

**PLANNING COMMISSION**  
**Meeting Agenda**  
**Monday – November 25, 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 Gorilla Capital for a Minor Land Partition of a .23 acre site located at 341 & 347 N. Cedar. Currently the property has one single family home with a detached garage and one single family home with an attached garage and the owner would like to split the lot to create two separate tax lots.*

**4.**

**5. NEW BUSINESS - None**

**6. FINAL DECISIONS**

*(Note: These are the 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.*

- b. MLP 13-02—Gorilla Capital – Minor Land Partition of a .23 acre site located at 341 & 347 N. Cedar. Currently the property has one single family home with a detached garage and one single family home with an attached garage and the owner would like to split the lot to create two separate tax lots.*

**7. MINUTES**

- a. October 28, 2013 Planning Commission Minutes*

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

- a. Planning Commission Meeting December 9, 2013*

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

**9. ADJOURNMENT**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001.*

*A copy of this agenda can be found on the City's web page at [www.ci.canby.or.us](http://www.ci.canby.or.us)  
City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV5.  
For a schedule of the playback times, please call 503-263-6287.*





# City of Canby

## MINOR PARTITION STAFF REPORT

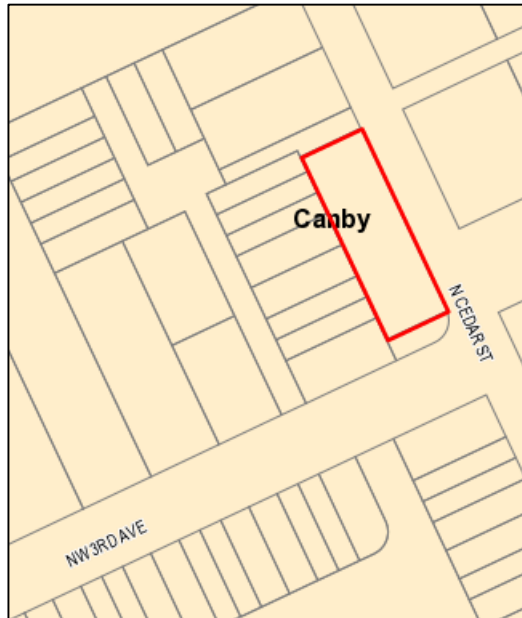
FILE #: MLP 13-02

Prepared for the November 25, 2013 Planning Commission Meeting

**LOCATION:** 341 N. Cedar

**ZONING:** R-2 High Density Residential

**TAX LOT:** 31E32DD03700 (bordered property below)



**LOT SIZE:** 0.23 acres

**OWNER:** Gorilla Capital CL 6, LLC

**APPLICANT:** Gorilla Capital CL 6, LLC

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

**CITY FILE NUMBER:** MLP 13-02

### I. **PROJECT OVERVIEW & EXISTING CONDITIONS**

The applicant proposes to partition a 0.23 acre site located at 341 and 347 N. Cedar. Currently the property has one single family home with a detached garage and one single family with an attached garage, and the owner would like to split the lot to create two separate tax lots in order to market the homes separately. No new construction is proposed.

### II. **ATTACHMENTS**

- A. Application form and supporting documents
- B. Application narrative
- C. Tentative Partition Plat drawing
- D. Citizen and agency comments/written testimony



### **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
- 16.20 R-2 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 site has existing sidewalks and curbs, therefore no new sidewalks and curbs are proposed. The city engineer commented that the ADA ramp to 347 N Cedar is not in compliance with latest ADA standards; this is allowed to remain.

### ***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 requiring one by staff.

**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:**

- It appears that the existing homes have downspouts that direct stormwater to the street. This is an existing non-conformance that is allowed to remain; if new construction is proposed then all stormwater must be retained onsite.
- Vision clearance standards of 16.20.030 are met.
- The site contains existing public utilities, [Condition #5](#) addresses any potential utility agency requirements in conjunction with this proposed partition
- The site is located off existing paved streets; no new street improvements proposed that would trigger the requirements of D and E above.

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

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**Findings:** The site contains two existing homes with on-site parking arrangements. The applicant's narrative stated that both proposed parcels will have two off street parking spaces. If the existing parking space dimensions are non-conforming with the requirements of 16.10, then they are considered legally non-conforming. The proposed partition does not affect existing parking arrangements or worsen any parking conditions. If new structures are proposed in the future, then parking standards would be verified during the city Site Plan/County Building Permit process. In addition, the applicant is not proposing any new driveways or accesses with this proposal. Any new driveways are required to obtain a city Street Opening permit in order to verify compliance with the code's access spacing standards.

