



SUB 21-03

MARK'S PLACE SUBDIVISION

FINDINGS, CONCLUSION & FINAL ORDER

A prominent feature of the subdivision is a proposed parkland dedication for a large open space area and its associated trail improvements which is proposed to coalesce into a new segment of the Emerald Necklace open space and trail area. This is in addition to a programmed and improved private neighborhood park, several open space areas and additional pedestrian pathways. The applicant is seeking System Development Charge (SDC) reimbursement for the Emerald Necklace trail area only; this dedication is SDC reimbursable as it substantially meets the criteria found in CMC 16.120 – Parks and Open Space, the Canby Park’s Master Plan and the Park and Open Space acquisition plan. An appraisal of the land with discounting factors will be applied to determine the value of the SDC reimbursement.

HEARINGS

The Planning Commission considered application **SUB 21-03; Mark's Place** after the duly noticed hearing on February 14, 2022. The applicant requested a continuance and the Planning Commission granted a continuance to the next regularly scheduled public hearing date of February 28, 2022. The Planning Commission moved to approve the application (**SUB 21-03; Mark's Place**) by a 4/1 verbal vote in affirmation. These Findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not the aforementioned 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 February 7, 2022. Supplemental materials were also submitted from applicant and staff and testimony was received during the hearing as appropriate and applicable. This combination of original evidence, supplemental materials and testimony were compared against the criteria and standards found in the Canby Development Code.

FINDINGS AND REASONS

The Staff Report was presented, and written was received at the public hearing. The Planning Commission deliberated after the close of the public hearing and determined that the project met the applicable criteria for approval based on staff analysis and the applicant's submittal.

As part of the hearing process, a variety of concerns were raised, among these were potential trespass to adjoining properties as well as the need to provide pedestrian access from Tract F (alley ways) to S Ivy Street. As such, Planning Staff wrote sample conditions and presented those conditions to the Planning Commission. The Planning Commission incorporated those new conditions (# 78 # 79). The condition language is identified in the bulleted list below:

- The applicant shall coordinate with Tyson Hemrich, owner of Tax Lot 41E03 02400, east of the subject property in order to provide fencing, vegetation, signage and other measures as appropriate to reduce the potential for trespass onto that property.
- The applicant shall construct and ADA sidewalk access point to connect with sidewalk infrastructure on S Ivy Street from Tract F (Alley C). That sidewalk shall be constructed to Public Work's design standards and inspected and approved as part of the public improvement inspection and approval process.

ORDER

The Planning Commission concludes that, with the following conditions, the application meets the approval criteria. Therefore, it is ordered by the Planning Commission of the City of Canby that **SUB 21-03; Mark's Place** is approved subject to the stated conditions of approval included in this document.

CONDITIONS OF APPROVAL

The following numbered list below are conditions of approval applicable to this project. These conditions are imposed as part of the approval process and vesting of the proposed use on the subject property.

A. Process / Series

1. The applicant shall address any requisite changes to the plat or submittal that invalidate or otherwise prevent the subdivision plat as a result of a denied frontage reduction request. This may require subsequent public hearings, continuances or other actions if the changes proposed are substantial.
2. Any significant alterations to the proposed plans may require, at the discretion of the Planning Director, further analysis and land use applications, including additional hearings if needed.

B. Public Improvements

3. Prior to the start of any public improvement work, the applicant shall provide preliminary construction plans to City of Canby Planning for initial redlines. A subsequent Pre-Construction Conference will only be allowed once plans are sufficiently reviewed and deemed acceptable for moving forward by the reviewing agencies. (Canby Planning)
4. All site development shall comply with all applicable City of Canby Public Works Design Standards. (City Engineer/Public Works)

Fees/Assurances:

5. 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 125% of the cost of the remaining public improvements to be installed. (City Engineer/Public Works/Canby Planning)
6. If the applicant chooses to provide a subdivision performance bond for some or all of the required public improvements, the applicant shall obtain a certificate from the city engineer that states:
 - a. The applicant has complied with the requirements for bonding or otherwise assured completion of required public improvements;
 - b. The total cost or estimate of the total cost for the development of the subdivision is to accompany a final bid estimate of the subdivider's contractor if a contractor has been engaged to perform the work. The certificate of the total cost estimate shall be approved by the city engineer. (City Engineer);
 - c. The bond shall have a reasonable sunset date. Should the sunset date occur prior to completion of the subdivision, the developer shall complete the remaining public improvements or the bond's value will be sought by the City. This date shall be agreed upon by City staff and the applicant.
7. The applicant shall guarantee or warranty all public improvement work with a one (1) year Subdivision Maintenance Bond following written notice of acceptance by the city to the developer in accordance with Section 16.64.070(P) of the *Ordinance*. (Public Works/Canby Planning)

