

City of Canby

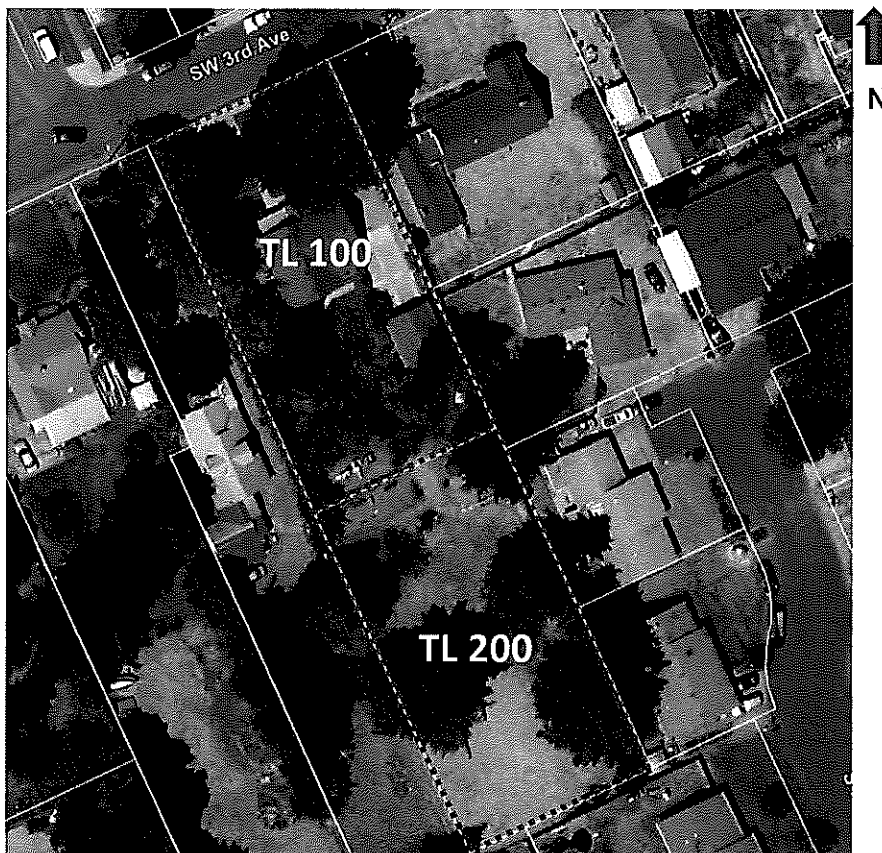
NOTICE OF DECISION

**LOT LINE ADJUSTMENT
FILE #: LLA 21-02**

DECISION DATE: March 5, 2021
TO: Stuntzner Engineering & Forestry, LLC
STAFF: Erik Forsell, Associate Planner

APPLICANT'S REQUEST

The applicant requests a single Lot Line Adjustment between Tax Lots 41E04BA00100 and 00200 to accommodate for future development on Tax Lot 00200. The applicant is also planning to redefine an existing 20-foot wide access easement that benefits Tax Lot 00200. The easement is recorded in Clackamas County Deeds and Records as Document No. 2015-017991.



DECISION

Based on the application submitted and the facts, findings, and conclusions found herein, staff **APPROVES** the Lot Line Adjustment with Conditions of Approval for City File # LLA 21-02. Conditions of Approval are as presented in *Section V* at the end of this report.

Property/Owner Information

Location	285 SW 3 rd Avenue via S. Grant Street
Tax Lot(s)	41E04BA00100 and 00200
Property Size	±0.39 and ±0.36 acres respectively
Comprehensive Plan	HDR – High Density Residential
Zoning	R-2 High Density Residential
Owner	Daniel and Ashley Starr
Applicant	Corey Woodruff – Stutzner Engineering & Forestry
Application Type	Lot Line Adjustment - Type II
City File Number(s)	LLA 21-02

I. EXISTING CONDITIONS:

The subject property is generally located at 285 SW 3rd Avenue and bounded by residential properties. Existing structures on site include a single-family residence and accessory structures.