## ***16.20 R-2 High Density Residential Zone***

### **16.20.010 Uses permitted outright.**

Uses permitted outright in the R-2 zone shall be as follows:

- A. Uses permitted outright in the R-1.5 zone, subject to the density standards in Section 16.20.030(A);

**Findings:** The existing single family homes that are proposed to remain are a permitted use.

### **16.20.030 Development standards.**

The following subsections indicate the required development standards of the R-2 zone:

- A. Minimum residential density: New development shall achieve a minimum density of 14 units per acre. Density is calculated by dividing the number of dwelling units by the property area in acres (minus area required for street right-of-way and public park/open space areas). Decimals are rounded to the nearest whole number. The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.

**Findings:** The above standard would be verified with new construction during the city Site Plan/County Building Permit process.

- B. Minimum width and frontage: Twenty feet except that the Planning Commission may require additional width to ensure that all applicable access standards are met.

**Findings:** The above standard is met.

- C. 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. Street yards for multifamily development (3 or more units located on the same property) located adjacent and on the same side of the street to an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) zone shall establish a front yard setback that is within 5 feet of the front yard setback of the adjacent home in the R-1 or R-1.5 zone but shall not be less than 10 feet from the property line. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.

**Findings:** The existing houses do not meet the street yard setbacks but are legally allowed to remain in their non-conforming state.

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 home to the south does not meet the above rear setback but is legally allowed to remain in a non-conforming state.

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

**Findings:** The applicant recently tore down a portion of the existing garage between the two existing homes in order to meet interior yard setbacks resulting from the proposed partition. The submitted non-surveyed site plan indicates that the interior yard setbacks are 8.5 feet, close to the above 7 foot requirement. As a **condition of approval**, the final, surveyed partition plat shall show existing structure setbacks in order to verify compliance with the standards of 16.20.030(C). **Condition #2** requires that the final, surveyed plat to be prepared by a professional surveyor or engineer.

**D. Maximum building height and length:**

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

**Findings:** The existing structures appear to meet the above requirement.

**2. Detached accessory structure:**

**a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.**

**Findings:** The existing accessory structure does not appear to be over 22 feet; **Condition #3** verifies that the accessory structure is within the R-2 zone setbacks/allowed building footprint.

**4. Maximum building length shall be 120 feet.**

**Findings:** The above standard is met.

**E. The maximum amount of impervious surface allowed in the R-2 zone shall be 70 percent of the lot area.**

**Findings:** The above standard would be verified with new construction during the city Site Plan/County Building Permit process.

**F. 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.**

**Findings:** The above standard is met.

**5. Accessory buildings shall not have a larger footprint than the primary building.**

**Findings:** The above standard is met.

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

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**Findings:** The residential design standards of Chapter 16.21 are applicable to new homes and would be verified during the city Site Plan Permit/County Building Permits process. No new homes are proposed at this time.

## ***16.43 Outdoor Lighting Standards***

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### ***16.43.030 Applicability.***

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

#### ***A. New uses, buildings, and major additions or modifications:***

- 1. For all proposed new land uses, developments, buildings, and structures that require a building permit, all outdoor lighting fixtures shall meet the requirements of this Code.***
- 2. All building additions or modifications of fifty (50) percent or greater in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or cumulative additions, shall meet the requirements of this Code for the entire property, including previously installed and any new outdoor lighting.***

#### ***B. Minor additions. Additions or modifications of less than fifty (50) percent to existing uses, in terms of additional dwelling units, gross floor area, or parking spaces, shall meet the requirements of this Code with regard to shielding and lamp type for all new lighting.***

**Findings:** The standards of 16.43 are applicable to new single family homes or to any development that requires a building permit. No new homes are proposed at this time.

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

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**Findings:** The applicant is not proposing any new driveways or accesses with this proposal; any new driveways are required to obtain a city Street Opening Permit in order to verify compliance with the code's access spacing standards.

## ***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, staff report, and conditions of approval ensure conformance with the above. Public facilities and services are presently available on the site; Condition #5 verifies that all requirements of applicable utility agencies are met prior the recordation of the final plat. No other public facilities are proposed or recommended.

**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. Condition #5 verifies that all requirements of applicable utility agencies, including easement requirements, are met prior the recordation of the final plat.

