

PLANNING COMMISSION

Meeting Agenda

Monday, August 12, 2019

7:00 PM

City Council Chambers – 222 NE 2nd Avenue

Commissioner John Savory (Chair)

Commissioner Larry Boatright (Vice Chair)

Commissioner Derrick Mottern

Commissioner Andrey Chernishov

Commissioner Ryan Adams

Commissioner Jeff Mills

Commissioner Jennifer Trundy

1. **CALL TO ORDER**

a. Invocation and Pledge of Allegiance

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

(This is an opportunity for audience members to address the Planning Commission on items not on the agenda. Each person will be given 3 minutes to speak. You are first required to fill out a testimony/comment card prior to speaking and hand it to the Recording Secretary. These forms are available by the sign-in podium. Staff and the Planning Commission will make every effort to respond to questions raised during citizen input before tonight's meeting ends or as quickly as possible thereafter.)

3. **MINUTES**

4. Approval of Planning Commission Minutes for July 22, 2019.

5. **NEW BUSINESS**

6. **PUBLIC HEARING**

(To testify, please fill out a testimony/comment card and give to the Recording Secretary.)

a. To consider a Minor Land Partition application. Applicant proposes to partition an existing 0.49-acre parcel (21,344 square feet), located at 1225 S. Fir Street, into two parcels of 11,966 square feet (Parcel 1), and 8,542 square feet (Parcel 2), respectively. (MLP 19-02 Martin Clark)

b. City Staff is requesting consideration of a legislative text amendment to update Chapter 16.08 *General Provisions*, Section 16.08.140 *Temporary Vendor* of the *Canby Land Development and Planning Ordinance* Title 16 Canby Municipal Code. (TA 19-02).

7. **FINAL DECISIONS - None**

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

a. Minor Land Partition (MLP 19-02)

b. Legislative Text Amendment, Chapter 16.08 General Provisions, Section 16.08.140 *Temporary Vendor* of the *Canby Land Development and Planning Ordinance* Title 16 Canby Municipal Code. (TA 19-02)

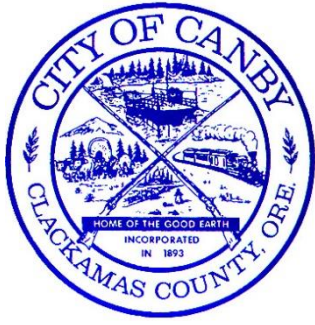
8. **ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

a. Next regularly scheduled Planning Commission meeting – Monday, August 26, 2019

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

10. **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.canbyoregon.gov. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503-263-6287.



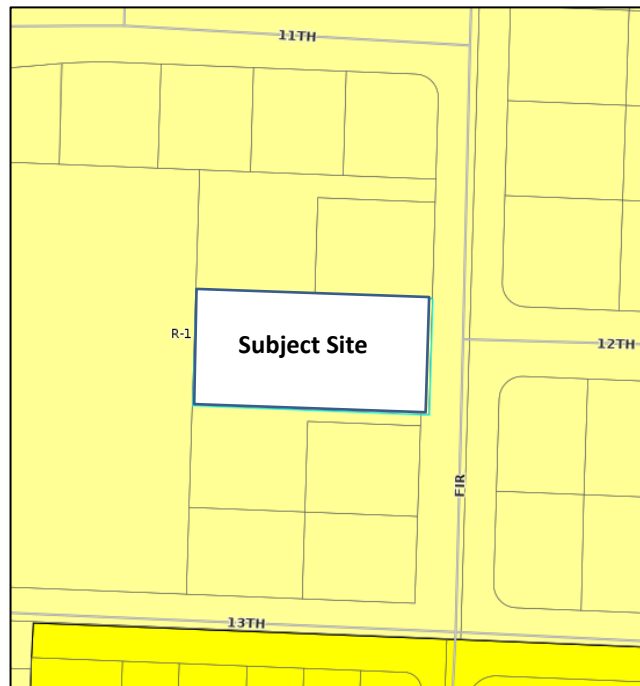
City of Canby

File #: MLP 19-02 – 1225 South Fir Street

HEARING DATE: August 12, 2019
STAFF REPORT DATE: August 2, 2019
TO: Planning Commission
STAFF: Sandy Freund, AICP, Senior Planner

Applicant Request

The applicant is seeking approval to partition an existing 0.49 acre parcel (21,344 square feet), located at 1225 South Fir Street, into two parcels of 11,966 square feet (Parcel 1), and 8,542 square feet (Parcel 2) respectively.



Staff Recommendation

Based on the application submitted and the facts, findings, and conclusions of this report, staff recommends that the Planning Commission **Approve** MLP 19-02 pursuant to the Conditions of Approval presented in *Section VI* at the end of this report.

Property/Owner Information

Location: 1225 S. Fir Street
Tax Lots: 41E 04BD 08000
Property Size: ±0.49 are
Comprehensive Plan: LDR – Low Density Residential
Current Zoning: R-1 Low Density Residential
Owner: Allen and Katherine Holt
Applicant: Martin Clark Construction Inc.
Application Type: Minor Partition (Type III)
City File Number: MLP 19-02

Attachments

- A.** Land Use Application – Minor Partition Type III
- B.** Application Narrative
- C.** Proposed Partition Plat
- D.** Deed of Trust

I. Project Overview & Existing Conditions

The subject property is located on the west side of South Fir Street, halfway between SW 11th Avenue and SW 13th Avenue. The ±0.49-acre site is rectangular in shape and equidistant on both the north and south sides with street frontage along South Fir Street. It is zoned R-1, Low Density Residential with a Comprehensive Plan designation of Low Density Residential (LDR). Minimum and maximum lot sizes for single-family residential in the R-1 zone are 7,000 square feet and 10,000 square feet, respectively.

The subject property is bordered on the north and south by residential uses on parcels also zoned for R-1 uses, already been partitioned, and developed with single-family residential homes on each property. Immediately to the west (rear) of the subject site are two large water storage tanks owned by Canby Utility.

II. Applicable Criteria & Findings

In addition to components of the City of Canby Comprehensive Plan, applicable criteria used in evaluating this application are listed in the following sections of the *City of Canby's Land Development and Planning Ordinance*:

- 16.08: General Provisions
- 16.10: Off-street Parking and Loading
- 16.26: R-1 Low Density Residential Zone
- 16.21: Residential Design Standards
- 16.46: Access Standards
- 16.56: General Provisions
- 16.60: Major or Minor Partitions

- 16.64: Subdivisions – Design Standards
- 16.88: General Standards and Procedures
- 16.89: Application and Review Procedures

III. **Summary of Findings**

Consistent with Section 16.04.470 of the *Canby Land Development and Planning Ordinance*, Chapter 16 of the Municipal Code, the proposed partition qualifies as a Minor Partition as it would divide the subject property into “two or three parcels” and would “not include the creation of a road or street.” Additionally, Section 16.60.040 *Minor Partitions*, of the *Canby Land Development and Planning Ordinance*, further states the partition shall be evaluated based upon the following standards and criteria.

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

Facts and Findings:

The adopted City of Canby Comprehensive Plan identifies overall acreage of properties zoned R-1 within the city limits. The subject site is currently zoned R-1 Low Density Residential, and meets the requirements, as envisioned in the Comprehensive Plan text and applicable maps, to allow partitioning in accordance with Chapter 16 of the Municipal Code. Staff finds this request is consistent with applicable policies of the Comprehensive Plan. Therefore, staff finds this criterion has been met.

B. Conformance with all other applicable requirements of the Land Development and Planning Ordinance.

Facts and Findings:

Section 16.08.070 Illegally created lots. In no case shall a lot created in violation of state statute or city ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied. Based on available information, it appears that the subject tax lot is a remnant parcel left from past partitions or subdivision of a larger property. The deed provided by the applicant identifies the property (recorded on January 6, 1971 as Recorder’s Fee No. 71-293) in its current configuration. Staff is not aware of any other deed that describes the property in a different configuration, thus the lot is considered a legally created parcel for land use development purposes.

Section 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. At the time of development permit application submittal, the applicant shall demonstrate that the property has or will have the following:

- a. Adequate street drainage;
- b. Street intersection with the driveway provides clear vision and safe access;
- c. Public utilities are available and adequate to serve the new home.

- d. Access on a public street meeting a minimum paved width of 16 feet along the site's frontage.

Section 16.10 Off-street Parking and Loading. At the time of establishment of a new structure or use, change in use...off-street parking shall be provided. This typically will occur at the time of a Site Plan Review application for a new single-family home proposed on the newly created lot. Table 16.10.050 of the Municipal Code requires that each single-family dwelling provide two (2) off-street parking spaces. The subject property currently has a covered carport accessed by a ±46.4 foot long driveway, which taken together provide for the off-street parking for the existing single-family home. At the time of Site Plan Review application for new home construction, the applicant shall be required to demonstrate and provide two (2) off-street parking spaces in accordance the Code.

Section 16.16 R-1 Low Density Residential Zone. Uses permitted outright in the R-1 zone shall be as follows: A. Single-family dwelling; one single-family dwelling per lot. The applicant proposes one dwelling for the newly proposed lot. There is an existing dwelling on the subject site and a carport.

Section 16.16.030 Development Standards. The R-1 zone requires that residential development achieve a minimum lot size of 7,000 square feet and a maximum lot size of 10,000 square feet per single-family dwelling. The subject site is ±21,344 square feet. The applicant proposes the newly created Parcel 2 will be ±8,542 square feet, leaving the existing Parcel 1 at ±11,966 square feet; proposed Parcel 2 is well within the minimum and maximum lot size range of the R-1 zoning district. Once partitioned, Parcel 1 will be ±11,966 square feet, exceeding the maximum lot size of 10,000 square feet. However, per Section 16.16.030(A) the maximum lot standard does not apply to single family dwellings existing at the time of subdivision or partition plan approval. Therefore this standard has been met.