II. APPLICABLE CRITERIA & FINDINGS

Applicable criteria used in evaluating this application are found in Chapter 16 of the *City of Canby's Land Development and Planning Ordinance* (Zoning Code) as follows:

- 16.08 General Provisions
- 16.16 R-2 High Density Residential
- 16.58 Lot Line Adjustment
- 16.89 Application and Review Procedures

III. CRITERIA SECTION 16.58.030 – REVIEW BY PLANNER AND ENGINEER

The City Planner and City Engineer shall review the proposed lot line adjustment and shall determine whether the following criteria have been met:

- A. Each of the remaining parcels and any structures located thereon shall be in full compliance with all regulations of this title, including the setback requirements of Division III. Except, however, that lot line adjustments are permitted on nonconforming lots and lots with nonconforming structures provided that the nonconforming lots and structures will be no less in conformity as a result of the lot line adjustment.**

Finding 1: The applicant has indicated in the submittal that the property line will bring all existing structures into compliance with the setbacks of the R-2 – High Density Residential zone found in Canby Municipal Code Chapter 16.20. An existing accessory structure on Tax Lot 200

which is proposed to be demolished will change from non-conformance with the setbacks to conforming to the setback standards of the R-2 zone. The existing garage on Tax Lot 100 is proposed to be 10 feet from the rear property line which meets the setback standards of the R-2 zone, specifically, Canby Municipal Code (CMC) 16.20.030(D)(2).

The R-2 Zone does not have a minimum parcel or lot size. That function is provided through density requirements pursuant to CMC 16.20.030(A). As this property line adjustment does not involve development for either Tax Lot 100 or 200, the necessity to analyze the change in property size is not applicable for a property line adjustment process.

Staff finds this request is consistent with the applicable standards of the *Ordinance*. Therefore, staff finds this criterion has been met.

B. No new lots or parcels will be created as a result of the lot line adjustment without receiving approval as a partition or subdivision.

Finding 2: Staff finds that no new lots are created as part of the boundary line adjustment. This criterion is met.

The applicant states in the application that no new lots or parcels will be created as a result of the lot line adjustment without first receiving approval as a partition or subdivision. Staff concur that approval shall be obtained prior to partitioning the subject site(s), and at this time no partition has been proposed. Therefore, staff finds this criterion has been met.

C. If the City Planner or city engineer deems it necessary to assure the accuracy of recorded information, a survey may be required of the applicant. Such a survey will be at the applicant's cost.

Finding 3: Staff finds that the requirements of ORS 92 take precedence in this process and that the requirements for surveying can be met as conditioned.

The proposed lot line adjustment was prepared by a licensed surveyor, and that if any additional information is needed, it will be provided as necessary. Oregon State Statutes, ORS 92.010(12) identifies lot line adjustments as: *"relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional or parcel."*

ORS 92.060(7) states: *"Except as provided in subsections (8) and (9) of this section, a property line adjustment must be surveyed and monumented in accordance with subsection (3) of this section and a survey, complying with ORS 209.250, must be filed with the county surveyor."*

As a condition of approval, a survey shall be prepared and recorded with Clackamas County Surveying and Deeds and Records. A copy of the recorded documents shall be provided to the City of Canby.

D. Lot line adjustments shall not be permitted where the result will be the creation of additional building sites in known hazardous locations or where the appropriate development or extension of public facilities will be impaired as a result.

Finding 4: Staff finds that there are no known or identified hazardous locations such as floodplain, wetlands, steep slopes or other geographical features on the properties that could be described as hazardous. Adequate public facilities are available for both properties as discussed in a Pre-Application Conference, City File PRA 21-02.