**16.60.060 Final procedures and recordation.**

**A.** *Following the action of the city in approving or conditionally approving a tentative map for a partition, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city engineer prior to the transfer of title of any of the parcels involved.*

**Findings:** No public improvements are proposed or recommended.

**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.*

**Findings:** As a condition of approval, a final, surveyed partition plat shall be prepared by a licensed surveyor or engineer.

**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:** The final partition plat shall be recorded at Clackamas County and must meet all Clackamas County standards for plat recordation. Prior to the recordation of the final partition plat, the applicant shall obtain approval from the city and pay all applicable city fees prior to its recordation. The applicant shall record the final partition plat at Clackamas County within one year of approval. If the applicant wishes to extend this period, the applicant may request Planning Director approval of a one-year extension. This is a condition of approval.

## ***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:** Street trees and street tree easements are not recommended because the existing homes encroach into the front yard setbacks and any street tree easements would therefore run through existing structures. One large fir tree exists near the detached garage.

**16.64.015 Access**

**Findings:** The applicant is not proposing any new driveways or accesses with this proposal; any new driveways are required to obtain a city Street Opening Permit in order to verify compliance with the code's access spacing standards.

**16.64.030 Easements**

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

**Findings:** Condition #5 verifies that all requirements of applicable utility agencies are met prior to the recordation of the final plat. Canby Public Works has already expended some efforts to alter sewer service so that the proposed properties may be served separately.

**16.64.040 Lots**

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

**Findings:** The above standard is met.

**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. 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:** See the discussion under Chapter 16.20, R-2 Zone; no new accesses are proposed.

**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.**

#### **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.*

**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;*

**C. Streets**

- 1.** *All streets, including alleys, within the subdivision and streets adjoining, but only partially within the subdivision shall be improved.*
- 2.** *All public and private streets shall be constructed to city standards for permanent street and alley construction. LID alternatives, such as permeable surfacing and integrated stormwater management facilities, are required where site and soil conditions make it a feasible alternative. Upon completion of the street improvement, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92.*
- 3.** *Street Trees. Street trees shall be provided consistent with the provisions of Chapter 12.32.*
- 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:** Condition #5 requires the final plat to be approved by utility agencies prior to recordation. Street trees and street tree easements are not recommended because the existing homes encroach into the front yard setbacks and any street tree easements would therefore run through existing structures. The site contains existing utilities, streets, and sidewalks; therefore no public improvements are proposed or recommended.

**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.

**Findings:** Condition of Approval #8 addresses the above standards. It appears that the existing homes have downspouts that direct stormwater to the street. This is an existing non-conformance that is allowed to remain; if new construction is proposed then all stormwater must be retained onsite.

**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:** The site contains existing sidewalks; therefore no sidewalk improvements are proposed or recommended.

**K. Other Improvements.**

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

**Findings:** Street trees and street tree easements are not recommended because the existing homes encroach into the front yard setbacks and any street tree easements would therefore run through existing structures.

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

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

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

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

**Findings:** This application is being processed in accordance with Chapter 16.89. Notice of the public hearing was mailed to owners and residents of lots within 200 feet of the subject development and to applicable agencies. Notice of the meeting was posted at the Development Services Building 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 and a pre-application conference was not required for this application.

## **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 construction of any future new homes 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 13-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
  - a. Preliminary Partition Drawing submitted 10/28/2013
  - b. Minor Partition Land Use Application and narrative
  - c. All other materials submitted in conjunction with the MLP 13-02 application
2. A final surveyed partition plat shall be prepared by a licensed surveyor or engineer.
3. The final surveyed partition plat shall show or note existing structure setback from the interior property line in order to verify compliance with the 7' setback standard of 16.20.030(C).
4. The City Engineer or County surveyor shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the final partition plat.
5. The applicant shall apply for a final plat at the city and pay any applicable city fees to

gain approval of the Final Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the 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
6. Clackamas County Surveying reviews pending partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County within one year of approval or the applicant must request that the Planning Director approve a one-year extension for recordation of the approved final plat.
  7. The development shall comply with all applicable City of Canby Public Works Design Standards.
  8. On-site stormwater management for any new construction shall be designed in compliance with the Canby Public Works Design Standards.
  9. Any new driveways are required to obtain a city Street Opening permit in order to verify compliance with the code's access spacing standards.

## **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 13-02 pursuant to the Conditions of Approval presented in this Staff Report in Section V.

