



Where Life is Sweet

Mayor and Members of the City Council
STAFF REPORT
For the Meeting of May 26, 2026

Title/Subject

Appeal of Planning Commission Decision- Henry K's Subdivision Phase 4 Preliminary Plat 4N2813 TL 210 1200 SE Columbia Dr

Summary and Background

The Hermiston Irrigation District has filed an appeal of the planning commission's approval of the preliminary plat for Phase 4 of the Henry K's subdivision. The property is located at 1200 SE Columbia Drive and is described as 4N 28 13 Tax Lot 210. The preliminary plat is the fourth phase of the existing Henry K's subdivision which will span the area between SE 10th Street and E Highland Avenue at completion. Phase 4 of the subdivision contains 35 residential lots and one 21.81 acre lot reserved for platting in additional phases. The property is zoned Medium Density Residential (R-2).

The planning commission approved the preliminary plat on April 15, 2026. The planning commission's approval of the preliminary plat was subject to eleven conditions of approval. The conditions of approval are attached to this report.

Approval of subdivisions is regulated under Chapter 154 of the Hermiston Code of Ordinances. Appeals of land use decisions are on the record and limited to participants and evidence presented to the planning commission unless otherwise specified by the city council. Participants may have representation upon appeal and evidence may be further clarified at an appeal, but new evidence is not permitted in an on the record hearing. Approval of a preliminary subdivision plat is considered a limited land use decision under ORS 197.015(12)(a)(A) and subject to the procedures established in ORS 197.195 and the criteria in Chapter 154 of the Hermiston Code of Ordinances. As required by ORS 227.178(1)(a) a city shall render a final decision (including resolution of appeals) on all land use actions within 120 days of the date the application was deemed complete. The application was deemed complete on March 18, 2026 when the applicant submitted additional information requested by planning staff. Therefore, the city shall complete the final decision on the application no later than July 16, 2026.

When the city issues a land use decision, any participants have the right to file an appeal of the decision within 12 days of the date the decision was mailed to participants. The notice of preliminary plat approval was mailed by planning staff on April 17, 2026. Only the Hermiston Irrigation District and the Oregon Department of Transportation participated in the decision and

have standing to file an appeal. The Hermiston Irrigation District filed written testimony prior to the planning commission decision and said testimony is attached to this report. Representatives for the Hermiston Irrigation District filed an appeal of the preliminary approval on April 28, 2026 within 12 days of the date of mailing. The appellant therefore has standing to appeal and the appeal is considered timely and eligible for review by the city council.

The specific issues raised by the Hermiston Irrigation District center on the A-Line canal which is near but not abutting the north boundary of Phase 4. The District requests that the applicant develop a storm water management plan for the subdivision to address natural springs on the property and protect the A-Line canal from water intrusion as impervious surfaces increase following development. Land adjacent to the A-Line canal has been separated from the Phase 4 development and is being sold to the City of Hermiston for park and trail purposes. The District also requests that the developer coordinate with the District with all relevant storm water and hydrology reporting. In the absence of a storm water management plan in the preliminary plat materials, the District objected to the approval of the preliminary plat. The planning commission discussed the District's testimony on April 15. The applicant has prepared wetland reports for the Oregon Department of State Lands and has evidence that the natural springs are not waters of the state. With regards to the storm water plan as part of the preliminary plat process, the planning commission has the authority to waive the requirement that the storm water plan and other civil designs be submitted as part of the preliminary plat process under §154.35(D). The planning commission moved to waive the requirement and to require storm water plans to be submitted for review as part of the civil engineering review for the development. The waiving of storm water planning is a typical action of the planning commission. Civil engineering planning is more appropriately reviewed by the city engineer and is not as germane to the overall lot and street layout being considered at the planning commission level.

The appellant has appealed Condition of Approval #1 as imposed by the planning commission.

Condition #1 states:

1. Applicant shall receive certification pursuant to ORS 92.090 (7) from the Stanfield Irrigation District prior to final plat approval. Applicant should be aware that the City of Hermiston will not sign the final plat until the irrigation district has been satisfied and signs the final plat.

The draft condition of approval presented to the planning commission in the staff report specified that the applicant shall receive certification from the Hermiston Irrigation District. At the April 15 planning commission meeting the applicant's representative presented evidence that the land is not within the boundary of the Hermiston Irrigation District and that the property is instead within the boundary of the Stanfield Irrigation District. The evidence entered into the record by the applicant was provided from Umatilla County GIS data. In the absence of evidence demonstrating the property is located within the boundary of the Hermiston Irrigation District, the planning commission amended the condition to reflect the evidence in the record to comply with ORS 92.090(7) which states:

Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or

partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.

The notice of appeal filed by the Hermiston Irrigation District includes new evidence regarding the Hermiston Irrigation District boundary and service area not presented to the planning commission on April 15. Although the information is included in the notice of appeal, it is the staff finding that it represents new evidence which is not admissible in an on the record hearing.

The April 15 HID letter notes that the applicant did not prepare a storm water plan and objects to the preliminary plat on that basis. The Kellington Law Group April 15, 2026 letter includes a storm water system design prepared by Harms Engineering, the project civil engineer. This letter is part of the record before the planning commission.

Determination of governing irrigation district boundary is beyond the scope of preliminary plat approval powers assigned to cities in either state statute or the Hermiston code. Cities are required to delay approval of a plat until an irrigation district has certified whether a plat is located within the district boundary for the purposes of receiving services and subjecting the subdivision to the fees and other charges of the district. Statutory authority in platting for districts is generally limited.

The city council may choose to remand the preliminary plat to the planning commission for additional development of the record, uphold the planning commission's decision, or amend the condition of approval under appeal.

Staff acknowledges that the determination of irrigation district boundaries is not under the jurisdiction of the City of Hermiston. Therefore, staff recommends the city council uphold the planning commission decision based upon the evidentiary record from the April 15 meeting.

Tie-In to Council Goals

N/A The council processes appeals of planning commission approval of preliminary plats per §154.76 of the Hermiston Code of Ordinances.

Fiscal Information

There are no financial implications for the city as a result of this appeal.

Alternatives and Recommendation

Alternatives

The city council may choose to affirm, reverse, modify, or remand the decision to the planning commission. Only approval condition #1 is appealed to the city council.

Recommended Action/Motion

Staff recommends that the city council uphold the planning commission decision.

Submitted By:

Clinton Spencer, Planning Director