APPEAL PROCEDURE

Chapter 16.89 of the CMC provides that Type II applications be considered first by the Planning Director. If there is any doubt that the application conforms to City adopted land use policies and regulations the Planning Director must condition or deny the application. Anyone who disagrees with the Director's decision may request that the application be considered by the City of Canby Planning Commission after an appeal application and a public hearing. According to state law, the appeal "shall be raised with enough specificity so as to afford the governing body, Planning Commission, hearings body or hearings officer, and parties, an adequate opportunity to respond to each issue." A public hearing is held on appeals subject to the appellant paying a \$250 fee (appeal form available online and at the Planning Department). Request for consideration by the Planning Commission must be in writing and received within 10 days of the mailing date of the Notice of Decision and in this case received in the planning office, 222 NE 2nd Avenue, Canby, by 5:00 p.m. on Monday, March 15, 2021.

IV. PUBLIC/AGENCY COMMENTS

Notice of this application and opportunity to provide comment was mailed to owners and residents of lots within 100 feet of the subject property and to all applicable public agencies. Summary of any comments are included in the staff report, and complete public comments are part of the file. All comments from agencies and citizens will also be attached to the file electronically.

Three neighbors expressed concern over the property line adjustment. The neighbors' comments are attached as Exhibit C to this staff report. The comments focus largely on future development and not the property line adjustment itself. Future development cannot be a reason to deny an application for a property line adjustment and the criteria for a property line adjustment found in CMC 16.58 are the deciding language for approval or denial. Further opportunities for public involvement involving any future development if it occurs will be provided via public notice at a later date. Future development on the lots will be subject to city noticing, required permit review and will need to comply with zoning and city development standards. This decision is limited to the lot line adjustment. Staff does not believe the property line adjustment public comments received warrant a denial of the proposal. The application has met the approval criteria.

V. CONDITIONS OF APPROVAL:

1. The applicant shall meet the County Surveyor's procedure requirements for the adjustment survey and recording of deeds to receive the County's final implementation approval.
2. The applicant shall have the property surveyed, and the survey shall be filed with the Clackamas County Surveyor.
3. New Lot Line Adjustment Deeds shall be prepared and recorded with the Clackamas County Clerk. A copy of the new recorded deeds and survey implementing this boundary adjustment shall be provided to the Canby Planning Department.
4. The applicant is responsible for obtaining approval from utility providers for the relocation, vacation, and/or addition of public utility easements, if necessary. Easements must be recorded on the new deed.
6. Any driveway relocation or new driveway construction shall require a city Street Opening Permit (from Public Works) to verify compliance with vision clearance and driveway spacing standards.


Don Hardy
Planning Director

3/5/2021
Date

Exhibits:

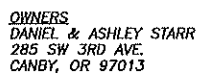
- A. Preliminary Survey
- B. Vicinity Map
- C. Notice Comments Received

