

EXHIBIT 22

RECEIVED

Richard T. King
15460 SW Heron Ct
December 12, 2016

DEC 07 2016

City of Beaverton
Planning Services

Elena Sasin,

This letter and attachments present addition evidence for the planning commission hearing regarding the SW 155th Avenue 3-Lot Partition.

In the applicant's submission Exhibit 16 new plan sheets, page 3 and page 4, are included with significant design elements that are inconsistent with each other, and inconsistent with the remaining sheets of the applicant's plan on file. As an example, the common driveway is relocated on sheet 4 relative to all other plan sheets on record. Also, the revised CWS Service Provider Letter included in Exhibit 16 is missing page 2. Requirements for application completeness are not met. In addition, major portions of the application plan narrative on file are no longer valid. A complete set of consistent plans are necessary to form any judgements on his proposed revisions both on the part of the appellants, but also for the city planning department to exercise due process and ensure conformance to code.

The facilities review section in the Notice of Directors Decision dated September 20, 2016 is rendered in error by the applicants proposed revisions and is therefore invalid. As a single point of example, the applicant now proposes to relocate the common driveway entry point to the public street. Text on pages SR-10, SR-14, and SR-18 of the Director's Decision all predicate decisions based on the fact, "existing driveway access will not be altered or relocated".

The applicant's proposed revision to lot lines and setbacks on Exhibit 16 page 3 still do not meet city of Beaverton code requirements. See attorney comments from Ms. Seitz and Mr. Stamp previously submitted, attached to this submission for convenience.

Excessive storm water risk to adjacent properties. In additional to points already submitted, it should be noted that the applicants plan utilizes a "LIDA Swale" along the extended driveway as a critical design element to collect storm water. That design element is being utilized in a location with a 9.5% slope which is significantly beyond the CWS allowed design limit of 6.5% slope. Failure of this design element would cause significant harm to both 15460 (Lot 27) and 15430 (Lot 28) properties due to the subject properties' steep down slope toward these adjacent properties.

There is additional risk as 155th avenue is at a local low spot at the subject properties' driveway. Water collects from both easterly and westerly directions along the street as well from the outfalls of properties on the north side of 155th. Street flooding is a common occurrence in the fall, reference attached photo taken by a neighbor at 10533 this November. Water pools in the street until the sidewalk height is overcome, then the flood water escapes down the subject driveway further stressing the on-site storm water management system.

Traffic safety, driveway slope. The applicant's analysis of driveway slope is in error on page 5 of exhibit 14. Page 5 clearly shows the referenced retaining wall is utilized to lower the elevation of the driveway and thus could only increase the driveway slope as the elevation of the sidewalk is fixed. As a point of

example, follow the 500 elevation line near the street, notice it drops to 497 at the point of the retaining wall thus matching the circled callouts on the drawing, TW 500 (top of wall elevation 500), BW 497 (bottom of wall elevation 497).

Attachments:

Photo of street flooding.

Email from Ms. Margor Seitz

Email from Mr. Andrew Stamp



Subject: FW: Applicant's response dated Nov 23, 2016 Re

From: Margot Seitz (mseitz@fwwlaw.com)

To: rickki5419@yahoo.com;

Date: Wednesday, December 7, 2016 9:35 AM

Margot (Lutzenhiser) Seitz | | mseitz@fwwlaw.com
Farleigh Wada Witt | 121 SW Morrison Street, Suite 600 | Portland, Oregon 97204
Tel: 503.228.6044 | Fax: 503.228.1741 | <http://www.fwwlaw.com>

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ATTORNEYS



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From: Margot Seitz
Sent: Wednesday, November 30, 2016 8:52 AM
To: 'Andrew Stamp'; esasin@beavertonoregon.gov
Cc: 'Rick King'
Subject: RE: Applicant's response dated Nov 23, 2016 Re

Dear Elena –

In addition to incorporating Mr. Stamps arguments below herein, I submit the following objection. The applicant's November 23, 2016 submission substantially amended its original application. The plans that were available for public view and comment are considerably different from now what is being proposed. Among other things, the applicant redesigned the land division boundaries, redefined and changed the yard areas, changed the size and location of Tract "B", and withdrew its application

for a flexible lot setback. The applicant's new drawings also create a seventh stand alone tract of land. Specifically, the southernmost portion of the property now forms a small triangle of land that is excluding it from "Tract B," without explanation.

The City deemed the application complete on August 10, 2016 and already issued a Notice of Decision on that specific application. Since substantial amendments have been made more than 14 days after the application was deemed complete (and after the Notice of Decision was issued), the director should treat the application as being refilled to afford all interested parties due process. *See*, BDS 50.25 E. 10. The applicant has asked for a substantial continuance to April 7, 2017 which provides sufficient time for that process without any prejudice to the applicant.

I request that this objection and refilling request be included in the record. Please let me know if you need a hand delivered copy of this email in order to include it in the record.

Lastly, the applicant's submission omits page 2 of the updated CWS Service Provider Letter. Can we please have a complete copy of that letter?

Thank you,

Margot

From: Andrew Stamp [<mailto:andrewstamp@comcast.net>]
Sent: Tuesday, November 29, 2016 1:01 PM
To: esasin@beavertonoregon.gov
Cc: Margot Seitz; 'Scott Wilson'
Subject: Applicant's response dated Nov 23, 2016 Re

Dear Elena:

From the start, this applicant has been an effort to fit a square peg into a round hole. In recognition of the flaws inherent in its initial design, the applicant significantly amended its application on November 23, 2016. Among other things, the applicant redesigned the site plan, amended the location of proposed lot lines, and withdrew its application for a flexible lot setback. In the current proposal, the

rear lot for parcel 3 contains of 5 separate lines, which is emblematic of how silly this application really is.

Among other things, the applicant has changed the dimensions of an existing rear deck to make it appear smaller than it appears on aerial photographs. Contrary to what is shown on the site plan, the actual deck protrudes into the required 20 foot rear yard, contrary to Code. In addition, the new drawings submitted by the applicant do not show the proposed dwelling on Lot Three meeting the side yard setback (the side measures out to three feet). Furthermore, the applicant has still not resolved the issue that Lot 2 does not have street frontage.

We were informed of these changes yesterday. Has staff considered BDC 50.40.6, which states: "Subject to the limitations set forth in Section 50.25.10., the applicant may amend the application during a period of time of up to and including fourteen (14) days after the application has been determined to be or deemed complete." Based on a quick review of this provision, the applicant seems to be in violation of Code by submitting amendments at such a late date.

At the very least, and without waiving any rights to make any other argument, including demanding that a new application be filed and processed, we hereby request in writing pursuant to ORS 197.763(6)(C) to reopen the record to accept rebuttal to the new evidence submitted by the applicant. Please let me know if this email does not constitute a "writing." If so, I will be happy to fax or hand deliver a request as well. The two relevant statutes at issue provide:

ORS 197.763(c): If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section.

ORS 197.763(7) When a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue.

Andrew H. Stamp

Andrew H. Stamp, P.C.

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