8. The applicant shall pay the city of Canby an engineering plan review fee equal to 2.5% of public improvement costs prior to the construction of public improvements (approval of construction plans). (Canby Planning)
9. All interior street corners shall have ADA ramps and at least one ADA ramp across the street to facilitate pedestrian crossings and shall be constructed as part of this development in conformance with PROWAG guidelines. (City Engineer)

C. Streets, Easements, Signage & Striping:

10. Generally, the applicant shall be required to dedicate, construct and improve all existing and new streets to current Public Work Design standards and Transportation System Plan (TSP) requirements.
11. The remaining portions of right-of-way within S Ivy Street, SE 16th and SE 17th Avenues shall be dedicated over to the City to satisfy the planned right-of-way width standards along the entire project's respective frontage in these areas.
12. The applicant will be required to design and construct half-street improvements along the entire site frontage of S Ivy Street to City arterial roadway standard details for a two-lane section. These improvements will consist of a minimum paved width of 19 feet from the centerline of the right-of-way consisting of one 12-foot travel lane and a 7-foot bike facility (i.e., 5-foot bike lane with 2-foot buffer), and a 12-foot pedestrian zone (i.e., 6-foot-wide sidewalk with a 0.5-foot setback from the right-of-way line, behind a 5-foot-wide landscape strip and 0.5-foot curb).
13. Standard improvements including street lights, street trees, striping, curb and gutter shall be provided along the S Ivy and SE 16th and SE 17th project frontage. This includes all necessary PUEs and other utility easements.
14. The final construction of internal side streets and driveways must comply with city standards.
15. All local internal streets within the subdivision shall be designed to City local street standards with 34-foot paved width, formed concrete curbs and gutters, 5-foot wide planter strip with street trees, 6-foot wide concrete sidewalks, street lights and utilities in conformance with Chapter 2 of the City of Canby Public Works Design Standards, dated December 2019. The City Engineer shall determine compliance with this condition. (City Engineer)
16. All interior street names and traffic signs shall be installed by the developer as part of this development. The developer's design engineer will be required to submit as part of the construction plans, a signing and striping plan. The City may supply the required traffic and street name signs based on a mutually agreed cost. (City Engineer)
17. All alleyway widths shall meet Canby Fire District and Canby Public Works design standards wide with 'No Parking' signs installed. (Canby Fire)

Alleyways B and C, lots 58 through 74 shall be constructed as a 26-foot wide paved roadway with "No Parking" signs installed.

18. The proposed alley shall be constructed with a paved surface, curb and gutter on both sides and 5 feet wide curb tight sidewalk on one side of the alley. The access onto the local Street shall have a commercial driveway approach consisting of a minimum of 6" concrete thickness with reinforcements or welded wire mesh fabric as referenced on City of Canby standard drawing No 104. (City Engineer)
19. Radii of all cul-de-sacs shall meet current state fire code. The radii shall be indicated on the construction plan set.
20. The proposed streets names are consistent with the City's street naming conventions with the exception of S White Oak which should be renamed to S Oleander Street. This has been made a condition of approval. (Planning)
21. Prior to occupancy, sight distance at site intersections with S Ivy Street will need to be verified, documented, and stamped by a registered professional Civil or Traffic Engineer licensed in the State of Oregon.
22. As part of the final design, the developer's design engineer shall provide a minimum of 200-foot future centerline street profile design to assure future grades can be met. The City Engineer shall determine compliance with this condition. (City Engineer)

D. Grading and Erosion Control/Demolition:

23. The applicant shall obtain an Erosion Control permit from the City of Canby prior to any on-site disturbance. The 1200-C permit submitted to DEQ shall be supplied along with the erosion control permit. Typically a LUCS is required from City Planning Staff, please submit application for LUCS signoff in advance of erosion control requests. (City Planning/Canby Public Works)
24. The applicant shall obtain a demolition permit from Clackamas County, (with a release for permit from Canby Planning) prior to demolition of on-site existing structures. (Canby Public Works/Canby Planning)
25. The applicant shall obtain a grading permit from Clackamas County prior to any on-site disturbance and provide the City proof of permit. (Clackamas County/Coordination with City Public Works)
26. Grading in the Emerald Necklace open space and trail dedication area shall use all appropriate BMPs for the protection of soil stability and runoff towards the Molalla River. The applicant is responsible for coordination with state and federal agencies should the need arise for additional permitting.

