

To: Ms. Jennifer Nye, Chair
City of Beaverton Planning Commission

From: Wayne Hayson 
Pioneer Design Group, Inc.

Project: **Riverside at Southridge Park**
City of Beaverton Case File Nos ADJ 2019-0018 and APP 2020-0002.

Date: April 22, 2020

RE: **Applicant's Response for the First Open Record Period**

Background

Prior to the initial Appeal Hearing of City of Beaverton Case File Nos ADJ 2019-0018 and APP 2020-0002 on April 8, 2020, the applicant submitted a letter from Michael Robinson, dated April 3, 2020, requesting that the Hearing be closed and the record remain open for 14 days until April 22, 2020 at 5 p.m. for anyone to submit argument and evidence into the record; for another 7 days until April 29, 2020 at 5 p.m. for anyone to rebut materials received into the record through April 22, 2020; and for 7 days until May 6, 2020 at 5 p.m. for the Applicant only to submit final written argument without new evidence into the record pursuant to ORS 197.763(6)(e). The Planning Commission granted the request, and this memorandum serves as the applicant's response to the First Open Record Period.

As detailed in the applicant's oral testimony, and the written submittal to the Planning Commission dated April 2, 2020, the applicant continues to assert that none of the testimony, either written or oral, presented in support of the Appeal of the Directors Approval of City of Beaverton Case File ADJ 2019-0018 addresses any of the relevant approval criteria for a Minor Adjustment contained in BDC 40.10.15.1.C.1-14, or alleges a lack of evidence to support the City's Decision. BDC Section 50.65.2.E. provides that an appeal must contain the following information:

The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.

Accordingly, the applicant continues to respectfully request that the Planning Commission either dismiss the Appeal of ADJ2019-0018 as jurisdictionally defective or, in hearing the Appeal, affirm the Decision, reject the Appeal, and Approve the Minor Adjustment Application.

Response to Oral Testimony

Notwithstanding the above, the applicant would like to respond to several issues raised during oral testimony.

Procedure Type

The Appellant incorrectly alleges that the initial application should have been determined by the Director as requiring review as a Type III procedure, based on the language of BDC Subsection 50.15.1.C., which states:

A Type 3 procedure typically involves an application that is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.

The Appellant cites the Appeal by the South Beaverton Neighborhood Association as evidence of “broad public interest” necessitating the use of a Type III procedure. However, BDC Section 50.15.1. begins by qualifying those situations in which the Director has the opportunity to determine the procedure type. BDC Section 50.15.1. states (emphasis added):

An application shall be subject to the procedure type specified in the Code, if any. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.

Each of the applications submitted by the Applicant in relation to the Southridge Park development, and in particular ADJ2019-0018, is clearly specified in the Code as a Type II procedure, with the exception of the Sidewalk Design Modification which is specified as a Type I procedure, as follows:

- LD2019-025 – BDC 40.45.15.5.B.;
- FS2019-0018 – BDC 40.30.15.3.B.;
- ADJ2019-0018 – BDC 40.10.15.1.B.;
- TP2019-0012 – BDC 40.90.15.2.B.; and
- SDM2019-012– BDC 40.58.15.B.

As each application is specified in the BDC as requiring a Type I or II procedure, the Director is not afforded the opportunity to determine a different procedure using the guidelines specified by the Appellant. It is further noted that the Appellant cited the review of the original Meadow Waye Park application through a Type III procedure as evidence that the Southridge Park development should also be subject to the Type III

procedure. However, as opposed to a preliminary subdivision, which as stated above is specified in the BDC as a Type II application, Civic Recreation activities such as a Public Park are considered a Type III Conditional Use in accordance with BDC 40.15.15.3.B.

Through Street Connection

The Appellant testified that the requirement to provide a vehicular connection between SW 133rd Avenue/SW Bluebell Lane and SW Davies Road provides potential danger to park users, creates parking congestion, is inconsistent with previous application of the BDC, and creates neighborhood circulation patterns which will adversely impact existing residents. The Applicant notes that preliminary approval of the through street connection was determined as part of City of Beaverton Case File LD2019-025, which is not subject to these Appeal proceedings, and is therefore not subject to supplementary review. Further, in response to neighborhood concerns, the Applicant attempted to facilitate the development of additional parking within the development and adjacent to Meadow Way Park, however this attempt was ultimately unsuccessful when Tualatin Hills Park and Recreation District declined to participate. The relevant approval criteria for ADJ2019-0018 do not require the Applicant to accommodate parking within the subject site for adjacent uses.

In addition to the above, it is noted that the through street connection was anticipated and planned as part of the plat of Speer’s Meadow, which was recorded with the Washington County Surveyors Office January 6, 1997. Properties to the north of the subject site are located within this subdivision. Appropriate right-of-way dedication for the extension was provided within the plat of Speer’s Meadow, and a street stub was constructed as part of the subdivision’s required public improvements. While the location of the street shifted to the west following the approval of Meadow Way Park, it does not change the fact that the through connection has been identified by the City for over 23 years, concurrent with the development of Speers Meadow, and prior to the conception, design, and construction of Meadow Way Park.

Riverside Homes Development Streetscape Examples

During testimony, the Appellant presented an exhibit (Slide 10) showing homes built by Riverside Homes, and described the homes as being “probably similar” to those to be built within the Southridge Park development. However, the Applicant notes that the homes shown were located within the City of Hillsboro’s MFR-1 Multi-Family Residential Zone, which has a Minimum and Maximum Net Residential Density of 11 to 16 Dwelling Units Per Acre, versus the actual density achieved within the Southridge Park development of 8.33 Dwelling Units Per Acre. The homes shown as “probably similar” were located on typically 32-foot-wide lots with 3-foot side yard setbacks (6 feet between buildings). The lots approved with the Southridge Park development are between 40 and 50 feet wide, with 5-foot side yards (10 feet between buildings). As such, the examples shown by the Appellant reflect much denser development than that proposed within the Southridge Park development, with smaller homes located closer together, and limited curb area between driveways. The examples provided, including the

images of domestic roll carts awaiting collection, are therefore not considered comparable to the proposed streetscape.

Street Maintenance

During testimony, the Appellant asked as to the maintenance responsibilities for road improvements along the east side of the extension of SW 133rd Avenue. All public improvements proposed for the east side of the street, including curb and gutter sections, will be constructed within dedicated public right-of-way. As such, responsibility for maintenance of all roadway improvements, including curb and gutter sections, will fall to the City of Beaverton as is typical for residential development, and not to the Tualatin Hills Park and Recreation District. Improvements located within the property boundaries of Meadow Way Park, including the pedestrian trail and fencing, will remain the responsibility of the District.

Conclusion

Based on the findings presented herein, all materials submitted by the Applicant, the Staff Report and Notice of Decision, the Staff Memorandum to the Planning Commission, and oral and written testimony in the record, the Applicant has demonstrated full compliance with the applicable Minor Adjustment approval criteria of BDC 40.10.15.1.C.1-14. Conversely, the Appellant has failed to address any of the relevant approval criteria for a Minor Adjustment contained in the above referenced criteria, and has further failed to satisfy BDC Section 50.65.2.E., which provides that an appeal must contain *The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.* Accordingly, the Applicant continues to respectfully request that the Planning Commission dismiss the Appeal as jurisdictionally defective, or affirm the Decision, reject the Appeal, and approve the Application.