

Jennifer Rinkus

From: Brittany Gada <bgada@beavertonoregon.gov>
Sent: Thursday, November 10, 2022 4:02 PM
To: mtowle
Cc: Jana Fox; Jennifer Rinkus; Jerry Baysinger; 'hdietrich1@gmail.com'; Silas Shields
Subject: RE: 217 and Allen Plat Recording

Follow Up Flag: Follow up
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Hi Mike,

Staff met with the City Attorney to discuss the Conditions of Approval for Allen Blvd Phase 1 regarding recordation of the final plat prior to Site Development Permit issuance. The City Attorney reviewed your email and the Design Review and Replat One Land Use Orders and determined that the conflicting conditions cannot be considered a Scrivener's Error to modify the language. She explained that since these applications and their conditions were reviewed and approved through the Planning Commission's discretionary decision, staff does not have the discretion to modify the terms of the Planning Commission's approval. The path forward to modifying the conditions of approval to remove the conflict is to do a Modification of a Decision to request approval of the change from the Planning Commission.

Staff recommends applying for a Modification of a Decision specifically for the Replat One application, rather than for both the Replat One and Design Review Three applications. Although the Modification of a Decision of the Replat One will still follow the same Type 3 process as the original approval, the fee will be significantly less, and we believe that a simple change to the Replat One condition language will solve the issue (from "prior to site development permit issuance" to "prior to issuance of final occupancy for any building" to record the final plat). Staff is supportive of the modification.

To move forward with a Modification of a Decision, a Pre-Application Conference will be required. A Neighborhood Meeting is not required for this process. If you're able to submit a [Pre-Application Conference](#) request by Wednesday, November 16th, staff has agreed to hold a special Pre-Application for this project on Wednesday, November 23rd in the afternoon if that works for the applicant team to expedite this process. Additionally, you can submit the application package at any time for the Modification of a Decision to start the completeness review while the Pre-Application Summary is being prepared. The following materials are required for the Modification of a Decision application:

1. [Replat One application form](#) and \$1,680 fee
2. Copy of the approved site plan
3. Copy of the approved lot consolidation plan(s)
4. A written statement providing a description of the request and addressing the Replat One approval criteria in BDC 40.45.15.2.C and the Modification of a Decision regulations in BDC 50.95 (specifically regarding the modification of a condition in 50.95.7)
5. Copy of the Pre-Application Summary

Once the Modification of a Decision application has been deemed complete, staff will schedule the application for Planning Commission hearing. A Facilities Review Meeting will not be required if the Modification is requested to the Replat One application. Staff will work to expedite the hearing process to the best of our ability considering the upcoming holidays, staff time, and noticing requirements. The typical hearing process takes 7 weeks from the time a project is deemed complete, and noticing requirements dictate that the hearing cannot be any sooner than four weeks after being deemed complete. Again, we'll do our best to move as quickly as possible.

We understand that the process to correct the error in the conditions of approval affects the development's progress, and we apologize for the oversight and for the inconvenience. If you would like to set up a meeting with staff to discuss, please let me know.

Thank you,

Brittany Gada, AICP

Associate Planner | Community Development Department

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NEW Electronic Permitting System is now live!

Effective November 7, 2022, all new Building Permits must be submitted through [Home - CIVICS \(buildinginbeaverton.org\)](http://Home-CIVICS(buildinginbeaverton.org)) that includes 24/7 access to an online portal. For more information, including instructions, visit: [Electronic Permitting System | Beaverton, OR - Official Website \(beavertonoregon.gov\)](http://ElectronicPermittingSystem|Beaverton,OR-OfficialWebsite(beavertonoregon.gov))

From: Mike Towle <mtowle@dowl.com>

Sent: Tuesday, November 1, 2022 1:21 PM

To: Brittany Gada <bgada@beavertonoregon.gov>; Sambo Kirkman <skirkman@beavertonoregon.gov>

Cc: Jana Fox <jfox@beavertonoregon.gov>; Jennifer Rinkus <jenniferr@baysingerpartners.com>; Jerry Baysinger <JerryB@baysingerpartners.com>; 'hdietch1@gmail.com' <hdietch1@gmail.com>

Subject: [EXTERNAL] 217 and Allen Plat Recording

CAUTION: This email originated from outside the City of Beaverton. Exercise caution when opening attachments or clicking links from unknown senders.

Hi Brittany,

Following up on the voicemail I left a moment ago. I was reviewing the conditions of approval for all of the various decisions that we received for the 217 and Allen Hotel and Retail pad project. Looking at the LD approval, the condition states that the plat must record prior to the site development permit. As I mentioned on the call, that was strange to me as all the projects that I have done in Beaverton have always been prior to occupancy. I then looked at the conditions for the DR decision and they are as follows:

D. Prior to approval of the final plat, the applicant shall:

51. Have verified to the satisfaction of the City Engineer that the location and width of all existing and proposed rights of way and easements are adequate; that each parcel and tract has proper access provisions; and that each parcel and tract has adequate public utility service provision/availability per adopted City standards and requirements. (Site Development Div. / SAS)
52. **Have commenced construction of the site development improvements to provide minimum critical public services to site (access graded, cored and rocked; wet utilities installed) as determined by the City Engineer and to allow for verification that the location and width of proposed rights of way and easements are**

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adequate for the completed infrastructure, per adopted City standards. (Site Development Div. / SAS)

53. Show granting of any required on-site easements on the plat, along with plat notes as approved by the City Engineer for area encumbered and County Surveyor as to form and nomenclature. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet current City standards in relation to the physical location of existing site improvements. (Site Development Div. / SAS)

E. Prior to final inspection/occupancy of any building permit, the applicant shall:

61. Have recorded the final plat in County records and submitted a recorded copy to the City. (Site Development Div. / SAS)

Conditions 51-53 require that in order to obtain the final plat approval, we have to being construction to confirm the placement of easements, grades and constructed utilities. Condition 61 goes on to state that the plat is required to be recorded prior to final occupancy. These are the typical conditions that I often see on plats and recording in Beaverton and is consistent with the Modera Beaverton project that I noted on the call. It appears that the condition on the LD application was written in error since there is currently no possible way to meet both conditions since we need a site development permit in order to get final plat approval, but we need plat approval to get the site development permit.

Could this be something that could be corrected through a memo against the file since this appears to be a Scrivener's Error that was clearly unintentional? Because this was an unintended error, it doesn't seem like something that would warrant needing to go back to Planning Commission for.

Please let us know your take on this and the next steps.

Thanks,

Mike Towle, PE
Project Manager

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