Section 16.46 Access Limitations on Project Density. The subject site has direct access to/from South Fir Street, defined as a 2-lane Local street per the city's Functional Classification of the Transportation System Plan (TSP, Figure 7-1). The applicant proposes a 20-foot wide private driveway access, approximately 119.13 feet in length, immediately adjacent to the existing driveway which serves the existing single-family residence. The proposed flag-lot driveway will act as private access easement for the benefit of Lot 2. Per the Public Works Design Standards, and city Engineer, the new driveway must be paved in its entirety, as well as meet all ADA standards as required by the Public Right-of-Way Accessibility Guidelines, and be a minimum of 20-feet in width, hard surfaced, if it exceeds one hundred feet in length. The driveway approach shall be a minimum of 5-feet away from the existing driveway located on Parcel 1.

Section 16.64 Subdivisions – Design Standards. The proposed flag lot shall demonstrate compliance with Section 16.64.040 (l) *Flag lots or Panhandle-shaped Lots*. Specifically the existing carport on Parcel 1 shall maintain a minimum building setback (including eaves) of five (5) feet from the access strip. As configured, the existing carport on Parcel 1 will not meet the minimum 5-foot setback from the easement edge of the proposed 20-foot wide driveway access. In order to comply

with this section of Code, the applicant shall either:

- a. Remove 3 feet of the carport on Parcel 1 (including any eaves), so as to meet the minimum 5-foot setback from easement edge of the 20-foot wide driveway access easement; or,
- b. Relocate the carport to a different location on Parcel 1; or,
- c. Reduce the overall length of the new proposed driveway access to no greater than 100 feet. This can be achieved by reducing Parcel 1 to no less than 7,000 square feet, and increasing the size of proposed Parcel 2 to no greater than 10,000 square feet. The subject property is sufficiently large enough to accommodate a re-design of the lots and stay within the minimum and maximum lot size of the R-1 zoning district.
 - If the driveway access is reduced to no greater than 100 feet in length, the code permits the access strip to be reduced to twelve feet in width. This option would allow for the carport to maintain its current size and position on Parcel 1.

Staff finds this request is consistent with all other applicable requirements of the Land Development and Planning Ordinance. Staff has provided conditions of approval referencing the above options for the applicant. Therefore, staff finds, as conditioned, this criterion has been met.

C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.

The applicant states in the narrative and application that the proposed lot will be designed to accommodate one single-family residence, and meet the R-1 setbacks accordingly; as well as provide access to the new lot, and all utilities, including utility easements as required by Canby Utility and Canby Public Works. The applicant states that all existing arborvitae and other trees and shrubs located on the north side of the property will be removed prior to the installation of all utilities.

Table 16.89.020 Land Use and Development Application Procedures. The proposed Minor Partition does not require a neighborhood meeting.

Traffic Study. The minor partition of the subject property into two (2) lots does not generate enough new daily trips to warrant a traffic study.

Staff finds the overall design and arrangement of the new flag lot will function adequately and provide the required utility easements, and access without unduly hindering the development or use of adjacent properties. Therefore, staff finds this criterion has been met.

- 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.**

The proposed flag lot will provide direct access to and from South Fir Street. Because the proposed driveway access will exceed 100 feet in length, it must be a minimum of 20-feet in width and paved, as well as provide for 13 and ½ feet of ground clearance from the final finished grade in order to provide enough width and height for unhindered use by emergency vehicles.

Staff finds the applicant's proposed 20-foot wide driveway access to the rear of the new flag lot will be safe and sufficient, and provide for unhindered use by emergency vehicles. Therefore, staff finds, as conditioned, this criterion has been met

- 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.**

There is a drywell under S. Fir Street, directly across from the existing subject site with four lateral storm lines attached to it. The applicant has indicated on the submitted preliminary Plan Map, that the utilities will be placed within the 20-foot wide private access easement. The applicant shall work with Canby Utility and city Public Works Department in order to provide the appropriate connections to all required utilities as well as demonstrate final utility easement placement, prior to final map recordation. Therefore, staff finds, as conditioned, this criteria has been met.

IV. Public/Agency Comments

Notice of this application and opportunity to provide comment was mailed to owners and residents of lots within 200 feet of the subject property and to all applicable public agencies. Staff has received conditions of approval from the City Engineer, and the Canby Fire Marshall.

Canby Fire:

The Fire Marshal has requested the 20-foot wide access easement be paved as well as provide for 13 and ½ feet of clearance as measured from grade level up. This is in order to provide unhindered clearance for emergency vehicles, specifically fire trucks. The Fire Marshall has also requested that at the time of construction of a new single-family residence, that residence contain fire sprinklers.

City Engineer:

The City Engineer has conditioned that the private access driveway be constructed to ADA standards.

V. Conclusion

Staff has reviewed the applicant's narrative and submitted application materials and finds that this Minor Partition application conforms to the applicable review criteria and standards, subject to the conditions of approval noted in Section VI of this report.

VI. Conditions of Approval

A. Minor Partition Conditions Unique to this Request:

1. The new home on Parcel 2 may be subject to the residential infill standards. The home builder shall meet all applicable infill home evaluation criteria listed in Section 16.21.050 of the Land Development and Planning Ordinance, Chapter 16 of the Municipal Code. These criteria shall be addressed to assure code compliance at the time of submittal of a site plan review and building permit.
2. Any possible utility easement needs across the frontage of South Fir Street by utility service providers shall be made a part of the recorded partition plat with a note on the plat.
3. The driveway access easement shall meet either the minimum 12-foot or 20-foot paved minimum width standard, as stated in Section 16.64.040 (1)(2), dependent upon the final configuration of the proposed flag lot driveway access length. The applicant shall either:
 - a. Remove 3-feet from the existing carport on Parcel 1 (including any eaves), in order to meet the 5-foot minimum setback from the paved driveway access easement edge; or,
 - b. Relocate the existing carport on Parcel 1 to a different location in order to maintain the minimum 5-foot setback from the paved driveway access easement edge; or,
 - c. Reduce the overall proposed paved driveway access to no greater than 100 feet in length. This can be achieved by reducing Parcel 1, and increasing the size of proposed Parcel 2 to no greater than 10,000 square feet.
4. The applicant shall maintain a 10-foot separation between driveways, as required by Public Works.
5. The existing carport on Parcel 1 shall maintain a minimum 5-foot setback from the paved driveway access easement edge at all times.
6. The applicant shall meet the provisions stated by the City Engineer in comments received on July 24, 2019.

- B. Public Improvements:** The development shall comply with all applicable City of Canby Public Works Design Standards.

Fees/Assurances:

7. All public improvements are typically installed prior to the recordation of the final plat. If the applicant wishes to forgo construction of any portion of the public improvements until after the recordation of the final plat, then the applicant shall provide the City with appropriate performance security (subdivision performance bond or cash escrow) in the amount of 110% of the cost of the remaining public improvements to be installed.

C. Final Plat:

8. The applicant shall apply for final plat approval at the City and pay any applicable City fees to gain approval of the final partition plat. Prior to the recordation of the final plat at Clackamas County, it must be approved by the City and all other applicable agencies. The City will distribute the final plat to applicable agencies for comment prior to signing off on the final plat if deemed necessary.
9. All public improvements or submittal of necessary performance security assurance shall be made prior to the signing and release of the final plat for filing of record.
10. The final plat shall conform to the necessary information requirements of CMC 16.68.030, 16.68.040(B), and 16.68.050. The City Engineer or County Surveyor shall verify that these standards are met prior to the recordation of the plat.
11. Clackamas County Surveying reviews pending partition plat documents for Oregon Statutes and County requirements. A final plat prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval within one year of approval of the tentative plat or formally request an extension of up to 6-months with a finding of good cause.
12. The applicant shall record the final plat at Clackamas County within 6 months of the date of the signature of the Planning Director.
13. The applicant shall assure that the City is provided with a copy of the final plat in a timely manner after it is recorded at Clackamas County, including any CC&Rs, if applicable, recorded in conjunction with the final plat.

Easements

14. The placement of the utility easement shall be noted on the final plat. This easement may be combined with other easements and shall be measured from the property boundary.

Monumentation/Survey Accuracy:

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

D. Residential Building Permit(s):

17. The applicant shall secure a Street Opening and/or Driveway Construction permit for all paved driveway or utility installations associated with the new vacant Parcel 2. Said permit shall comply with the City's Public Works Design Standards.

- 18.** Construction of all required public improvements and the recordation of the Partition Plat shall be completed prior to the issuance of building permits and comply with all applicable City's Public Works Design Standards.
- 19.** The homebuilder shall apply for a City of Canby Site Plan Permit \and Clackamas County Building permit for any proposed single-family residence on Parcel 2.
- 20.** The homebuilder for Parcel 2 shall apply for a City of Canby Erosion Control Permit from the Public Works Department.
- 21.** All on-site storm water management shall be designed in compliance with the Canby Public Works Design Standards when development is proposed for Parcel 2.
- 22.** Clackamas County Building Codes division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for all new home construction. The applicable county building permits are required prior to the construction of a. new single-family residence.



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

LAND USE APPLICATION

MINOR PARTITION Process Type III MAJOR PARTITION Process Type III

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

Applicant Name: Martin Clark Const. Inc. Phone: 503-266-1139 or 503-348-0128
 Address: P.O. Box 102 Email: obedience1950@gmail.com
 City/State: Canby Zip: 97013

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

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

Property Owner Name: Allen & Katherine Holt Phone: 503-266-8774
 Signature: _____
 Address: 1225 S.W. Fir, Canby, OR 97013 Email: _____
 City/State: _____ Zip: _____

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

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

PROPERTY & PROJECT INFORMATION:

1225 S. Fir, Canby ☰ ± .47 ac Parent Tax Lot
 Street Address or Location of Subject Property Structure Total Size of Property Assessor Tax Lot Numbers 41E04 BD 08000

existing SFR and detached R-1 LDR
 Existing Use, Structures, Other Improvements on Site Zoning Comp Plan Designation

Create a flag lot
 Describe the Proposed Development or Use of Subject Property

| STAFF USE ONLY | | | | |
|------------------|----------------|-------------|-------------|-------------------|
| <u>MLP 19-02</u> | <u>5/24/19</u> | <u># #</u> | <u>1919</u> | |
| FILE # | DATE RECEIVED | RECEIVED BY | RECEIPT # | DATE APP COMPLETE |

PARTITION (MINOR OR MAJOR) – TYPE III–INSTRUCTIONS

All required application submittals detailed below must also be submitted in electronic format on a CD, flash drive or via email: PlanningApps@canbyoregon.gov

Applicant City
Check Check

One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.