SITE PLAN

PROPOSED LOT LINE ADJUSTMENT

TAX LOT 100 AND TAX LOT 200, 4 1E 04BA

LOCATED IN THE NORTHEAST 1/4 OF SECTION 4,
TOWNSHIP 4 SOUTH, RANGE 1 EAST, W.M.
CLACKAMAS COUNTY, OREGON



SUBJECT PARCELS


SUBJECT PARCELS
TAX LOT 100, 4 1E 04BA
TAX LOT 200, 4 1E 04BA

ZONING

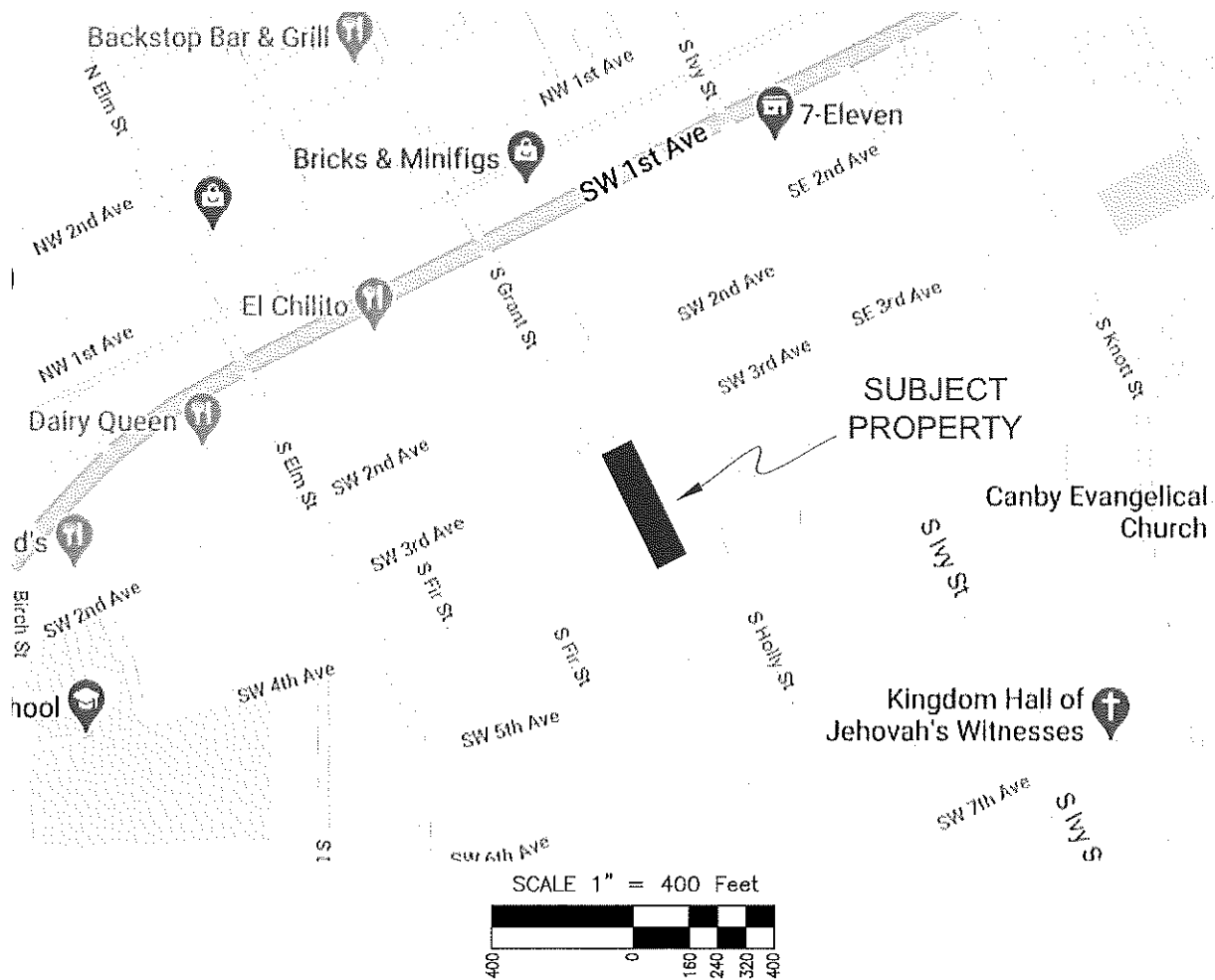
ZONING
R-2 HIGH DENSITY

NOTES

1. NO KNOWN WETLANDS OR WATER COURSES EXIST ON THE SUBJECT PROPERTY
2. TAX LOT 200 IS CURRENTLY SERVED BY A 20-FOOT WIDE ACCESS & UTILITY EASEMENT DESCRIBED PER DOCUMENT NO. 2015-017991. THE APPLICANT PROPOSES TO INCREASE THE WIDTH OF THIS EASEMENT TO 26 FEET.