E. Street Trees:

27. The applicant shall be responsible for selecting street trees from the City approved tree list. The developer shall install street trees at their own cost. Street trees shall be provided with (2) years of city maintenance, prior to final plat recordation. Property owners shall take over all responsibility of said street trees after the two (2) year period lapses. Canby Public Works in

conjunction with Canby Planning, shall determine compliance with this condition. (Public Works / Canby Planning)

F. Sewer and Storm Drainage:

28. The applicant shall be required to extend and install a public sanitary sewer line(s) to serve the development. The City Engineer and Public Works shall determine compliance with this condition. (City Engineer /Public Works)
29. All private storm drainage discharge shall be disposed on-site, design methodology shall be in conformance with the City of Canby Public Works Design Standards, February 2020. The City Engineer and Public Works shall determine compliance with this condition. (City Engineer /Public Works)
30. All drywells are to be connected and certain buildable lots will have weep holes for rain drains as per the Public Works Department's discretion. (Public Works)
31. The applicant shall be required to submit a Storm Drainage Report that provides detailed analysis as part of the storm report. The developer's engineer shall demonstrate how the storm runoff generated from the new impervious surfaces will be disposed of. If drywells (UIC) are used as a means to discharge storm runoff from the private streets, they must meet the following criteria:
 - a. The UIC structures location shall meet at least one of two conditions:
 - i. The vertical separation distance between the UIC and seasonal high groundwater is more than 2.5 feet or;
 - ii. The horizontal separation distance between the UIC and any water well is a minimum of 267 feet in accordance with the City of Canby Stormwater master Plan, Appendix "C", Groundwater Protectiveness Demonstration and Risk Prioritization of Underground Injection Control (UIC) Devices.
32. The storm drainage report shall be in conformance with the requirements as stated in Chapter 4 of the City of Canby Public Works Design Standards, dated February 2020. The City Engineer and Public Works shall determine compliance with this condition. (City Engineer/Public Works)
33. The applicant shall be responsible for the abandonment of any existing on-site domestic or irrigation wells in conformance with OAR 690—220-0030. A copy of the Oregon Water Rights Department (OWRD) Certificate shall be submitted to the City. The City Engineer and Public Works shall determine compliance with this condition (City Engineer/Public Works)
34. The applicant shall be responsible for the abandonment of any existing on-site sewage disposal system, in conformance with DEQ and Clackamas County Water Environmental Services (WES) regulations. A copy of the septic tank removal certificate shall be submitted to the City. The City Engineer and Public Works shall determine compliance with this condition. (City Engineer /Public Works)

G. Water & Electric Utility Services

35. Water services shall be constructed in conformance with Canby Utility's standards and specifications. Canby Utility, in conjunction with the City Engineer shall determine compliance with this condition. (City Engineer /Canby Utility)
36. Currently there are not valves in the existing subdivision and if this connection happens the water main will have to be depressurized and a boil water notice given to homeowners on SE

16th Avenue; an alternative is an 'Inserta-valve'. (Canby Utility)

37. Applicant must show the separation between water and sewer per Oregon State OAR, 340-052 Appendix A. (Canby Utility)
38. The applicant shall submit drawings for all project water lines to Canby Utility for review and approval. Submittal shall meet the requirements of Canby Utility as well as the State of Oregon's requirements. Canby Utility shall determine compliance with this condition. (Canby Utility)
39. Canby Utility, in coordination with the applicant will determine the electrical system layout to serve the subdivision. This shall include required streetlight placement which shall be represented on a utility service page of the construction plans for the subdivision by the applicant. Canby Utility shall determine compliance with this condition. (Canby Utility)
40. The applicant shall schedule all water and electric utility construction and inspections at least 15-days in advance. (Contact Canby Utility Operations Field Supervisor at 503-263-4331).
41. The applicant shall be required to provide 4-inch Schedule 40 PVC sleeves for all road crossings for DirectLink services where applicable. The applicant shall work with DirectLink for coordination of all sleeves and required open trenching scheduling for said communication facilities. DirectLink shall determine compliance with this condition. (Contact DirectLink at 503-266-8242)
42. Direct Link does allow any of our utilities in alleyways, backyards or back of lots. Redesign may be required.
43. Public parks in this subdivision will need conduit runs to the park along with power to provide WiFi. We have been working with the City to offer free WiFi to all public parks and is maintained by the City.