Payment of appropriate fees – cash, check or credit card. Refer to the city's Master Fee Schedule for current fees. Checks should be made out to the *City of Canby*.
"Major" Partition – includes the creation of a road or street.
"Minor" Partition – does not include the creation of a road or street.

Please submit one (1) electronic copy of mailing addresses in either an EXCEL SPREADSHEET or WORD DOCUMENT for all property owners and all residents within 200 feet of the subject property. **If the address of a property owner is different from the address of a site, an address for each unit on the site must also be included and addressed to "Occupant."** A list of property owners may be obtained from a title insurance company or from the County Assessor's office.

One (1) copy of a written, narrative statement describing the proposed development and detailing how it conforms with the Municipal Code and to the approval criteria. **Ask staff for applicable Municipal Code chapters and approval criteria.**
Applicable Code Criteria for this application includes:

No Neighborhood Meeting is required

One (1) copy in written format of the minutes of the pre-application meeting

One copy of either the recorded plat or the recorded deeds or land sales contracts that demonstrates how and when legal property lines were established and where the boundaries of the legal lot(s) of record are located. If the property is a lot or parcel created by plat, a copy of the recorded plat may be obtained from the Clackamas County Surveyor's office. If the property is a legal lot of record created by recorded deed or land sales contract at a time when it was legal to configure property lines by deed or contract, then those recorded deeds may be obtained from the Clackamas County Office of the Clerk, or a Title Company can also assist you in researching and obtaining deeds.

Applicant City
Check Check

~~STX~~ ~~STX~~

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

~~X~~ ~~X~~

Two (2) 11" x 17" paper copies of the proposed plans, printed to scale no smaller than 1"=50'. The plans shall include the following information:

- Vicinity Map. Vicinity map at a scale of 1"=400' showing the relationship of the project site to the existing street or road pattern.
- Name of Proposed Partition Plat (subject to review and approval by Clackamas County).
- Partition boundary, parcel lines, parcel dimensions, gross area in square feet of each parcel (excluding the square footage of access ways for flag lots), and proposed public and private easements;
- If any undevelopable tract is proposed to be created, the dimensions, gross area, and purpose of the tract shall be included.
- If any oversized parcels are proposed, which in the opinion of the Planning Director are likely to be further divided in the future, provide an illustration of how the parcel could be further divided in conformance with all CMC standards in a manner which provides for continuation of streets and provides adequate building envelopes.
- Site Plan-the following general information shall be included on the site plan:
 - Property lines (legal lot of record boundaries);
 - Location of all proposed hardscape, including driveways, parking lots, compact cars and handicapped spaces, loading areas, bicycle paths, bicycle parking, sidewalks, and pedestrian ways;
 - Callouts to identify dimensions and distances between structures and other significant features, including property lines, yards and setbacks, building area, building height, lot area, impervious surface area, lot densities and parking areas;
 - Location of vision clearance areas at all proposed driveways and streets.
 - Location and description of all existing structures (i.e., buildings, signs, fences, mechanical or utility structures, etc.) on the property, including those under construction or pending under an issued building permit. Indicate which structures are to remain and which are to be removed. For structures to remain, call out the distance between the structure and all proposed boundaries of the parcel upon which the structure is located.
 - Location and proposed disposition of all existing: driveways, wells, septic tanks, drain fields, easements, drainage ways, and jurisdictional watercourses or wetlands on or abutting the property.
 - Location, names, right-of-way width, improvement dimensions, curve radius, and grades of all existing and proposed streets and public access ways within the proposed partition and abutting the partition.
 - Identify the classification of all streets in accordance with the Canby Transportation System Plan. Show typical cross-sections of proposed street improvements, including identification of proposed street trees. Provide street center profiles showing the finished grade of all streets as approved by the City Engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
 - Location and type of existing and proposed transit facilities.
 - Location of all proposed utilities, including sewer, water, storm water, electric, telephone, and natural gas; including utility sizes and grades.

MARTIN CLARK CONSTRUCTION, INC.

P.O. Box 102 * Canby, Oregon 97013* 503-266-1139 * Fax 503-266-1151 CCB #21960

RECEIVED

By Canby Planning at 10:24 am, Jun 12, 2019

June 12, 2019

City of Canby Planning commission,

This letter is to request the creation of flag lot minor petition on property located at 1225 S Fir, Canby Oregon. Owned by Allen and Katherine Holtz T.L. 41E04B0080000. I understand this property qualifies for this partition request per city code Low Density Residential chapter 16.16.010 of the cities Land Development and Planning Ordinance. The access to this proposed flag lot is the northers 20 feet of the existing lot.

A sewer manhole is directly in front of the proposed 20' access and is 7' deep.

The water mainline is in Fir street and will be tapped for a meter. A power utility vault is located just South of the 20' access on the same side of Fir Street.

There is an existing shop on the property that will be removed. The newly created lot is to be 100.57' X 85' plus the flag access of 20 X 119.13 for a total of 10,931.1 sq. ft. There is and existing arbrivita hedge located on the North side of the property that will be removed before utilities are installed to the building site. The 20' X 119.3 access road will be paved. The approach to the driveway will be concrete per city code.

I will be building a new single family home on the lot per all codes and requirements of the city of Canby and Clackamas County. As many as possible of the existing shrubs and trees will be saved.

Sincerely,
Martin Clark Construction, Inc.

Martin Clark, pres.

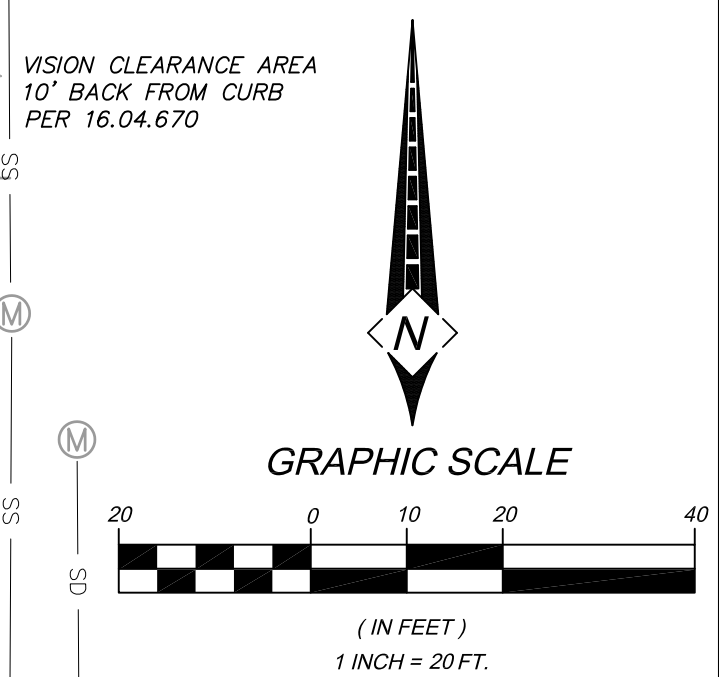
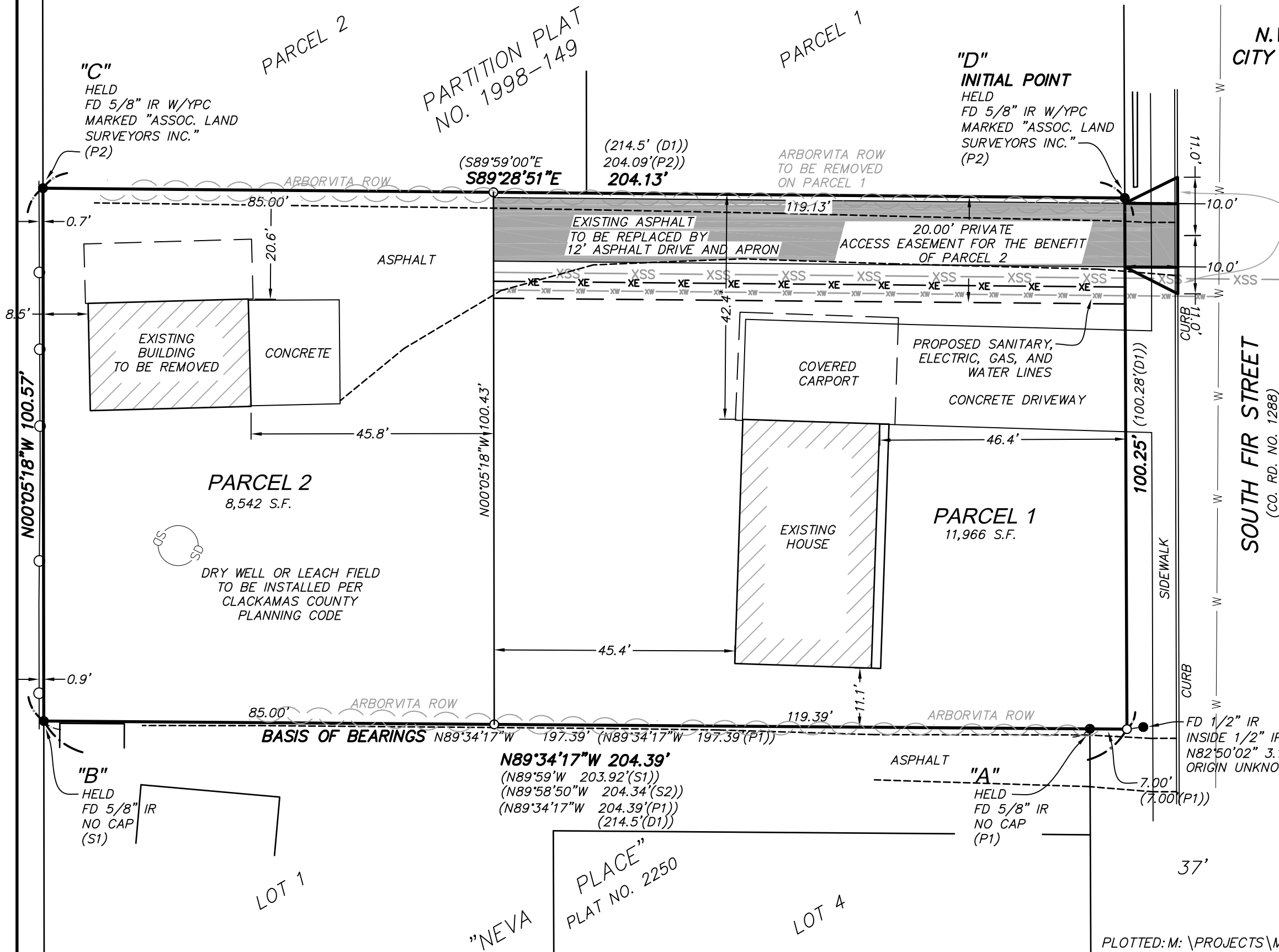
by: Martin Clark, President