		2318-B PACIFIC AVENUE FOREST GROVE, OR 97116 Engineering - Land Surveying - Forestry - Land Planning - Water Rights	PHONE: (503) 357-5717 (503) 357-5698 www.stuntzner.com
JOB #: 321008	PREPARED	Dan & Ashley Starr	
DATE: 2/15/21	FOR:	285 SW 3rd Ave.	
DRAWN BY: CMW		Canby, OR 97013	
CHECKED BY: JMH	FILE NAME: 321008_SITE PLAN LLA_b.dwg	SHEET 1 OF 1	

VICINITY MAP
PROPOSED LOT LINE ADJUSTMENT - STARR
TAX LOT 100 AND TAX LOT 200, 4 1E 04BA



Erik Forsell

From: brittanyb at canby.com <brittanyb@canby.com>
Sent: Sunday, February 28, 2021 10:38 PM
To: PublicComments
Cc: Erik Forsell
Subject: Lot Line Adjustment, City File # LLA 21-02 Starr Lot Line Adjustment - 285 SW 3rd Avenue

Good Evening,

My name is Brittany Morrison and I live at 361 S Holly St. and I am writing in regards to the lot line adjustment mentioned above. I hope I'm sending this email in time as the papers I received mentioned two different dates that I needed to respond by, one page said no later than February, 26, 2021 and the other page said no later than March 3, 2021, but I also just received this letter a few days ago so I'm hoping it's actually the later date.

After reviewing the documents I received I want to make it known that I am not in support of this adjustment and I oppose of it 100%. I am aware that the property is currently up for sale and I understand that this is wanting to be done for "future planned development" as it was stated in the letter, however this is not satisfactory. Last summer we dealt with the noise of apartments being built on the other side of my neighbors properties (those living at 310 S Holly St. & 350 S Holly St.) and that was beyond loud during the process and is honestly an eyesore to look at now. It also takes away the privacy of their own backyards as the people living in the upper levels can look down into their backyards whenever they go outside.

When I bought my home in 2012 I bought it for the privacy and quiet that the dead end road gave me and, like my neighbors, I'd like to keep it that way as much as possible. I don't want to go out into my backyard and have people looking down into my yard, that completely negates the privacy of having a fenced backyard. I think you can understand and agree that there's not a privacy fence tall enough to prevent that if a multi-level, multi occupancy building is constructed behind my property.

Part of the beauty of Canby is the hometown feel, while not being too big or overcrowded. However, if we keep building apartments and duplexes right in the middle of town, that takes away that feeling and is unfair to the residents that moved here for that. Not to mention that we already have issues within the city that even though the city is growing, certain utilities are not addressed and upgraded with it, i.e. the horrendous taste and smell of the water that happens from spring through late fall. Adding more buildings for a bigger population while not addressing these concerns is completely counter productive to the end goals and is plainly unfair to the existing citizens of Canby.

I will say this, though. I am aware that my neighbors that received this letter also do not approve of this adjustment, however, if our wishes and concerns are disregarded and this lot line adjustment proceeds forward, I feel as though it is only fair to request that a high quality, durable and long lasting privacy fence (such as vinyl or something similar) be put up at the expense of those doing the construction/property adjustment(s) and also prior to any construction to try and help with noise and overall inconvenience that it will inevitably bring, both during construction and once it is completed.

I truly hope you will take my concerns into consideration when making your decision. I understand that money ultimately rules the world we live in, however, I can only hope that you will see this from

EXHIBIT C

Erik Forsell

From: Sandra Salmonson <sandyjaye57@gmail.com>
Sent: Tuesday, February 23, 2021 4:22 PM
To: PublicComments
Subject: Lot line adjustment #LLA 21-02 Starr Lot Line Adjustment

We live at 399 S Holly St. If this is to be zoned for high density housing we would like to keep some sort of privacy and would like to have them put up a privacy fence. Preferably something that would last like 6 ft tall white vinyl or a fast growing shrub. These apartments will look right into our living area if they are built. I would like to know how many of you would like this in your backyard staring in your home? Needless to say we are opposed to this.

Thank you
Sandra Salmonson
503 351 6156