**Sample motion:** I move to approve Minor Land Partition File #MLP 13-02 pursuant to the Conditions of Approval presented in this Staff Report in Section V.





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

# LAND USE APPLICATION

## MINOR/MAJOR PARTITION Process Type II/III

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

Applicant Name: GORILLA CAPITAL CL 6, LLC. Phone: 503-544-5554  
 Address: 1400 HIGH ST STE B-2 Email: lschloeder@gorillacapital.com  
 City/State: Eugene OR Zip: 97401

Representative Name: Stephanie Rudolph Phone: 503-881-6549  
 Address: PO box 101/611 Branson St Email: stephanie@schloederconstruction.com  
 City/State: Willamina Zip: 97396

Property Owner Name: GORILLA CAPITAL CL 6, LLC. Phone: 503-544-5554  
 Signature: [Signature]  
 Address: 1400 High ST STE B-2 Email: lschloeder@gorillacapital.com  
 City/State: Eugene OR Zip: 97401

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*

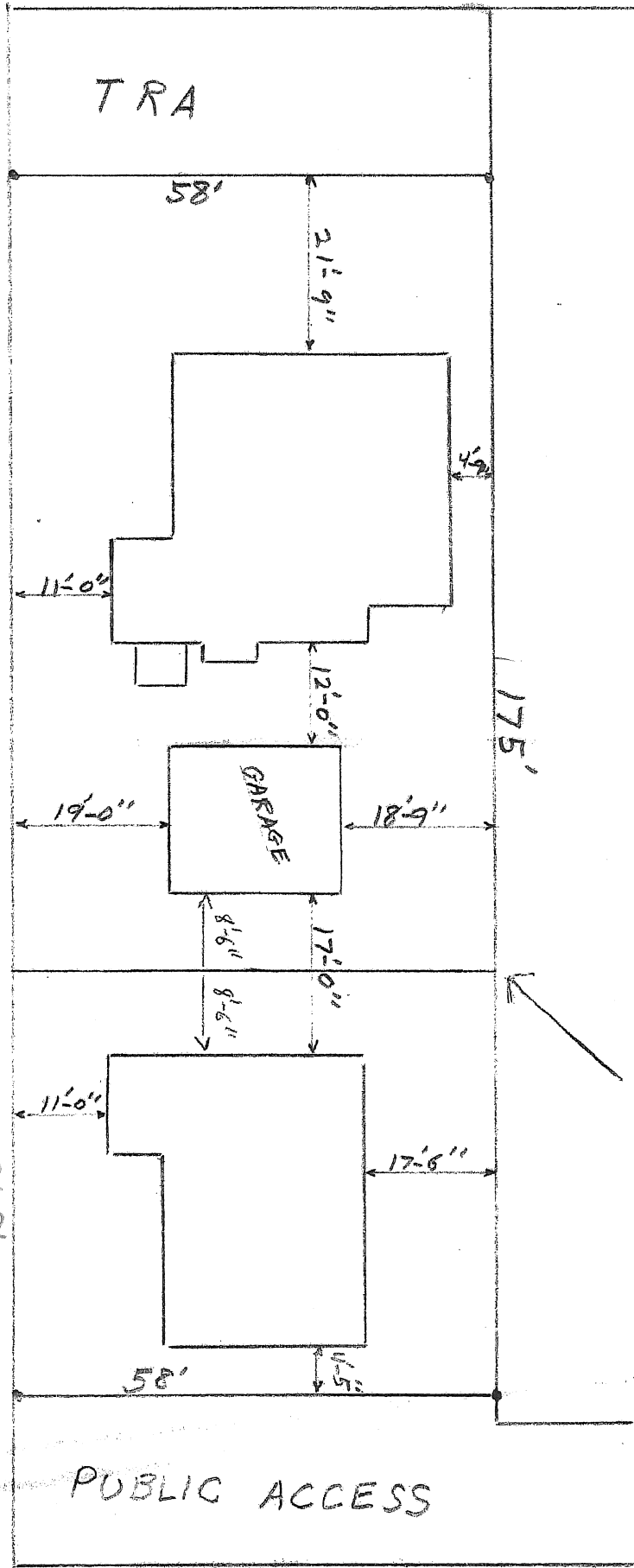
- All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations, including but not limited to CMC Chapter 16.49 Site and Design Review standards.
- 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:**

