



**PLANNING COMMISSION**  
**Meeting Minutes**  
**Monday – June 23, 2014**  
**7:00 PM**

**City Council Chambers – 155 NW 2<sup>nd</sup> Avenue**

**PRESENT:** Commissioners Tyler Smith, John Savory, John Serlet and Larry Boatright

**ABSENT:** Commissioner Shawn Hensley

**STAFF:** Bryan Brown, Planning Director, and Laney Fouse, Planning Staff

**OTHERS:** Pat Sisul, Ed Netter, Travis McRobbie, Fred Kahut and Councilor Ken Rider

**1. CALL TO ORDER**

Chair Smith called the meeting to order at 7:02 pm.

**2. CITIZEN INPUT ON NON-AGENDA ITEMS – None.**

**3. PUBLIC HEARING**

- a. *The applicant is requesting approval of Eli Estates, a 1.65 acre subdivision for 10 lots, located at 1550 S. Ivy Street, on the east side of S. Ivy Street, just north of SE 16<sup>th</sup> Avenue, and zoned R-1.5 Medium Density Residential. (SUB 14-03)*

Chair Smith read the public hearing format. The Commissioners stated they had no conflict of interest to declare, except Commissioner Boatright whose daughter was a friend and babysitter for the applicants, but it would have no effect on his decision. The Commissioners had no ex parte contact to declare.

Bryan Brown, Planning Director, entered his staff report into the record. The Eli Estates Subdivision was on 1.65 acres located on South Ivy. The zoning is R-1.5. The frontage on Ivy Street was in the County's jurisdiction, but they were utilizing the City's street improvement standards for an arterial roadway and the County was satisfied that it met their requirements as well. He explained the access on the property, sidewalks and planter strips to be constructed, and stated there were no proposed street trees on S. Ivy since there was not adequate right-of-way to provide a planter strip. There would be a continued Ivy Street frontage wall to match the existing wall to the south. There was no Homeowners Association proposed as there was no open space provided and drainage would be handled in the public road through a new dry well. There was an issue to address regarding assuring who would be responsible for the long term maintenance of the wall and private driveway, therefore staff added a condition of approval that a maintenance agreement proposed for lots 3-8 that fronted the private drive also include the wall for those lots it is adjacent to. There would be half street improvements for S Ivy Street and no additional right of way is being required. Internal traffic signage was also required. Infill standards did not apply to any of the lots in this subdivision because it did not meet the Code requirements for infill. The street lighting plan would be drawn up by Canby Utility prior to the final plat recordation. The applicants were encouraged to use the most energy efficient lighting.

Chair Smith wanted staff to clarify the statement that the Commission recently interpreted that outdoor lighting standards were not applicable in subdivisions. He thought the statement the Commission made was they were not applicable to street lighting.

Mr. Brown said there was a last minute change to the tentative plat to attach Tract C on the adjacent plat to become a part of this plat through a purchase agreement between the two developers. Staff is very supportive of this proposal and does not see any issues or concerns with doing so. Staff recommended approval of the subdivision with the addition of Tract C with conditions of approval as listed. Brown clarified for Chair Smith that the Street Tree provisions of the Tree Ordinance were being applied along the internal subdivision streets without exception, but street trees were not planned on the frontage of S. Ivy Street because there was no room for them since additional right-of-way dedication was determined to not be appropriate.

Chair Smith opened the public hearing.

***Applicant:***

Pat Sisul, Sisul Engineering, was representing the applicant. This application was similar to the Dinsmore Estates application. The property had one new house proposed to stay, and an older home and outbuildings that would be removed. In Dinsmore Estates Phase 1 there was a masonry wall on the frontage. They were straight walls with no articulation for street trees. For this development the plan was to construct a similar wall that would tie the properties together for a seamless frontage along Ivy. There would be one break in the wall to allow for pedestrian access. Regarding Tract C, there was finally agreement on the price and the plat was changed to reflect this addition. It would help with the lot layout of the subdivision. He explained the proposed street layout and sidewalks and curbs planned on Ivy. There was not enough room for street trees between the sidewalk and wall and the applicant would rather not jog the wall for street trees. There would be a 15 foot wide street side setback and trees could be put behind the wall on lots 4 and 5. Regarding the maintenance of the private driveway, there would be a maintenance agreement recorded with the plat on lots 3-8 who have access on the driveway.

Commissioner Savory asked how the maintenance agreement was enforced. Mr. Sisul responded there was a legal document recorded with the plat which explained if a party was not cooperating how it would be enforced. It would not involve the City, but be a neighbor dispute with litigation. The wall would be maintained like a fence along the property line.

Mr. Brown said there was concern about the wall maintenance if there was no agreement.