H. Fire Protection

44. All fire protection apparatus's such as fire hydrants placement and location shall be placed in accordance with the requirements of the Canby Fire District codes and regulations (Oregon Fire Code 2019, Chapter 33). The fire hydrants are not to be spaced further than 300 feet of travel distance. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)
45. The applicant shall contact the Canby Fire District for review and inspection of placement of all fire hydrants, and placement of any and all flammable construction materials on-site, prior to placement of said materials. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)
46. Building Address shall be marked at the beginning of construction with a lot marker if needed for each lot under construction. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)
47. All fire hydrants shall all have Storz quick adapter couplings on the steamer port as required by Canby Utility. A Blue reflector will be in the center of the road to indicate the hydrant is in the vicinity. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)
48. Landscaping shall be low growing vegetation so as not to block visibility of hydrants, or addressing. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)

49. The applicant shall provide a PDF of approved prints for the Canby Fire District Pre-Fire Plan program of the development. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)
50. All Fire Lanes shall be painted red on curb with – “No Parking Fire Lane” in white - and signage, in accordance with the Oregon Fire Code 2019. Fire Lanes will be determined while on site for any access issues with Canby Fire and the builder. Canby Fire District shall determine compliance with all fire regulations. Fire lane shall be permanently striped on the ‘flag’ portion of all flag lots. (Canby Fire District)
51. Fire access shall always be part of the construction plan for the development. Canby Fire District shall determine compliance with all fire regulations. (Canby Fire District)

I. Post Office (mailbox locations)

52. The applicant shall coordinate with USPS staff at Canby USPS for mailbox locations.

J. Final Plat:

53. A final plat application shall be accompanied with a complete and detailed narrative that demonstrates compliance with all conditions of approval. Accompanying diagrams, letters, communications and other objective evidence shall be provided to substantiate any claims that are not easily verified by the narrative itself. The narrative shall address:
 - a. How the condition is met;
 - b. Who is responsible for verifying the condition;
 - c. When it is met; or if not met at the time of final plat, an ETA on completion.
54. The applicant shall apply for final plat approval at the City, and pay any applicable city fees associated with final plat review. Prior to the recordation of the final plat at Clackamas County, the plat must be approved by the City. If deemed necessary, the City will distribute the final plat to other applicable local service providers for comment prior to signing off on the final plat. Canby Planning shall determine compliance with this condition. (Canby Planning)
55. All public improvements or submittal of necessary performance security assurances shall be made prior to the signing and release of the final plat for filing of record. Canby Planning shall determine compliance with this condition. (Canby Planning)
56. The final plat shall conform to the necessary information and 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 subdivision plat. (Canby Planning/City Engineer)
57. All “as-built plans” of City public improvements installed shall be filed with Canby Public Works within sixty (60) days of completion and acceptance of the improvements. (City Engineer/Public Works)
58. Clackamas County Surveying reviews pending subdivision plat documents for Oregon Revised Statutes and county requirements. A subdivision final plat prepared in substantial conformance with the approved tentative plat must be submitted to the City for approval within two years of approval of the tentative plat, or formally request an extension of up to 6-months with a finding of good cause. Canby Planning shall determine compliance with this condition. (Canby Planning)

59. The applicant shall record the final plat at Clackamas County within 6-months of the date of the signature of the Planning Director. Canby Planning shall determine compliance with this condition. (Canby Planning)
60. 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 recorded in conjunction with the final plat. Canby Planning shall determine compliance with this condition. (Canby Planning)
61. The City shall assign addresses for each newly created subdivision lot and distribute those addresses to the developer, and other applicable agencies accordingly prior to home permitting. Canby Planning shall determine compliance with this condition. (Canby Planning)

K. Easements

62. All public utility easements traversing the newly created residential lots related to water, sewer, electric, and gas service shall be noted on the final plat. Canby Planning in conjunction with the City Engineer shall determine compliance with this condition. (Canby Planning / City Engineer)

