



## STAFF REPORT

**DATE:** June 5, 2024  
**TO:** The Planning Commission  
**FROM:** Michael Maloy, AICP, Planning Director  
**SUBJECT:** Consideration of preliminary plat approval for the Oaklie Estates Subdivision located at 6221 W 13900 South in the A-1-43 Agricultural Single Family Zone (Public Hearing)  
**Applicant:** Cade Cunningham, Western Flats (property owner)  
**Acres:** ±3.723  
**File No:** S2020-016

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### **RECOMMENDATION:**

Motion to approve preliminary plat application number S2020-016 for the Oaklie Estates Subdivision to create three new buildable lots at 6221 W 13900 South in the A-1-43 Agricultural Single Family Zone (see Attachments A & B) with the following conditions:

1. The final subdivision plat shall comply with all applicable Herriman City regulations and engineering standards.
2. The final civil engineering plans for the subdivision shall contain a landscape plan for the 13900 South storm drain swale that contains “low impact design” (LID) features acceptable to the City and stamped by a licensed landscape architect as required by City Code 10-23-5.
3. The final subdivision plat shall be recorded within two years of preliminary approval.

### **ISSUE BEFORE COMMISSION:**

Does the Planning Commission find the proposed preliminary Oaklie Estates Subdivision plat complies with all applicable Herriman City regulations and engineering review standards?

### **BACKGROUND & SUMMARY:**

On June 18, 2020, the Planning Commission held a public hearing on a prior version of the preliminary subdivision plat that contained five lots—one of which contained an existing home on the parcel. However, the proposal was subject to City Council approval of a zoning map amendment from A-1-43 to A-1-21, which the Council denied on August 12, 2020. Following this decision, Planning Department staff requested the applicant revise and resubmit a preliminary subdivision plat that complied with the current zoning district (which has a 1-acre lot minimum).

Following intermittent attempts to redesign the proposal, the applicant hired a new engineering and planning consultant, Reeve & Associates, in 2023. Through an iterative review process, the

applicant has proposed a preliminary subdivision plan for three *new* buildable lots, one of which is a “flag lot.” The existing single-family home, which will remain on a 1.26-acre parcel, was excluded from the plat. City staff reviewed the attached proposal and recommended approval with the conditions noted above.

### **DISCUSSION:**

**Engineering.** Through the Community Facilitator Meeting and Planning Commission Public Hearing process in 2020, several neighborhood residents favored fewer and larger lots than the applicant’s initial five-lot subdivision proposal. Residents—and the applicant—also favored “rural” right-of-way improvements along 13900 South rather than the traditional concrete high-back curb and gutter.

Whereas the adjacent street frontages do not have curb and gutter, the City Engineer has agreed to implement a “low impact design” for public improvements, such as constructing a storm drain swale on 13900 South. Construction details for the proposed subdivision, including landscape design, will be completed through the final subdivision plat review process.

**Planning.** Due to an existing floodplain along the southern portion of the subject property, which has been mapped by the Federal Emergency Management Agency (FEMA), the buildable area of the subject property is significantly reduced. Furthermore, the applicant has also agreed to dedicate additional right-of-way for 13900 South Street even though the City will not require the construction and dedication of traditional public improvements.

Given the constraints and obligations noted above, the applicant requested the City allow a lot area reduction for Lot 1 (to  $\pm 0.911$  of an acre) and Lot 3 (to  $\pm 0.877$  of an acre) as per the following:

#### **10-6-9: NONCONFORMITY CREATED BY PUBLIC ACTION**

When the area or setbacks of a legally created lot or parcel are reduced as the result of land conveyed to a Federal, State, or local government and the remaining area or setback is *at least seventy-five percent (75%) of the required minimum in the zone where it is located, the lot or parcel shall be deemed to be in compliance with the minimum size and setback standards* of this title without any need for a variance.

While the preliminary plat could be adjusted to comply with the 1-acre lot minimum in the A-1 Zone, the buildable area of all three lots will be reduced.

#### **10-5-6 (B) General Decision-Making Standards for Administrative Actions**

2. In making a decision on an administrative application, the decision-making body or official shall apply the plain language of applicable land use regulations.
  - a. If a land use regulation does not plainly restrict a land use application, the decision-making body or official shall interpret and apply the land use regulation to favor the land use application.
  - b. A land use decision of a decision-making body or official is an administrative act, even if the decision is made by the City Council.
3. Decisions regarding administrative applications shall be based on the "substantial evidence" standard and shall include at least the following:
  - a. A statement of the standards for approval applicable to the application;

- b. A summary of evidence presented to the decision-making body or official;
- c. A statement of findings of fact or other factors considered, including the basis upon which such facts were determined and specific references to applicable standards set forth in this title or other provisions of this Code; and
- d. A statement of approval, approval with conditions, or disapproval, as the case may be.

**Finding:** *Based on plans submitted, materials reviewed, public comments received, and the attached City standards, staff finds the proposed preliminary subdivision plat application contains substantial evidence that warrants administrative approval by the Planning Commission with the conditions listed on page one of this staff report (see Attachments C & D).*

**ALTERNATIVES:**

The Planning Commission may consider the following alternatives following the June 5, 2024, public hearing:

Alternatives	Recommendation	Considerations for Alternative	Considerations against Alternative
Approve proposal as submitted	Yes	Approval provides additional residential development within the City to meet housing demands	Without staff recommendations, some issues remain unresolved
Approve proposal with conditions		Approval provides additional residential development within the City to meet housing demands and ensures compliance with City standards	Based on the provided information, the Commission may determine whether additional conditions are warranted
Postpone proposal (with or without date)		Based on the provided information, the Commission may identify additional issues that warrant further research and review. A motion to postpone should identify what additional information is required	Staff has not identified any issues that would warrant further postponement
Deny proposal		Based on the provided information, the Commission may find that a motion to deny is warranted (identify findings and applicable standards in motion)	Staff has not identified any findings that warrant denial

**ATTACHMENTS:**

- A. Vicinity Map
- B. Preliminary Plat
- C. Preliminary Subdivision Regulations
- D. Flag Lot Regulations