<u>341 N CEDAR CANBY OR</u>	<u>.23</u>	<u>00782406</u>
Street Address or Location of Subject Property	Total Size of Property	Assessor Tax Lot Numbers
<u>1 SFR w/ detached garage &amp; 1 SFR w/ attached garage</u>	<u>R-2</u>	
Existing Use, Structures, Other Improvements on Site	Zoning	Comp Plan Designation

Currently property has two homes, would like to split the lot creating two separate tax lots.  
 Describe the Proposed Development or Use of Subject Property

STAFF USE ONLY				
<u>MLP 13-02</u>	<u>9-5-13</u>	<u>[Signature]</u>	<u>213</u>	
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE



CEDAR ST

L212

OR

1/4" = 5'

Applicant: Gorilla Capital c/o Lindsay Schloeder

Location: 341 N Cedar/347 N Cedar Canby OR

Zone: R-2 residential zone

Proposal: We are requesting a separation of the two homes located on the above referenced Tax Lot to create two separate tax lots. The homes already have separate utility lines, and are separate structures with no compromising buildings on the proposed new property lines.

**Uses adjacent to the site**

North: Neighborhood

South: Neighborhood

East: Neighborhood

West: Neighborhood

Chapter 16.10 Off Street Parking & Loading-contains standards regarding parking requirements and access standards

The parking requirement for single-family dwellings is two spaces per dwelling unit (Table 16.10.050).

*Based on the cities standards each home is in compliance with the regulations. The proposed split still gives adequate room for parking and does not compromise the street traffic. Each lot has at least two parking spaces available, with the inclusion of on street parking.*

• Chapter 16.20 R-2 Zone-contains standards regarding allowed lot dimensions, density, height, impervious surfaces, etc.

*The original lot is in compliance with the city regulations and splitting the lot into two tax lots will not affect the density, height or impervious surfaces. The lot dimension is the only thing affected by the split and based on our survey we are in compliance with city code. We moved an existing wall of a garage to make sure that neither proposed lot had physical property that touched the other to not only comply with the city but to prevent future homeowner disputes.*

• Chapter 16.21 Residential Design Standards-contains standards that are applicable to new residential construction

*No new construction was done on the lots. We moved a wall on an existing garage to make sure that the proposed lot split was clean and had no compromising property. Therefore all standards were upheld.*

- Chapter 16.43 Outdoor Lighting-contains standards that apply to any new proposed lighting

*We have not made any changes to the existing lighting on the homes therefore we are still in compliance with the city regulations.*

- Chapter 16.46 Access Limitations-contains standards that apply to access and driveway spacing

*Each home (even though they were on the same tax lot) had separate parking. In splitting the lot into two tax lots we are not changing any of the driveway spacing nor are we affecting the access to each individual parking space or driveway. No changes to the driveway spacing is necessary to maintain the separation of the lots.*

- Chapter 16.60 Major and Minor Partitions-contains standards concerning partitions

We are proposing a minor partition split.

An application that satisfies the filing procedures and information required in Sec. 16.60.030 has been submitted. The following standards and criteria for approval of a minor partition are set forth in Sec. 16.60.030, as follows:

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

*We have completed the application, paid the appropriate fees and have spent adequate time learning and complying with the city regulations for a minor partition split.*

- Chapter 16.64 Subdivision Design Standards-contains standards that apply to partitions

*We are not creating a new subdivision at this time. We are taking one tax lot that has two separate housing structures on it and wanting to recreate those existing boundaries to create two separate tax lots. We have not built any new housing structures on the property. Because we did not build any new structures the city was not impeded in any way with the remodels on the existing homes or the proposed minor partition.*

- Chapter 16.68 Subdivisions Final Procedures and Recordation-contains standards that apply to partitions

*We are prepared to meet all the responsibilities listed below upon approval of our minor partition split.*

**16.68.010 Responsibilities of applicant.**

We have filled out necessary applications, submitted supplemental information and paid the appropriate fees as well as dedicated time and money into the project.

**16.68.030 Information required on plat.**

We have contacted local title companies and county departments in order to obtain original documentation on the properties and the required documents for the split.

**16.68.040 Information to accompany plat.**

Information accompanied this application has been provided by local county and city departments and is true and accurate to the best of our knowledge.

**16.68.050 Technical plat review.**

We hired a surveyor to create a map of the projected minor partition and to make sure that neither property was compromised as far as utilities, or parking.