L. Residential Building Permit(s):

63. Construction of all required public improvements and the recordation of the Final Plat shall be completed prior to the issuance of building permits and comply with all applicable City Public Works Design Standards. The City Engineer and Public Works shall determine compliance with this condition. (City Engineer/ Public Works/Canby Planning)
64. The homebuilder shall apply for and submit a City of Canby Site Plan Permit application and Clackamas County Building permit for each home, and satisfy the residential design standards of CMC 16.21. Canby Planning shall determine compliance with this condition. (Canby Planning)
65. All residential construction shall be in accordance with applicable Public Works Design Standards. Public Works shall determine compliance with this condition. (Public Works)
66. 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. (Canby Planning)
67. Per the Canby Public Works Design Standards, minimum residential driveway widths at the inside edge of the sidewalk shall be 12-feet and the maximum width shall be 24 feet, with an allowed exception of 28 feet for a home with 3 or more garages. Canby Planning shall determine compliance with this condition. (Canby Planning)
68. All usual System Development Charges (SDC) shall be collected with each new home permit within this development with the exception of parks SDCs which will be discounted based on the appraisal figures. Canby Planning shall determine compliance with this condition. (Canby Planning)

M. Fencing

69. Placement of residential fences along any front or street-adjacent side yard property line are permitted to be a maximum of 3-feet, 6-inches in height, and must not exceed 30-inches in height when within the 30-foot Vision Clearance Triangle for all corner lots, and Vision Clearance Area of ten (10) feet from driveways to the street. Perimeter and rear yard fencing is not to exceed six (6) feet in maximum height. Please reference Section 16.08.110 of the Canby Land Development and Planning Ordinance, Chapter 16, of the Municipal Code. (Canby Planning).
70. All fencing along pedestrian paths shall conform to Section 16.08.110 for height and materials.

N. Parks Dedication

71. The applicant shall cause the proposed Emerald Necklace open space and trail area to be dedicated over as part of the proposed second phase of the Mark's Place subdivision project. All applicable processes of Canby Municipal Code Chapter 16.120 and other applicable chapters in this title, shall be used to dedicate over park land to satisfy in part or whole, the requirements of dedication to the City of Canby.
72. The applicant shall supply an open space plan to accompany the final plat of the proposed subdivision. That plan shall designate the boundaries of the dedicated open space area and indicate how the area will be maintained, perpetuated and administered by the HOA and/or in coordination with the City.
73. The applicant shall place a native mix of vegetated cover crop/seed over excavated and graded areas disturbed by the construction of the pedestrian path in the Emerald Necklace open space dedication area.
74. The applicant shall supply a maintenance agreement to be signed and recorded with the plat indicating maintenance responsibilities reciprocal or otherwise between the city and the future HOA for the trail and surrounding open space. A copy of the recorded document shall be supplied to the City.
75. Prior to the conveyance / dedication of parkland to the City, the applicant shall acquire a real market appraisal of the land to be dedicated. That appraisal shall account for the environmental and physical constraints on the property and quantify that as part of the appraisal. The applicant and city shall agree in principle on the value of the land based on the appraisal and the aforementioned factors. That value will be used to calculate the SDC park reimbursement amount.
76. The applicant shall convey over via warranty deed the Emerald Necklace open space and trail dedication area. As part of the conveyance, the conveyor shall supply:
- a. an accompanying title report;
 - b. phase I environmental assessment;
 - c. an indication in writing by Clackamas County Assessor's office that the taxes paid on the land to be conveyed are current.

77. Lighting shall be provided in Tracts A, B and H but not in Tract I. Lighting shall be approved by Public Works and City Engineer during the pre-construction phase of the project. with a minimum of three foot-candles illumination. Lighting shall minimize glare on adjacent uses consistent with the outdoor lighting provisions in Section 16.43.

O. Conditions Imposed at Hearing by Planning Commission

78. The applicant shall coordinate with Tyson Hemrich, owner of Tax Lot 41E03 02400, east of the subject property in order to provide fencing, vegetation, signage and other measures as appropriate to reduce and prevent potential trespass.
79. The applicant shall construct an ADA sidewalk access point to connect with sidewalk infrastructure on S Ivy Street from Tract F (Alley C). That sidewalk shall be constructed to Public Work's design standards and inspected and approved as part of the public improvement inspection and approval process.