Mr. Sisul would put a maintenance agreement together for the future owners of lots 4 and 5. Regarding lighting, he expected the subdivision would use LED lighting. He explained the storm water management and utility connections for the subdivision. Bollards would be put at the end of the pedestrian access at Ivy mainly for bicycle safety. The subdivision would provide 9 new R-1.5 lots. Regarding condition of approval #39, it stated the applicant had one year to record the plat with Clackamas County, and he thought that was in error. City Code section 16.68.020 stated that a plat needed to be submitted to the City within one year and the applicant could get extensions beyond that. He asked for the condition to be reworded.

There were no proponents, opponents, neutral testimony, or rebuttal.

Chair Smith closed the public hearing at 7:51 pm.

Commissioner Savory had concerns about the maintenance agreement.

Mr. Brown said the only thing the City could do was to have a legal document that specified the residents were responsible for the private road and the wall, not the City, and if there was a problem they would fight it out among themselves, and the City would not be involved.

Chair Smith had concerns about the vagueness of condition #4, the applicant shall address all comments made in the City Engineer's memorandum. Addressing them did not mean coming to an agreement.

Mr. Brown explained those requirements were technical in nature and showed up on the construction drawings and were difficult to deal with in the conditions.

Chair Smith asked how they would handle condition #39. Mr. Brown agreed with Mr. Sisul's comments and recommended modifying the condition.

There was discussion regarding modifications to the conditions.

**Motion:** A motion was made by Commissioner Savory to approve SUB 14-03 Eli Estates with the following changes:

- a) On page 9, under section titled Chapter 16.43 Outdoor Lighting Standards, strike the word "subdivisions" and replace it with "street lighting."
- b) On page 27, Condition 4, strike "address all comments" and replace with "shall resolve to the City Engineer's reasonable satisfaction the comments made in the City Engineer's memorandum."
- c) On page 29, Condition #28, strike "shall be clearly defined to the Planning Commission's satisfaction," and replace with "A CC&R or maintenance agreement covering private maintenance of the wall bordering Lots 4 and 5 must be executed and filed in the City and recorded as appropriate."
- d) On page 30, Condition #39, strike "The subdivision plat must be recorded at Clackamas County within one year of approval of the tentative plat or the applicant must request that the Planning Director approve a six month extension for recordation of the approved final plat," and replace with "The applicant must comply with Chapter 16.68.020 Submittal of subdivision plat."
- e) On page 30, Condition #43 Fences/Walls, strike "or as modified by the Planning Commission."

Commissioner Serlet seconded the motion. Motion passed 4/0.

#### 4. FINAL DECISIONS

- a. *ANN 14-01/ZC 14-01 North Pine Street Annexation*

**Motion:** A motion was made by Chair Smith to approve the final findings for ANN 14-01/ZC 14-01, Commissioner Savory seconded. Motion passed 4/0.

- b. *ANN 14-02/ZC 14-02 SE 13<sup>th</sup> Avenue Annexation*

**Motion:** A motion was made by Commissioner Savory to approve the final findings for ANN 14-02/ZC 14-02, Commissioner Serlet seconded. Motion passed 4/0.

#### 5. NEW BUSINESS

- a. *Applicant is requesting a Minor Modification for the sidewalk location along NW 10<sup>th</sup> Avenue for Northwood Estates, Phase II (MOD 14-01)*

Mr. Brown said minor modifications did not require notification or the Planning Commission's approval, but he did not feel comfortable making this decision. The Planning Commission originally approved Northwood Estates Phase II with planter strips separating the sidewalk from the curb. The applicant has outlined numerous reasons not to put in planter strips in his written request to you. Some of the primary arguments were the sidewalks would connect to already existing curb tight sidewalks on 10<sup>th</sup> Avenue in each direction and there were overhead power line poles on the

north side which may interfere, and the original purposed to use the planter strips for drainage swales for street runoff was no longer needed.

There was a discussion on the definition of minor modification.

Chair Smith suggested tabling this item until the next meeting so the Commission could review the staff report and findings of the original application.

*Motion: A motion was made by Chair Smith to table the minor modification request until their July 14, 2014 meeting, Commissioner Savory seconded. Motion passed 4/0.*

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

- a. *Next Planning Commission meeting Monday, July 14, 2014 – no new applications for this meeting just findings for Eli Subdivision.*
- b. *Street Tree ordinance discussion if you like*
- c. *Continuation of the Northwood's sidewalk placement issue*

Mr. Brown discussed the upcoming items for the meeting of July 14. Chair Smith wanted to address the Street Tree Ordinance and when street trees were to be required on arterial streets. Mr. Brown would give a short report on the ordinance at the next meeting.

**7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None.**

**8. ADJOURNMENT**

Chair Smith adjourned the meeting at 8:29 pm.

The undersigned certify the June 23, 2014 Planning Commission minutes were presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 14<sup>th</sup> day of July, 2014

  
Bryan Brown, Planning Director

  
Laney Fouse, Minutes Taker

Assisted with Preparation of Minutes – Susan Wood