RECEIVED

By Canby Planning at 4:18 pm, Jul 02, 2019

PRELIMINARY PLAN MAP

LOCATED IN THE
N.W. 1/4 OF SECTION 4, T.4S., R.1E., W.M.
CITY OF CANBY, CLACKAMAS COUNTY, OREGON
JUNE 13, 2019 SCALE 1"=20'
PLANNING FILE NO.
SHEET 1 OF 1



CENTERLINE CONCEPTS
LAND SURVEYING, INC.
 30376 MOLALLA AVE., SUITE 120
 OREGON CITY, OREGON 97045
 PHONE 503.650.0188 FAX 503.650.0189

PLOTTED: M:\PROJECTS\MARTIN CLARK CONST-FIR ST-S-1225\DWG\PLAN MAP.dwg

RECEIVED
By Canby Planning at 1:28 pm, Jul 01, 2019

AS CONFIGURED
NOW *[Signature]*

WHEN RECORDED MAIL TO
OREGON PIONEER SAVINGS AND LOAN
401 S. W. 3th
Portland, Oregon 97204

SPICE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST

THIS DEED OF TRUST is made this 9th day of February 1978, among the Grantor, DAVID ALLEN BAKER AND LINDA DYANE BAKER, husband and wife (herein "Borrower"), PIONEER NATIONAL TITLE INSURANCE COMPANY, a California corporation (herein "Trustee"), and the Beneficiary, OREGON PIONEER SAVINGS AND LOAN ASSOCIATION, a corporation organized and existing under the laws of Oregon, whose address is 401 S. W. 3th Avenue, Portland, Oregon 97204 (herein "Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County of Clackamas, State of Oregon:

A parcel of land in Section 4, Township 4 South, Range 1 East, of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

Beginning at a point 2 rods West and 3.08 chains North of the center of said Section 4; thence North parallel with the North-South center line of said Section 4, a distance of 100.28 feet to the Southeast corner of a tract of land conveyed to Paul E. Roth, et ux, by Warranty Deed as Recorder's Fee No. 71-293, recorded January 6, 1971, Clackamas County Deed Record; thence West along the South line of said Roth tract, 214.5 feet, more or less, to the Southwest corner of said Roth tract; thence South parallel with the North-South center line of said Section 4, a distance of 100.28 feet; thence East 214.5 feet, more or less, to the point of beginning.

SAVED TITLE INSURANCE COMPANY

which has the address of 1225 S. Elm Street, Canby Oregon 97013 (herein "Property Address");
(Street) (City) (State and Zip Code)

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are herein referred to as the "Property".

To SECURE to Lender (a) the repayment of the indebtedness evidenced by Borrower's note dated (herein "Note"), in the principal sum of THIRTY EIGHT THOUSAND AND NO/100ths Dollars, with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on March 1, 2008, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained; and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances").

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

OREGON 1 to 4 Family 6-75- TRIUNFALM UNIFORM INSTRUMENT 78 (100)

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest on the indebtedness evidenced by the Note, prepayment and late charges as provided in the Note, and the principal of and interest on any Future Advances secured by this Deed of Trust.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly installments of principal and interest are payable under the Note, until the Note is paid in full, a sum therein "Funds" equal to one-twelfth of the yearly taxes and assessments which may attach prior to the date of this Deed of Trust, and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for or to holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Deed of Trust that interest on the Funds shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Deed of Trust.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 10 days from the date notice is mailed by Lender to Borrower requesting payment thereof.

Upon payment in full of all sums secured by this Deed of Trust, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 18 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Deed of Trust.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, then to the principal of the Note, and then to interest and principal on any Future Advances.

4. **Charge Lien.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attach prior to this Deed of Trust, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Deed of Trust; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing in the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Deed of Trust.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. If under paragraph 18 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

6. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust is on a leasehold. If this Deed of Trust is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Deed of Trust, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Deed of Trust as if the rider were a part hereof.

7. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. If Lender requires mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Deed of Trust such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

10. **Borrower Not Released.** Extension of the time for payment or modification of amortization of the sums secured by this Deed of Trust granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower and Borrower's successors in interest.

11. **Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy, or the procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

12. **Remedies Cumulative.** All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. **Successors and Assigns Bound; Joint and Several Liability Capable.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

14. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

15. **Uniform Deed of Trust Governing Law; Severability.** This form of deed of trust combines uniform covenants for nationwide use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Deed of Trust shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust and the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.

17. **Transfer of the Property; Assumption.** If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not constituting an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Deed of Trust shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

18. **Acceleration; Remedies.** Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 14 hereof specifying (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be (immediately) due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall give notice of sale in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of file evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

19. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust, Borrower shall have the right to have any proceedings begun by Lender to enforce this Deed of Trust discontinued at any time prior to the earlier to occur of (i) the fifth day before sale of the Property pursuant to the power of sale contained in this Deed of Trust or (ii) entry of a judgment enforcing this Deed of Trust if (a) Borrower pays Lender all sums which would be then due under this Deed of Trust, the Note and notes securing Future Advances, if any, had no acceleration occurred, (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreements of Borrower contained in this Deed of Trust and in enforcing Lender's and Trustee's remedies as provided in paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums

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secured by this Deed of Trust shall continue unimpaird. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. Assignment of Rents: Appointment of Receiver Lender in Possession. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 18 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 18 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

21. Future Advances. Upon request of Borrower, Lender, at Lender's option prior to full reconveyance of the Property by Trustee to Borrower, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Deed of Trust when evidenced by promissory notes maturing that said notes are secured hereby.

22. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.

23. Substitute Trustee. In accordance with applicable law, Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

24. Use of Property. The Property is not currently used for agricultural, timber or grazing purposes.

25. Attorney's Fees. As used in this Deed of Trust and in the Note, "attorney's fees" shall include attorney's fees, if any, which shall be awarded by an appellate court.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

David Allen Baker
DAVID ALLEN BAKER Borrower
Linda Diane Baker
LINDA DIANE BAKER Borrower

STATE OF OREGON, ... Clackamas County ss:

On this 14th day of February 19 78, personally appeared the above named DAVID ALLEN BAKER AND LINDA DIANE BAKER, husband and wife and acknowledged the foregoing instrument to be shall voluntary act and deed.

(Official Seal)
My Commission expires:
August 24, 1981

Before me:
Patricia L. McNeil
Patricia L. McNeil
Notary Public for Oregon

REQUEST FOR RECONVEYANCE

To Trustee:

The undersigned is the holder of the note or notes secured by this Deed of Trust. Said note or notes, together with all other indebtedness secured by this Deed of Trust, have been paid in full. You are hereby directed to cancel said note or notes and this Deed of Trust, which are delivered hereby, and to reconvey, without warranty, all the estate now held by you under this Deed of Trust to the person or persons legally entitled thereto.

Date:

STATE OF OREGON
County of Clackamas
I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clackamas, do hereby certify that the within instrument of writing is a true and correct copy as recorded in the records of said county at

78 FEB 15 3:57



Requesting Certificate
CCP-186
78 65329

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AS CONFIGURED
NON-RECORDED

1970
1967/20
105-790
STATE ENGINEER LAW FOR THE STATE OF OREGON

KNOW ALL MEN BY THESE PRESENTS, That FRANK K. NICHOLAS and ALBERTA H. NICHOLAS, husband and wife

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by PAUL E. ROTH and CAROLYN M. ROTH, husband and wife

hereinafter called the grantee, hereinafter called the grantor, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereto belonging or appertaining, situated in the County of CLACKAMAS and State of Oregon, described as follows, to-wit:

Part of Section 4, T. 4 S., R. 1 E., W. 4 N., described as follows:
Beginning at a point 2 rods West and 3.08 chains North of the Center of said Section 4; thence North parallel with the north-south center line of said Section 4, a distance of 3.08 chains to the true place of beginning; thence West, parallel with the east-west center line of said Section 4, a distance of 24.5 feet, more or less, to a point which is 24.5 feet East of the east line of that certain tract of land conveyed to M. Veata Clark, et al, in Book 132, page 138, recorded June 9, 1913; thence South, parallel with said north-south centerline 103.0 feet; thence East 24.5 feet, more or less, to the west line of said Clark Tract; thence North 103.0 feet to the true place of beginning.

EXCEPTING THEREFROM that portion in public roads.

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully released in fee simple of the above granted premises, free from all encumbrances except Deed of Trust with Canby Union Bank, beneficiary, and Pioneer National Title Insurance Company, Trustee, dated May 22, 1970, recorded May 27, 1970, Rec No. 70 1010; in the County of Clackamas, State of Oregon which the purchaser hereby agrees to assume and pay.

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

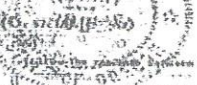
The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 20,000.00
However, the actual consideration consists of or includes other property or value given or promised which is not stated herein.

In witnessing this deed and where the context so requires, the singular includes the plural.
WITNESS grantor's hand this 5th day of January, 1971.