**16.68.060 Planning Commission approval.**

**16.68.070 Filing of final plat.**

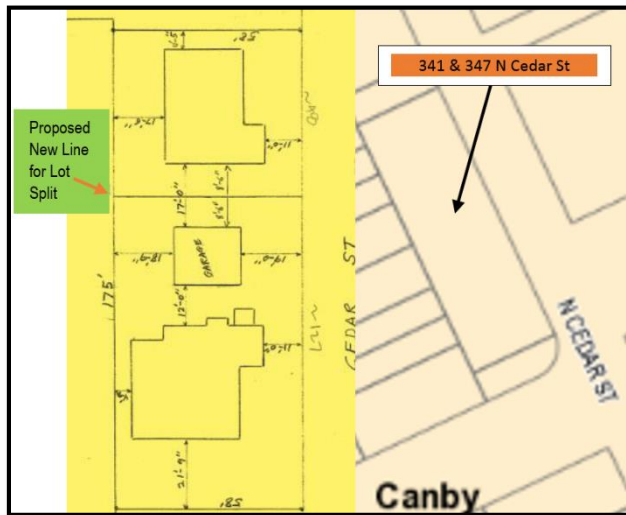
*In closing we are asking that the Planning Commission approve this minor partition based on the simplicity of the split and the proposed plans we have brought forth. We believe this split will only increase revenue for the city in creating an additional tax lot and the improvements we have made to the homes has added to the beauty and cleanliness that the City of Canby upholds and promotes.*



# 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, November 25, 2013 at 7 pm in the City Council Chambers, 155 NW 2<sup>nd</sup> Avenue** and to comment on a proposed Minor Land Partition (MLP 13-02) from Gorilla Capital CL 6, LLC to partition a .23 acre site located at 341 & 347 N. Cedar. Currently the property has one single family home with a detached garage and one single family home with an attached garage and the owner would like to split the lot to create two separate tax lots.



**Comments due**– If you would like your comments to be incorporated into the City's Staff Report, please return the Comment Form by Wednesday, November 13, 2013 and can also be submitted up to the hearing date.

**Location:** 341 & 347 N Cedar St.

**Tax Lot:** 31E32DD03700

**Lot Size and Zoning:** .23 acres, R-2 High Density Residential

**Owner:** Gorilla Capital CL 6, LLC

**Applicant:** Gorilla Capital CL 6, LLC

**Application Type:** Minor Land Partition

**City File Number:** MLP 13-02

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

**What is the Decision Process?** The Planning

Commission will make a decision after the Public Hearing. The Planning Commission's decision may be appealed to the City Council.

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

**How can I review the documents and staff report?** Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report to the Planning Commission will be available for inspection starting Friday, November 15, 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-2 High Density Residential 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.*

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***Application: Minor Land Partition – 341 & 347 N Cedar St (MLP 13-02) Gorilla Capital GL 6***

**COMMENTS:**

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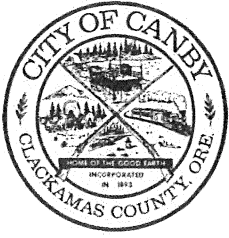
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**YOUR NAME:** \_\_\_\_\_  
**EMAIL:** \_\_\_\_\_  
**ORGANIZATION or BUSINESS (if any):** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_  
**PHONE # (optional):** \_\_\_\_\_  
**DATE:** \_\_\_\_\_

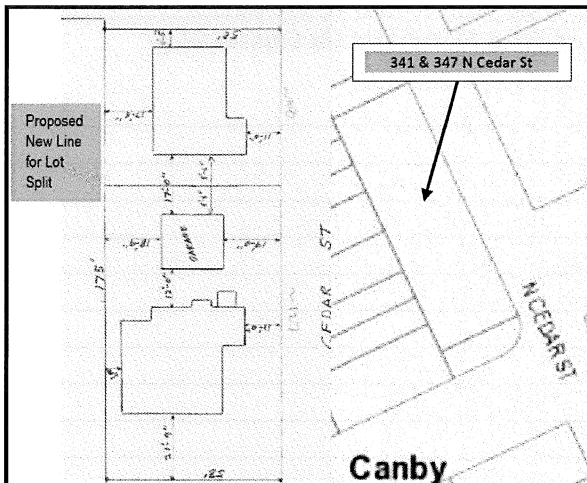
**Thank you!**



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**Applicant:** Gorilla Capital CL 6, LLC

