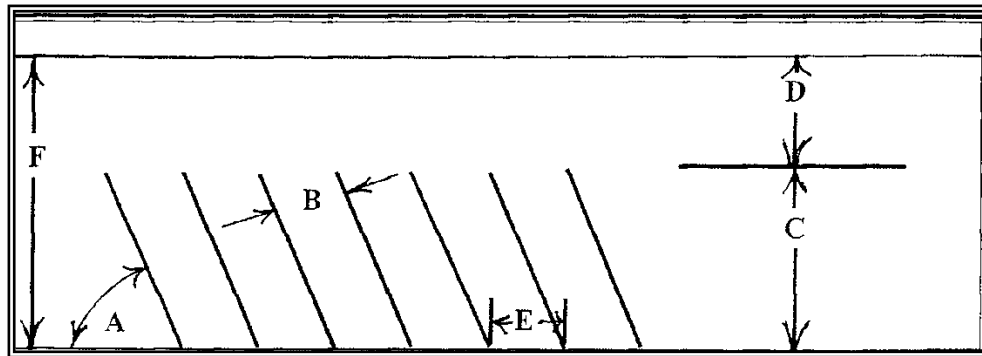
**Minimum dimensional Standard for Parking**

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

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



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

**Findings:** 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**

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### **16.16.010 Uses permitted outright**

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

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

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

### **16.16.030 Development standards**

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

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

**Findings:** The above 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***

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

The standards in sections 16.21.030 through 16.21.050 apply to single family dwellings, manufactured homes, and two family dwellings (duplexes). Where a proposal is for an alteration or addition to 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***

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### **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***
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 10<sup>th</sup> 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***

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

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

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

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

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

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

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

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



**Findings:** The application and this staff report show conformance with the above. 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**

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### **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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> Avenue, which is classified in the TSP as a Neighborhood Route. The applicant proposes to access Parcel 1 off 10<sup>th</sup> 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**

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

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

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

## **IV. PUBLIC TESTIMONY**

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

## **V. CONDITIONS OF APPROVAL**

Staff concludes, with conditions, that the application will meet the requirements for approval. Staff has 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 10<sup>th</sup> Avenue on the final plat.
4. A 20' sidewalk curb radius easement shall be noted on the final plat at the corner of 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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.

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

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**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)

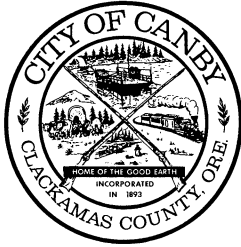
Bryan Brown, Planning Director entered his staff report into the record and presented discussion material for the Draft Street (Mobile) Vendor Ordinance.

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



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

**A REQUEST FOR A MINOR LAND )  
PARTITION )  
AT 658 NE 10<sup>TH</sup> 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:

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**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 10<sup>th</sup> Avenue on the final plat.
4. A 20' curb radius easement shall be noted on the final plat at the corner of 10<sup>th</sup> and Maple for future sidewalk purposes.
5. The applicant shall dedicate a 12 foot street tree easement along the Maple Street and 10<sup>th</sup> 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 10<sup>th</sup> 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.

**I CERTIFY THAT THIS ORDER** approving **MLP 13-03** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this 28<sup>th</sup> day of October, 2013

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

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

\_\_\_\_\_  
Attest

**ORAL DECISION: October 28, 2013**

**WRITTEN DECISION: October 28, 2013**

**Ayes:**  
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**Ayes:**  
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**Noes:**  
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**Noes:**  
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**Abstain:**  
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**Abstain:**  
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**Absent:**  
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**Absent:**  
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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 10<sup>th</sup> 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.**