Frank K. Nicholas
Alberta M. Nicholas

STATE OF OREGON, County of CLACKAMAS, ss. January 5, 1971.
I, Notary Public for Oregon, do hereby certify that the above named Frank K. Nicholas and Alberta M. Nicholas

and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Susan L. Roberts
Notary Public for Oregon
My commission expires Dec 18, 1974

COPIES OF DEED
WARRANTY DEED
Frank K. Nicholas, et ux
TO
Paul E. Roth, et ux
AFTER RECORDING RETURN TO
CANNY REALTY CO.
223 S. W. 2nd Ave.
Canby, Ore. 97013

STATE OF OREGON, County of Clackamas
L. George D. Pappas, County Clerk, Ex-Officio
Recorder of Deeds for the County of Clackamas, State of Oregon, do hereby certify that the within instrument of writing was received for recording in the records of the County of Clackamas, Oregon, on this 5th day of January, 1971.
1971 JAN 6 PM 11:27 AM
CLACKAMAS COUNTY
RECORDS & CONVEYANCES
GEORGE D. PAPPAS
County Clerk
Deputy

Laney Fouse

From: Matt English <menglish@canbyfire.org>
Sent: Tuesday, July 23, 2019 10:31 AM
To: Laney Fouse
Subject: Re: Minor Land Partition - S Fir

Hello Laney -

Driveway access needs to be 20 foot wide and 13 foot six inch overhead.
Fire Sprinklers for this structure is requested due to access.

Matt English
Division Chief / Paramedic
Canby Fire District
503.878.0187

www.canbyfire.org

On Jul 22, 2019, at 8:23 AM, Laney Fouse <Fousel@canbyoregon.gov> wrote:

Hello all,
Here the plans and narrative for this minor land partition at 1225 S Fir to create a flag lot. The flag lot has been assigned the address of 1215 S Fir.
Thank you, Laney

*Laney Fouse
Development Services Department
City of Canby
222 NE 2nd Ave, 2nd Floor
Direct Line: 503-266-0685
Main Line: 503-266-7001
fousel@canbyoregon.gov*

*Send Applications to: PlanningApps@canbyoregon.gov
City Website: www.canbyoregon.gov*

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.

PUBLIC RECORDS LEGAL DISCLOSURE

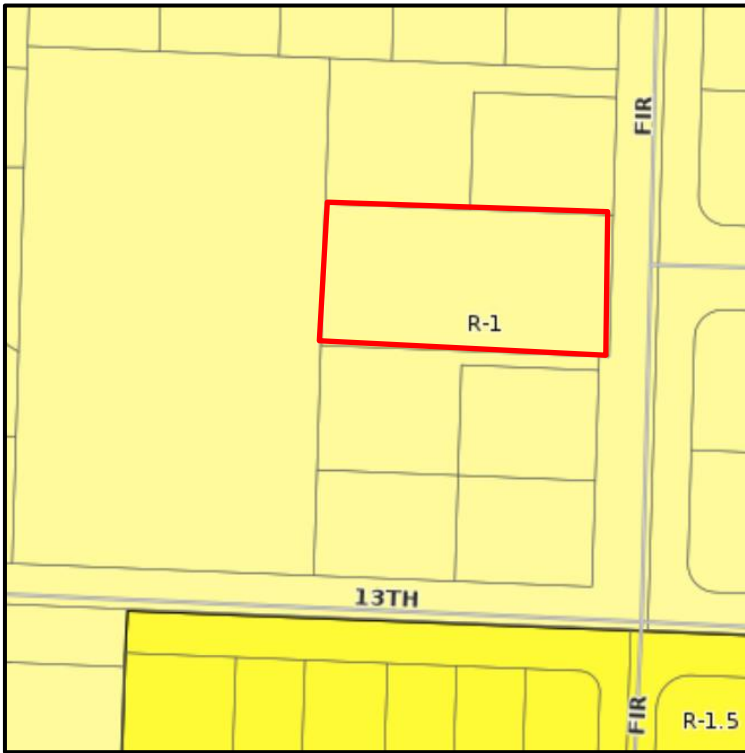
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City of Canby

PUBLIC HEARING NOTICE & REQUEST FOR COMMENTS FORM
City File No.: **MLP 19-02**
Location: **1225 S. Fir Street**
PUBLIC HEARING DATE: August 12, 2019
PLANNING COMMISSION

The purpose of this Notice is to invite you to the Planning Commission Public Hearing on Monday, August 12, 2019, at 7pm in the City Council Chambers, 222 NE 2nd Ave, to consider a Minor Land Partition application (MLP 19-02) and to provide comments (see Comment Form on back). Applicant proposes to partition an existing 0.49 acre parcel (21,344 square feet), located at 1225 S. Fir Street, into two parcels of 11,966 square feet (Parcel 1), and 8,542 square feet (Parcel 2) respectively.



Location: 1225 S. Fir Street (See property outlined in red on map at left).

Tax Lot: 41E 04BD 08000

Lot Size & Zoning: ±0.49 acres, zoned R-1 low Density Residential Zone

Property Owner: Allen and Katherine Hold

Applicant: Martin Clark Construction Inc.

Application Type: Minor Land Partition (Type III)

City File Number: MLP 19-02

Contact: Sandy Freund, AICP, Senior Planner, 503-266-0775, freunds@canbyoregon.gov

Comments due: If you would like your comments to be incorporated into the City's Staff Report, please return the Comment Form by Wednesday, 31, 2019.

Written and oral comments can also be submitted up to the time of the Public Hearing and may also be delivered in person during the Public Hearing.

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? Prior to the Public Hearing comments may be emailed to PublicComments@canbyoregon.gov; mailed to the Planning Department, PO Box 930, Canby, OR 97013; or delivered in person to 222 NE 2nd Ave.

How can I review the documents and staff report? Weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report will be available for inspection starting Friday, August 2, 2019 and can be viewed on the City's website: www.canbyoregon.gov. Copies are available at \$0.25 per page or can be emailed to you upon request.

Applicable Canby Municipal Code Chapters:

- 16.08 General Provisions
- 16.10 Off-Street Parking and Loading
- 16.16 R-1 Low Density Residential Zone
- 16.21 Residential Design Standards
- 16.46 Access Standards
- 16.56 General Provisions
- 16.60 Major or Minor Partitions
- 16.64 Subdivisions-Design Standards
- 16.88 General Standards & Procedures
- 16.89 Application and Review Procedures

Please 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.

CITY OF CANBY –COMMENT FORM

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

E-mail: PublicComments@canbyoregon.gov
By mail: Planning Department, PO Box 930, Canby, OR 97013
In person: Planning Department at 222 NE 2nd Ave

Written comments to be included in Planning Commission packet are due by Wednesday, July 31, 2019.
Written and oral comments can be submitted up to the time of the Public Hearing and may also be delivered in person during the Public Hearing.

Application: MLP 19-02, 1225 S. Fir Street

COMMENTS:

NAME: _____
EMAIL: _____
ORGANIZATION/BUSINESS/AGENCY: _____
ADDRESS: _____
PHONE # (optional): _____
DATE: _____

PLEASE EMAIL COMMENTS TO
PublicComments@canbyoregon.gov

AGENCIES: Please check one box and fill in your Name/Agency/Date below:

- Adequate Public Services (of your agency) are available
- Adequate Public Services will become available through the development
- Conditions are needed, as indicated
- Adequate public services are not available and will not become available
- No Comments

NAME: _____
AGENCY: _____
DATE: _____

Thank you!



City of Canby

File # TA 19-02 – Chapter 16.08 Temporary Vendor Permit Text Amendment Staff Report

HEARING DATE: August 12, 2019
STAFF REPORT DATE: August 2, 2019
TO: Planning Commission
STAFF: Sandy Freund, AICP, Senior Planner

I. Overview

City Staff is requesting consideration of a legislative text amendment to update Chapter 16.08 *General Provisions*, Section 16.08.140 *Temporary Vendor* of the *Canby Land Development and Planning Ordinance* Title 16 Canby Municipal Code (CMC). Specifically to amend the duration applicable to a Temporary Vendor Permit, as well as renewal of said permit. Currently, a Temporary Vendor Permit may be granted for a site for up to 90 consecutive calendar days, with a one-time renewal of an additional 90 days. This amendment proposes an additional 90 day duration, as well as a second 90 day renewal opportunity for a permit holder. This proposed change would thus allow for a total of 270 days rather than the current 180 days for a permit holder to conduct temporary business in a designated location with an approved business license.

II. Applicable Regulations

The following section of *Canby Land Development and Planning Ordinance* sets forth the decision making procedure assigned to the permit *type* which then informs the decision-making process for that permit. Amendments to the text of the *Planning Ordinance* follow the Type IV permit process. More specifically:

Section 16.89.060 Type IV decision

- 16.89.060 (E)(3): The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

III. Applicable Criteria & Findings

Section 16.88.160 Amendments to text of title. This section of the Canby *Land Development and Planning Ordinance* sets forth the review procedures for an amendment to the text of the *Ordinance* as well as the standards and criteria that shall be considered by the decision making body.

16.88.160 (D) Standards and Criteria. In judging whether or not this title should be amended or changed, the Planning Commission and City Council shall consider:

1. The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development.

Findings:

Public Facilities and Services: N/A

Transportation Element: N/A

Land Use Element: N/A

Economic Element:

The goals of this element are to encourage commercial and industrial development within the city. And, although it does not mention specifically business enterprises operating in a temporary fashion, it does speak to the *non-basic* segment of the local economy. This is the segment of the local economy that deals with the goods and services which are consumed totally by the local market, i.e. the local community members, as opposed to the *basic* segment, which deals with exporting product out of the city.

Temporary vendors are often those folks within Canby looking to establish their businesses on a temporary basis in order to see if they could maintain a sustainable business moving forward. It is a good way to see how their product will sell over a period of 180 days within one calendar year. This text amendment is supportive of the goals and policies found within the economic element.

Staff concludes that the proposed Text Amendment of proposing an additional 90-days' time frame, as well as renewal of twice within one (1) calendar year to the Temporary Vendor permit, will provide an opportunity for vendors to establish whether or not their business model is successful or needs reworking in order to be sustainable over the long term. Staff finds the Text Amendment is consistent with the above criteria.

2. A Public need for change.

Findings:

The change will provide an additional time period not currently available for vendors within the city to capture the full extent of their business efforts at their desired location. Currently, a Temporary Vendor permit is good for 90-days with a one-time renewal option available for an additional 90-days in a 12-month period. The proposed additional time of 90-days could boost the viability of a business person or persons seeking to grow their business within the City. Staff finds this criterion has been met.

3. Whether the proposed change will serve the public need better than any other change which might be expected to be made.

Findings:

No other proposed changes are anticipated at this time. Therefore, staff finds this criterion has been met.

4. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community.