**Application Type:** Minor Land Partition

**City File Number:** MLP 13-02

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

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**Laney Fouse**

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**From:** Solomon Jacobsen  
**Sent:** Wednesday, November 06, 2013 6:33 AM  
**To:** Laney Fouse  
**Subject:** RE: Request for Comments - MLP 341 & 347 N. Cedar

Good morning,

This minor land lot partition on Cedar Street will not affect the Urban Forestry section in any way. I have nothing to comment on at this time. Thank you, Sol

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**From:** Laney Fouse  
**Sent:** Tuesday, November 05, 2013 12:48 PM  
**To:** Laney Fouse  
**Subject:** Request for Comments - MLP 341 & 347 N. Cedar

Hello,

Please find attached a Request for Comments and Public Hearing Notice for a proposed Minor Land Partition from Gorilla Capital to partition a .23 acre site located at 341 & 347 N. Cedar St. Currently the property has one single family home with a detached garage and one single family home with an attached garage and the owner would like to split the lot to create two separate tax lots. Please note the Comment Form can be filled out on your computer and emailed back to us.

Thanks, Laney

*Laney Fouse  
Planning & Economic Development  
City of Canby  
503-266-0685  
Fax 503-266-1574  
[fousel@ci.canby.or.us](mailto:fousel@ci.canby.or.us)*

**PUBLIC RECORDS LAW DISCLOSURE**

This email is a public record of the City of Canby and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This email is subject to the State Retention Schedule.

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

Written comments to be included in the Planning Commission’s meeting packet are due by Noon on Wednesday, November 13, 2013. Written comments can also be submitted up to the time of the Public Hearing on Monday, November 25, 2013 and may also be delivered in person to the Planning Commission during the Public Hearing at 7 pm in the City Council Chambers, 155 NW 2<sup>nd</sup> Avenue.

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***Application: Minor Land Partition – 341 & 347 N Cedar St (MLP 13-02) Gorilla Capital GL 6***

**COMMENTS:**

Canby Fire has no objection to the proposed Minor Land Partition

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**YOUR NAME:** Todd Gary

**EMAIL:** tgary@canbyfire.org

**ORGANIZATION or BUSINESS (if any):** Canby Fire District

**ADDRESS:** 221 S pine

**PHONE # (optional):** \_\_\_\_\_

**DATE:** 11-5-2013

**Thank you!**

**Laney Fouse**

---

**From:** Kizer, Daniel <Daniel.Kizer@nwnatural.com>  
**Sent:** Thursday, November 14, 2013 9:41 AM  
**To:** Laney Fouse  
**Subject:** RE: Request for Comments - MLP 341 & 347 N. Cedar- NWN Comments  
**Attachments:** MLP 13-02 Hearing Notice (fillable)11.5.13.pdf

Hi Laney,

Our gas main runs in an easement along the south boundary of the subject property. We take no issue with the proposed partition.

(I am away from the office and unable to print the fillable .pdf form and scan and send back).

Dan Kizer  
Field Engineer Salem Resource Center  
503-585-6611 x8166  
503-931-3219 Cell

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**From:** Laney Fouse [mailto:FouseL@ci.canby.or.us]  
**Sent:** Tuesday, November 05, 2013 12:48 PM  
**To:** Laney Fouse  
**Subject:** Request for Comments - MLP 341 & 347 N. Cedar

Hello,

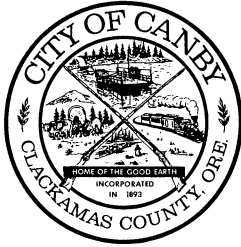
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Thanks, Laney

*Laney Fouse*  
*Planning & Economic Development*  
*City of Canby*  
*503-266-0685*  
*Fax 503-266-1574*  
*[fousel@ci.canby.or.us](mailto:fousel@ci.canby.or.us)*

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

<b>A REQUEST FOR A MINOR LAND</b>	)	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER</b>
<b>PARTITION</b>	)	<b>MLP 13-03</b>
<b>AT 658 NE 10<sup>TH</sup> AVE</b>	)	<b>JASON BRISTOL</b>

**NATURE OF THE APPLICATION**

The Applicant has sought an approval for a Minor Land Partition #MLP 13-03 resulting in two (2) 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 6-0 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 6-0 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:

- Remove Condition #6 regarding the creation of an access parcel and remove Parcel 3 and any references to Parcel 3 with this minor partition request

- Allow for an access easement on the western edge of Parcel 2 if the applicant can determine a legal solution
- If there is a code provision that prohibits an applicant from re-applying for a partition on the same parcel(s) within a certain period of time, then this provision should be waived for the subject parcels so that the applicant may re-apply for a partition if necessary to find a suitable solution for access to 1065 North Maple
- The average size of all parcels shall be 7,000 square feet

### **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 15' 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 and 2. This easement may be combined with other utility and sidewalk easements and shall be measured from the property boundary.