The proposed changes to the Temporary Vendor permit will continue the practice of issuing a permit for temporary uses, as well as regulate the time for which a temporary vendor is located in the same location within twelve (12) consecutive months. The permit issuance is part of the larger permitting system in place for the protection of the public health, safety and general welfare of the residents of the community. Therefore, staff finds this criterion has been satisfied.

5. Statewide planning goals.

The following Statewide Planning Goals apply to this application:

Goal 1: Citizen Involvement.

The Planning Commission will make a recommendation to the City Council on this application in a public hearing which was noticed in the Canby Herald.

Goal 9: Economic Development.

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. The proposed changes to allow a temporary vendor more time to carry out their business in the same location for up to 270 days, would be helpful in determining if the vendor has a viable and sustainable business in which to sell their product(s) and/or conduct their specialized business.

Findings:

Staff concludes the proposed text amendment complies with Statewide Planning Goals 1 and 9. Therefore staff finds this criterion has been met.

IV. RECOMMENDATION

Based on the findings and conclusions presented in this report, and without benefit of a public hearing, staff recommends that the Planning Commission advance a recommendation of approval on to the City Council the changes as outlined in TA 19-02.

V. ATTACHMENTS:

- A. Proposed Text Amendment (Please see "C. Duration" on Page 12 of Chapter 16.08 General Provisions, attached.)

DIVISION III. – ZONING

Chapter 16.08

GENERAL PROVISIONS

Sections:

- 16.08.010 Compliance with title.**
- 16.08.020 Zoning map.**
- 16.08.030 Zone boundaries.**
- 16.08.040 Zoning of annexed areas.**
- 16.08.050 Prohibited parking.**
- 16.08.070 Illegally created lots.**
- 16.08.080 Area and yard reductions.**
- 16.08.090 Sidewalks required.**
- 16.08.100 Height allowances.**
- 16.08.110 Fences.**
- 16.08.120 Siting and review process for
Wireless Telecommunications Systems Facilities.**
- 16.08.130 Standard transportation improvements.**
- 16.08.140 Temporary vendor.**
- 16.08.150 Traffic Impact Study (TIS).**
- 16.08.160 Safety and Functionality Standards**

16.08.010 Compliance with title.

No building, structure, or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered contrary to the provisions of this title. No lot area, yard, or required off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced in area, dimension, or size below the minimums required by this title, nor shall any lot area, yard, or required off-street parking or loading area that is required by this title for one use be used to satisfy the lot area, yard, off-street parking or loading area requirement for any other use, except as may be provided in this title. (Ord. 740 section 10.3.05(A), 1984)

16.08.020 Zoning map.

A. The location and boundaries of the zones designated in this division are established as shown on the map entitled “Zoning Map of the City of Canby” dated with the effective date of the ordinance codified in this title and signed by the Mayor and the city recorder and hereafter referred to as the zoning map.

B. The signed copy of the zoning map shall be maintained on file in the office of the city recorder and is made a part of this title. (Ord. 740 section 10.3.05(B), 1984)

16.08.030 Zone boundaries.

Unless otherwise specified, zone boundaries are lot lines or the centerline of streets, railroad rights-of-way, or such lines extended. Where a zone boundary divides a lot into two or more zones, the entire lot shall be considered to be in the zone containing the greater lot area, provided the boundary adjustment is a distance of less than twenty feet. (Ord. 740 section 10.3.05(C), (1984))

16.08.040 Zoning of annexed areas.

Zoning of newly annexed areas shall be considered by the Planning Commission in its review and by the Council in conducting its public hearing for the annexation. (Ord. 740 section 10.3.05(D), 1984)(Ord. 1294, 2008)

16.08.050 Prohibited parking.

In addition to the provisions of the motor vehicle laws of Oregon regulating parking, no person shall park any vehicle, except an automobile, motorcycle, van or pickup truck rated no larger than one ton, on any public street or alley within any residential zone, except for an emergency or for the purpose of loading or unloading. (Ord. 740 section 10.3.05(E), 1984)

16.08.060

(Ord. 740 section 10.3.05(F), 1984; renumbered as 16.64.040(I)(6) by Ord. 1043 section 3, 2000)

16.08.070 Illegally created lots.

In no case shall a lot which has been created in violation of state statute or city ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied. (Ord. 740 section 10.3.05(G), 1984)

16.08.080 Area and yard reductions.

A. When there are existing dwellings on the lots situated immediately to each side of a given lot and each of those neighboring lots has less than the required street yard depth, the street yard of the subject property may be reduced to the average street yard of those two abutting lots.

B. When there is an existing dwelling situated on a lot immediately to either side of a given lot which fronts on the same street, and such existing dwelling has a street yard which is less than half of that required in the zone, the street yard of the subject property may be reduced to a depth which is halfway between that normally required in the zone and that of the existing dwelling on the neighboring lot.

C. If, on the effective date of the ordinance codified in this title, a lot or the aggregate of contiguous lots held in a single ownership has less than the required area or width, the lot or lots may be occupied by a permitted use subject to the other requirements of the zone; provided that if the deficiency is one of area, residential uses shall be limited to single-family dwellings; and further provided that if the deficiency is one of width, each required interior yard may be reduced by one foot for each four feet of deficient width. In no case, however, shall such reduction result in an interior yard of less than five feet.

D. Where two or more contiguous substandard recorded lots are in common ownership and are of such size to constitute at least one conforming zoning lot, such lots or portions thereof shall be so joined, developed, and used for the purpose of forming an effective and conforming lot or lots. Such contiguous substandard lots in common ownership shall be considered as being maintained in common ownership after the effective date of the ordinance codified in this title for zoning purposes. (Ord. 740 section 10.3.05(H), 1984; Ord. 1237, 2007)

16.08.090 Sidewalks required.

A. In all commercially zoned areas, the construction of sidewalks and curbs (with appropriate ramps for the handicapped on each corner lot) shall be required as a condition of the issuance of a building permit for new construction or substantial remodeling, where such work is estimated to exceed a valuation of twenty thousand dollars, as determined by the building code. Where multiple permits are issued for construction on the same site, this requirement shall be imposed when the total valuation exceeds twenty thousand dollars in any calendar year.

B. The Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. (Ord. 740 section 10.3.05(I), 1984)

16.08.100 Height allowances.

The following types of structures or structural posts are not subject to the building height limitations: chimneys, cupolas, tanks, church spires, belfries, derricks, fire and hose towers, flagpoles, water tanks, elevators, windmills, utility poles and other similar projections. The height of wireless telecommunications systems facilities shall be in accordance with section 16.08.120. (Ord. 740 section 10.3.05(J), 1984; Ord. 981 section 18, 1997)

16.08.110 Fences.

A. Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.

B. On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.

C. Arbors that are added to a fence that is constructed of proper design (height and setbacks) and in accordance with this section (16.08.110), are allowed with the following limitations:

1. The arbor shall not exceed eight (8) feet in height (including the fence and vegetation);
2. The arbor, or any part of the arbor, shall not obstruct the view of drivers or pedestrians navigating the streets and/or sidewalks in the area;

3. Vegetation on the arbor shall not be allowed to grow solid at any time, creating a solid barrier that blocks visibility;

4. If the vegetation becomes too full or too high, the owner is financially responsible to rectify the situation, and to maintain the vegetation, fence, and arbor;

5. Color, construction, and design must be consistent with other like arbors/fences in the immediate area;

6. The arbor shall not block, or in any way impede any present significant vistas enjoyed by neighboring homes and/or other points of interest existing at the time of the building of the fence or arbor;

7. The primary purpose of the arbor is to support and sustain foliage/vegetation.

D. No more than one row of fencing is allowed within a required street yard setback.

E. The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.

F. The Planning Commission may require fences of up to eight feet in height for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

G. No fence/wall shall be constructed throughout a subdivision, planned unit development or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997)

H. In all zones, private fences along a public pedestrian/bicycle pathway shall comply with the following in order to provide security and visibility for pathway users while maintaining privacy for the residence.

1. Fencing installed as part of a new subdivision shall comply with either (a) or (b) below.

2. Fencing installed by a property owner on an individual lot shall comply with either (a), (b), or (c) below.

a. Solid fencing shall be no greater than four (4) feet in height; or

b. Fencing shall be constructed with black open wire material, wooden slats, or some other material that allows visual access between the pathway and adjacent uses; or

c. Solid fencing shall be set back at least three (3) feet from the property line that abuts the pathway. (Ord 1338, 2010)

16.08.120 Siting and review process for Wireless Telecommunications Systems Facilities.

A. The purpose of this section is to provide standards and review process for wireless telecommunications systems facilities locating within the City of Canby. This purpose shall be realized by implementing new provisions of the Canby Land Development and Planning Ordinance that will:

1. Regulate the placement, appearance and number of wireless telecommunications systems facilities;
2. Ensure that the citizens of Canby will have access to a variety of wireless telecommunications systems and providers;
3. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;
4. Establish a graduated system of review that will expedite facilities placement in preferred locations; and
5. Implement the applicable provision of the Federal Telecommunications Act of 1996.

B. The siting and review process for WTS facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

C. The development review process for wireless telecommunications systems (WTS) facilities shall be as follows:

1. Building and Electrical Permits only:
 - a. An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.
 - b. A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.
 - c. A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.

- 2. Building and Electrical Permits, and Site and Design Review (16.49):**
 - a.** An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is more than 10 feet higher than the existing structure.
 - b.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.
 - c.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.
 - d.** A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.
 - e.** A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.
- 3. Building and Electrical Permits, Site and Design Review (16.49), and Conditional Use Permit (16.50):**
 - a.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.
 - b.** A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.
 - c.** A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection

equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.

d. An attached WTS facility (existing structure, including collocation on cell tower) on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

D. Standards for siting WTS facilities shall be as follows:

- 1.** Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.
- 2.** Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.
- 3.** All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.
- 4.** All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.
- 5.** Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.
- 6.** All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.
- 7.** Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.
- 8.** Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.
- 9.** Any WTS facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve;

Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

E. Application requirements for WTS facilities shall be as follows:

1. WTS providers whose proposals conforms with the provisions of subsection (C)(1) of this section (16.08.120) shall submit the following information with the application for permits:

a. A copy of that portion of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

b. A map of the city showing the approximate geographic limits of the cell to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the city, or extending within the city from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

c. A plot plan showing:

i. The lease area;

ii. Antenna structure;

iii. Height above grade and setback from property lines;

iv. Equipment shelters and setback from property lines;

v. Access;

vi. Connection point with land line system; and

vii. All landscape areas associated with the WTS facility.

d. Anticipated capacity of the WTS facility (including number and types of antennas which can be accommodated).

e. The method(s) of stealth design (where applicable).

f. An engineer's statement that the radio frequency emissions at grade, or at the nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative radio frequency emissions if collocated.

- g.** The radio frequency range in megahertz and the wattage output of the equipment.
- h.** A description of the type of service offered (voice, data, video, etc.) and the consumer receiving equipment.
- i.** Identification of the provider and backhaul provider, if different.
- j.** A facilities maintenance regimen.
- k.** The zoning and comprehensive plan designation of the proposed site.
- l.** The FAA determination.
- m.** The distance from the nearest WTS facility.

2. WTS providers whose proposals conforms with the provisions of subsection (C)(2) and (C)(3) of this section (16.08.120) shall submit, in addition to the requirements of 16.49.035 and/or 16.50.020 of the Land Development and Planning Ordinance, the following additional information:

- a.** Items in section (E) above.
- b.** Alternatives for locating/relocating support structures within 250 feet of the proposed site.
- c.** Photo simulations of the proposed WTS facility from the four cardinal compass points and/or abutting right-of-way, whichever provides the most accurate representation of the proposed facility from a variety of vantage points.
- d.** An engineer's statement demonstrating the reasons why the WTS facility must be located at the proposed site (service demands, topography, dropped coverage, etc.).
- e.** An engineer's statement demonstrating the reasons why the WTS facility must be constructed at the proposed height.
- f.** Verification of good faith efforts made to locate or design the proposed WTS facility to qualify for a less rigorous approval process (building permit and/or building permit and site and design review approval).

F. Private amateur radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this section (16.08.120), but shall otherwise comply with the applicable provisions of the underlying zoning district in which they are located to the extent that such provisions comply with Federal Communications Commission policy. (Ord. 981 section 19, 1997)

16.08.130 Standard transportation improvements.

A. Pursuant to the Transportation Planning Rule, projects that are specifically identified in the Canby Transportation System Plan, for which the City has made all the required land use and goal compliance findings, are permitted outright and subject only to the standards established by the Transportation System Plan. This section pertains to additional transportation projects that may not be identified in the Canby Transportation System Plan, and whether the use is permitted outright or permitted subject to the issuance of a conditional use permit.

1. Except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright:

- a.** Normal operation, maintenance, repair, and preservation of existing transportation facilities.
- b.** Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- c.** Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
- d.** Landscaping as part of a transportation facility.
- e.** Emergency measures necessary for safety and the protection of property.
- f.** Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan, except for those that are located in exclusive farm use or forest zones.
- g.** Construction of a local street or road as part of subdivision or land partition approved consistent with this Ordinance.

2. Except where otherwise specifically regulated by this ordinance, the following improvements are permitted as a conditional use:

a. Construction, reconstruction, or widening, and other projects authorized by the Transportation System Plan but not included in the list of projects in the Transportation System Plan. These projects shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

- i.** The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

ii. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

iii. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

iv. The project includes provision for bicycle and pedestrian circulation as consistent with the Comprehensive Plan and other requirements of this ordinance.

b. If review under this section indicates that the use or activity is not clearly authorized by the Transportation System Plan or this ordinance, a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review. (Ord. 1043 Section 3, 2000)

16.08.140 Temporary vendor.

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

A. Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:

1. Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;
2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;
3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or
4. Any person conducting a garage sale per Section 5.04.020.

B. Permit process.

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.
2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location

and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.

3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.

4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.

5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.

6. A Temporary Vendor must obtain a City of Canby business license.

C. Duration. A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed ~~once~~ **twice** upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than ~~180~~ **270** days in any 12 month period.

D. A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

E. A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

F. Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

G. A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

H. A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or

2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

- I. The property owner and the temporary vendor permit holder shall be jointly and **severably separately** responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred. (Ord 1315, 2009)

16.08.150 Traffic Impact Study (TIS).

A. Purpose. The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities: what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

B. Initial scoping. During the pre-application conference, the city will review existing transportation data to determine whether a proposed development will have impacts on the transportation system. It is the responsibility of the applicant to provide enough detailed information for the city to make a determination. If the city cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. If a TIS is required, the city will provide the applicant with a "scoping checklist" to be used when preparing the TIS.

C. Determination. Based on information provided by the applicant about the proposed development, the city will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

D. TIS General Provisions

1. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

2. Prior to TIS scope preparation and review, the applicant shall pay to the city the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The city's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

3. For preparation of the TIS, the applicant may choose one of the following:

a. The applicant may hire a registered Oregon Traffic or Civil Engineer to prepare the TIS for submittal to the city. The city Traffic Engineer will then review the TIS and the applicant will be required to pay to the city any fees associated with the TIS review; or

b. The applicant may request that the city Traffic Engineer prepare the TIS. The applicant will pay to the city any fees associated with preparation of the TIS by the city Traffic Engineer.

4. The TIS shall be submitted with a concurrent land use application and associated with application materials. The city will not accept a land use application for process if it does not include the required TIS.

5. The city may require a TIS review conference with the applicant to discuss the information provided in the TIS once it is complete. This conference would be in addition to any required pre-application conference. If such a conference is required, the city will not accept the land use application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

6. A TIS determination is not a land use action and may not be appealed.

E. TIS Scope The city shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a ½-mile radius of the development site. If the city determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required. Required study intersections will generally include (in addition to the primary access points) collector/collector and above intersections with an anticipated peak hour traffic increase of five-percent from the proposed project.

2. If notice to ODOT or other agency is required pursuant to noticing requirements in Chapter 16.89, the city will coordinate with those agencies to provide a comprehensive TIS scope. ODOT may also require a TIS directly to support an OR 99E approach permit application.
- F. TIS Content.** A project-specific TIS checklist will be provided to the applicant by the city once the city has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the city.
1. **Introduction and Summary.** This section shall include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for city and county streets and volume to capacity for state roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; traffic queuing and delays at study area intersections; and proposed mitigation(s).
 2. **Existing Conditions.** This section shall include a study area description, including information about existing study intersection level of service.
 3. **Impacts.** This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) also shall be provided. For subdivision and other developments, the future analysis shall be for the year of proposed site build-out. For proposed comprehensive plan and/or zoning map amendments, the future analysis year shall be 20 years from the date of the City's adopted TSP, or 15 years, whichever is greater.
 4. **Mitigation.** This section shall include proposed site and area-wide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts. See Subsection K below for rough proportionality determination.
 5. **Appendix.** This section shall include traffic counts, capacity calculations, warrant analysis, and any other information necessary to convey a complete understanding of the technical adequacy of the TIS.
- G. TIS Methodology.** The City will include the required TIS methodology with the TIS scope.
- H. Neighborhood Through-Trip Study.** Any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicle per day to an adjacent residential local street or neighborhood route will be require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study may be required as a component of the TIS

or may be a stand-alone study, depending on the level of study required in the scoping checklist. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.
2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.
3. Traffic management strategies to mitigate for the impacts of projected through-trip consistent.

If a residential street is significantly impacted, mitigation shall be required. Thresholds used to determine if residential streets are significantly impacted are:

1. Local residential street volumes should not increase above 1,200 average daily trips
2. Local residential street speeds should not exceed 28 miles per hour (85th percentile speed).

I. Mitigation. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. Mitigation measures may be suggested by the applicant or recommended by ODOT or Clackamas County in circumstances where a state or county facility will be impacted by a proposed development. The city shall determine if the proposed mitigation measures are adequate and feasible. ODOT must be consulted to determine if improvements proposed for OR 99E comply with ODOT standards and are supported by ODOT. The following measures may be used to meet mitigation requirements:

1. On-and off-site improvements beyond required standard frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction, if construction is not feasible.
4. Correction of off-site transportation deficiencies within the study area that are substantially exacerbated by development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

J. Conditions of Approval. The city may deny, approve, or approve with appropriate conditions a development proposal in order to minimize impacts and protect transportation facilities.

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.

2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, traffic channelization, construction of sidewalks, bikeways, accessways, paths, or street that serve the proposed use may be required.

3. The city may require the development to grant a cross-over access easement(s) to adjacent parcel(s) to address access spacing standards on arterials and collector roadways or site-specific safety concerns. Construction of shared access may be required at the time of development if feasible, given existing adjacent land use. The access easement must be established by deed.

K. Rough Proportionality Determination. Improvements to mitigate impacts identified in the TIS shall be provided in rough proportion to the transportation impacts of the proposed development.

1. The TIS shall include information regarding how the proportional share of improvements was calculated, using the ratio of development trips to growth trips and the anticipated cost of the full Canby Transportation System Plan. The calculation is provided below:

$$\text{Proportionate Share Contribution} = \frac{[\text{Net New Trips}/(\text{Planning Period Trips}-\text{Existing Trips})] \times \text{Estimated Construction Cost}}{\text{Estimated Construction Cost}}$$

a. Net new trips means the estimated number of new trips that will be created by the proposed development within the study area.

b. Planning period trips means the estimated number of total trips within the study area within the planning period identified in the TSP.

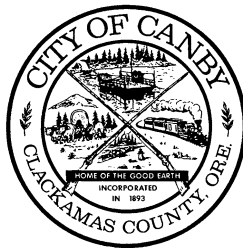
c. Existing trips means the estimated number of existing trips within the study area at the time of TIS preparation.

d. Estimated construction cost means the estimated total cost of construction of identified improvements in the TSP. (Ord 1340, 2011)

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.
- F.** Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies. (Ord 1340, 2011)



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

**A REQUEST FOR A MINOR LAND)
PARTITION)
1225 SOUTH FIR STREET)**

**FINDINGS, CONCLUSION & FINAL ORDER
MLP 19-02
MARTIN CLARK CONSTRUCTION INC.**

NATURE OF THE APPLICATION

The Applicant has sought approval for a Minor Land Partition application for **1225 South Fir Street (MLP 19-02)** to partition an existing 0.49 acre parcel (21,344 square feet), located at 1225 S. Fir Street, into two parcels of 11,966 square feet (Parcel 1), and 8,542 square feet (Parcel 2) respectively. The property is described as Tax Lot 41E04BD08000, Clackamas County, Oregon. The property is zoned Low Density Residential (“R-1”) under the Canby Municipal Code (“CMC”).