6. *Condition removed by the Planning Commission.* The Planning Commission does not approve the creation of “Special Purpose Parcel 3” as indicated on Preliminary Partition Plat dated 8/7/13.
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 work with the City Arborist on the selection, spacing, and establishment of street trees along the proposed parcels for this partition.
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.

**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 25<sup>th</sup> day of November, 2013

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

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

\_\_\_\_\_  
Attest

**ORAL DECISION: October 28, 2013**

**WRITTEN DECISION: November 25, 2013**

**Ayes:**

**Ayes:**

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**Noes:**

**Noes:**

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**Abstain:**

**Abstain:**

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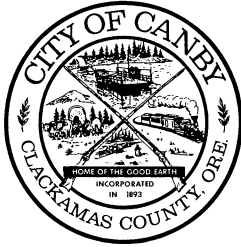
**Absent:**

**Absent:**

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

<b>A REQUEST FOR A MINOR LAND</b>	)	<b>FINDINGS, CONCLUSION &amp; FINAL ORDER</b>
<b>PARTITION</b>	)	<b>MLP 13-02</b>
<b>AT 341 N. CEDAR</b>	)	<b>GORILLA CAPITAL CL 6, LLC</b>

**NATURE OF THE APPLICATION**

The Applicant has sought an approval for a Minor Land Partition #MLP 13-02 resulting in two (2) total parcels on property described as Tax Lot 31E32DD03700, Clackamas County, Oregon. The property is zoned High Density Residential (“R-2”) under the Canby Municipal Code (“CMC”).

**HEARINGS**

The Planning Commission considered application MLP 13-02 after the duly noticed hearing on November 25, 2013 during which the Planning Commission approved by a \_\_\_ vote to approve MLP 13-02. 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 November 25, 2013 and presented at the November 25, 2013 meeting of the Canby Planning Commission.

**FINDINGS AND REASONS**

The Planning Commission considered application MLP 13-02 after the duly noticed hearing on November 25, 2013 during which the Planning Commission approved by a \_\_\_ vote to approve MLP 13-02. 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:

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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 13-02 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 13-02, 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 13-02** 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 13-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of this *Canby Land Development and Planning Ordinance*. Approval of this application is based on the following submissions:
  - a. Preliminary Partition Drawing submitted 10/28/2013
  - b. Minor Partition Land Use Application and narrative

- c. All other materials submitted in conjunction with the MLP 13-02 application
2. A final surveyed partition plat shall be prepared by a licensed surveyor or engineer.
3. The final surveyed partition plat shall show or note existing structure setback from the interior property line in order to verify compliance with the 7' setback standard of 16.20.030(C).
4. The City Engineer or County surveyor shall verify that the survey accuracy standards of 16.64.070(M) are met prior to the recordation of the final partition plat.
5. The applicant shall apply for a final plat at the city and pay any applicable city fees to gain approval of the Final Partition Plat to be filed of record to implement this minor partition approval. Prior to the recordation of the 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
6. Clackamas County Surveying reviews **pending partition plat documents for Oregon statutes and county requirements. The partition plat must be recorded at Clackamas County** within one year of approval or the applicant must request that the Planning Director approve a one-year extension for recordation of the approved final plat.
7. The development shall comply with all applicable City of Canby Public Works Design Standards.
8. On-site stormwater management for any new construction shall be designed in compliance with the Canby Public Works Design Standards.
9. Any new driveways are required to obtain a city Street Opening permit in order to verify compliance with the code's access spacing standards.

**I CERTIFY THAT THIS ORDER** approving **MLP 13-02** was presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this 25<sup>th</sup> day of November, 2013

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

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

\_\_\_\_\_  
Attest

**ORAL DECISION: November 25, 2013**

**Ayes:**

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**Noes:**

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**Abstain:**

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**Absent:**

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**WRITTEN DECISION: November 25, 2013**

**Ayes:**

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**Noes:**

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**Abstain:**

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**Absent:**

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