HEARINGS

The Planning Commission considered application **1225 S. Fir Street (MLP 19-02)** after the duly noticed hearing on August 12, 2019 during which the Planning Commission approved a Minor Land Partition application for **1225 S. Fir Street (MLP 19-02)** by a vote of _____. These Findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not a Minor Land Partition application shall be approved, the Planning Commission determines whether criteria from the City of Canby Land Development and Planning Ordinance are met, or can be met by observance of conditions. Applicable code criteria and standards were reviewed in the Staff Report dated August 2, 2019 and presented at the August 12, 2019 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

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

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report along with the additional findings concluded at the public hearing and noted herein, concluding that the Minor Land Partition application meets all applicable approval criteria, and recommending that **1225 S. Fir Street (MLP 19-02)** be approved with the Conditions of Approval reflected in the written Order below.

ORDER

The Planning Commission concludes that, with the following conditions, the application meets the requirements for Minor Land Partition approval. Therefore, IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that **1225 S. Fir Street (MLP 19-02)** is approved, subject to the following conditions:

CONDITIONS OF APPROVAL

A. Minor Partition Conditions Unique to this Request:

1. The new home on Parcel 2 may be subject to the residential infill standards. The home builder shall meet all applicable infill home evaluation criteria listed in Section 16.21.050 of the Land Development and Planning Ordinance, Chapter 16 of the Municipal Code. These criteria shall be addressed to assure code compliance at the time of submittal of a site plan review and building permit.
2. Any possible utility easement needs across the frontage of South Fir Street by utility service providers shall be made a part of the recorded partition plat with a note on the plat.
3. The driveway access easement shall meet either the minimum 12-foot or 20-foot paved minimum width standard, as stated in Section 16.64.040 (l)(2), dependent upon the final configuration of the proposed flag lot driveway access length. The applicant shall either:
 - a. Remove 3-feet from the existing carport on Parcel 1 (including any eaves), in order to meet the 5-foot minimum setback from the paved driveway access easement edge; or,
 - b. Relocate the existing carport on Parcel 1 to a different location in order to maintain the minimum 5-foot setback from the paved driveway access easement edge; or,
 - c. Reduce the overall proposed paved driveway access to no greater than 100 feet in length. This can be achieved by reducing Parcel 1, and increasing the size of proposed Parcel 2 to no greater than 10,000 square feet.
4. The applicant shall maintain a 10-foot separation between driveways, as required by Public Works.
5. The existing carport on Parcel 1 shall maintain a minimum 5-foot setback from the paved driveway access easement edge at all times.
6. The applicant shall meet the provisions stated by the City Engineer in comments received on July 24, 2019.

- B. Public Improvements:** The development shall comply with all applicable City of Canby Public Works Design Standards.

Fees/Assurances:

7. All public improvements are typically installed prior to the recordation of the final plat. If the applicant wishes to forgo construction of any portion of the public improvements until after the recordation of the final plat, then the applicant shall provide the City with appropriate performance security (subdivision performance bond or cash escrow) in the amount of 110% of the cost of the remaining public improvements to be installed.

C. Final Plat:

8. The applicant shall apply for final plat approval at the City and pay any applicable City fees to gain approval of the final partition plat. Prior to the recordation of the final plat at Clackamas County, it must be approved by the City and all other applicable agencies. The City will distribute the final plat to applicable agencies for comment prior to signing off on the final plat if deemed necessary.
9. All public improvements or submittal of necessary performance security assurance shall be made prior to the signing and release of the final plat for filing of record.
10. The final plat shall conform to the necessary information requirements of CMC 16.68.030, 16.68.040(B), and 16.68.050. The City Engineer or County Surveyor shall verify that these standards are met prior to the recordation of the plat.
11. Clackamas County Surveying reviews **pending partition plat documents for Oregon Statutes and County requirements. A final plat prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval** within one year of approval of the tentative plat or formally request an extension of up to 6-months with a finding of good cause.
12. The applicant shall record the final plat at Clackamas County within 6 months of the date of the signature of the Planning Director.
13. The applicant shall assure that the City is provided with a copy of the final plat in a timely manner after it is recorded at Clackamas County, including any CC&Rs, if applicable, recorded in conjunction with the final plat.

Easements

14. The placement of the utility easement shall be noted on the final plat. This easement may be combined with other easements and shall be measured from the property boundary.

Monumentation/Survey Accuracy:

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

D. Residential Building Permit(s):

17. The applicant shall secure a Street Opening and/or Driveway Construction permit for all paved driveway or utility installations associated with the new vacant Parcel 2. Said permit shall comply with the City's Public Works Design Standards.

- 18.** Construction of all required public improvements and the recordation of the Partition Plat shall be completed prior to the issuance of building permits and comply with all applicable City's Public Works Design Standards.
- 19.** The homebuilder shall apply for a City of Canby Site Plan Permit and Clackamas County Building permit for any proposed single-family residence on Parcel 2.
- 20.** The homebuilder for Parcel 2 shall apply for a City of Canby Erosion Control Permit from the Public Works Department.
- 21.** All on-site storm water management shall be designed in compliance with the Canby Public Works Design Standards when development is proposed for Parcel 2.
- 22.** Clackamas County Building Codes division will provide structural, electrical, plumbing, and mechanical plan review and inspection services for all new home construction. The applicable county building permits are required prior to the construction of a new single-family residence.

I CERTIFY THAT THIS ORDER approving Minor Land Partition **MLP 19-02 of 1225 S Fir St**, which was presented to and **APPROVED** by the Planning Commission of the City of Canby.

DATED this 12th day of August, 2019

John Savory
Planning Commission Chair

Bryan Brown
Planning Director

Laney Fouse, Attest
Recording Secretary

ORAL DECISION: August 12, 2019

| <i>Name</i> | <i>Aye</i> | <i>No</i> | <i>Abstain</i> | <i>Absent</i> |
|--------------------------|------------|-----------|----------------|---------------|
| <i>John Savory</i> | | | | |
| <i>Larry Boatright</i> | | | | |
| <i>Derrick Mottern</i> | | | | |
| <i>Andrey Chernishov</i> | | | | |
| <i>J. Ryan Adams</i> | | | | |
| <i>Jeff Mills</i> | | | | |
| <i>Jennifer Trundy</i> | | | | |

WRITTEN DECISION: August 12, 2019

| <i>Name</i> | <i>Aye</i> | <i>No</i> | <i>Abstain</i> | <i>Absent</i> |
|--------------------------|------------|-----------|----------------|---------------|
| <i>John Savory</i> | | | | |
| <i>Larry Boatright</i> | | | | |
| <i>Derrick Mottern</i> | | | | |
| <i>Andrey Chernishov</i> | | | | |
| <i>J. Ryan Adams</i> | | | | |
| <i>Jeff Mills</i> | | | | |
| <i>Jennifer Trundy</i> | | | | |



BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY

**A LEGISLATIVE AMENDMENT TO AMEND
CHAPTER 16.08 GENERAL PROVISIONS OF
THE PLANNING ORDINANCE, TITLE 16 OF
THE CANBY MUNICIPAL CODE**

**FINDINGS, CONCLUSION, & FINAL ORDER
TA 19-02**

(City of Canby)

NATURE OF APPLICATION

This is a legislative amendment to Chapter 16.08 General Provisions, Section 16.08.140 Temporary Vendor of the *Canby Land Development and Planning Ordinance Title 16 Canby Municipal Code (CMC)* (TA 19-02). The amendment proposes to amend the duration of a Temporary Vendor Permit from a total of 180 consecutive calendar days to 270 consecutive calendar days, with the appropriate renewal fee.

HEARINGS

The Planning Commission considered Text Amendment TA 19-02 after the duly noticed public hearing held on August 12, 2019, at which time provisions of this text amendment application were considered.

CRITERIA AND STANDARDS

In judging whether or not to approve amendments to the *City of Canby Land Development and Planning Ordinance*, the Planning Commission determines whether criteria from the *Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning Commission staff report dated and presented at the August 12, 2019 public hearing of the Planning Commission.

FINDINGS AND REASONS

The Planning Commission considered application TA 19-02 at public hearing held on August 12, 2019 during which time the staff report was presented. Staff recommended that the Planning Commission forward a recommendation of approval to the City Council for the proposed text amendment.

CONCLUSION

The Planning Commission of the City of Canby concludes that based on public testimony, the recommendations and conclusions contained in the staff report and based on the Commission deliberations that the proposal to amend Chapter 16.08 General Provisions, Section 16.08.140 Temporary Vendor in Chapter 16 of the Canby Municipal Code is in conformance with the applicable criteria suitable for amendment as proposed.

ORDER

THE PLANNING COMMISSION of the City of Canby recommends that the City Council **approve** Text Amendment TA 19-02 as indicated with the *Findings* noted herein.

I CERTIFY THAT THIS ORDER approving TA 19-02 Amend Chapter 16.08 General Provisions of the Planning Ordinance, Title 16 of Canby Municipal Code, was presented to and APPROVED FOR RECOMMENDATION TO THE CITY COUNCIL by the Planning Commission of the City of Canby.
 DATED this 12th day of August, 2019.

 John Savory
 Planning Commission Chair

 Bryan Brown
 Planning Director

 Laney Fouse, Attest
 Recording Secretary

ORAL DECISION: August 12, 2019

| <i>Name</i> | <i>Aye</i> | <i>No</i> | <i>Abstain</i> | <i>Absent</i> |
|--------------------------|------------|-----------|----------------|---------------|
| <i>John Savory</i> | | | | |
| <i>Larry Boatright</i> | | | | |
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| <i>J. Ryan Adams</i> | | | | |
| <i>Jennifer Trundy</i> | | | | |
| <i>Jeff Mills</i> | | | | |

WRITTEN DECISION: August 12, 2019

| <i>Name</i> | <i>Aye</i> | <i>No</i> | <i>Abstain</i> | <i>Absent</i> |
|--------------------------|------------|-----------|----------------|---------------|
| <i>John Savory</i> | | | | |
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