

**BEFORE THE PLANNING COMMISSION OF
THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF APPEALS OF THE)	ORDER NO. 2532
PLANNING DIRECTOR'S DECISION TO APPROVE)	APP 2016-0002 and APP 2016-0003 Appeals of the
LD 2016-0002 AND TP2016-0003 – A TWO LOT)	Planning Director's decision to approve LD20106 and
PARTITION AT 10510 SW 155 TH AVENUE,)	TP2016-0002, Two Lot Partition at 10510 SW 155 th
RICHARD KING AND MURRAYHILL OWNER'S)	Avenue.
ASSOCIATION, APPELLANTS.)	

I. INTRODUCTION

The matter came before the Planning Commission (“Commission”) on November 09, 2016, November 30, 2016, December 21, 2016 and March 29, 2017, for a public hearing on an appeal of the Planning Director’s decision to approve the Preliminary Partition (“LD”) and Tree Plan 2 (“TP”) applications for a two lot partition of property located at 10510 SW 155th Avenue (“Property”), original case files LD 2016-0002 and TP 2016-0003. Two appellants requested reversal of the Planning Director’s decision to approve. The first appeal was received from Richard King (King) who owns an abutting property located east of the Property. The second appeal was received from the Murrayhill Owner’s Association (“Murrayhill”). The Commission considered both the written appeal materials and the appellants’ testimony. The Commission also considered additional public testimony from those in favor and those in opposition to the appeals.

After considering the facts, findings and testimony presented on November, 09, 2017, November 30, 2016, December 21, 2016 and March 29, 2017, the

Commission denies the appeals and affirms the decision of the Planning Director to approve the LD and TP for the two lot partition at 10510 SW 155th Avenue with revised conditions identified in the Staff Memorandum dated March 22, 2017. The Commission thereby amends the Planning Director's decision accordingly.

II. PROCEDURAL FINDINGS

The Commission acknowledges noteworthy changes to the original three-lot partition approved by the Planning Director on September 22, 2016. These changes effectively reduce the partition lot total from three to two and create three tracts of land. The first tract of land is intended for shared driveway access. The second tract of land is intended for passive open space and storm drainage conveyance. The third tract of land will be a buffer area as required by Clean Water Services for the sensitive areas identified south of the subject property.

In recognition of these changes, the city issued a second notice of appeal to the applicant, appellants and all parties of record, consistent with the appeal notification procedures identified in Section 50.65.6 of the Beaverton Development Code ("BDC"). The Commission finds that all required notices of the public hearing were given and that the staff report for the appeal was published within the time required by the BDC. Further, the Commission finds that its hearing procedures complied with applicable law. The Commission opened the hearing and read the announcements required by ORS 197.763 and 197.796. No members of the Commission disclosed any bias. No members of the Commission disclosed any *ex parte* communications. No

one challenged or objected to the jurisdiction of the Commission or its members to hear this matter, and no one raised any procedural objections at the hearing. The Commission accepted testimony from staff, the applicant, and appellants. The Commission then closed the public hearing and deliberated. At the conclusion of these deliberations, the Commission voted, 6-0, to deny both appeals and affirm the Planning Director's decision as amended hereto with revised conditions identified in the Staff Memorandum dated March 22, 2017.

III. SUBSTANTIVE FINDINGS

The Commission adopts the findings of the Planning Director in this matter set forth in the decision issued on September 22, 2016. Additionally, the Commission adopts the supplemental findings identified in the Staff Memorandum dated March 22, 2017, which address specific changes reflective of the revised two lot partition plan.

In response to a proposal offered by the appellants, the applicant modified the initial application by proposing the two-lot partition. Because of that proposal, there was no need for a Flexible Setback, and the application for a Flexible Setback was withdrawn. The dwelling that will be constructed on Lot 2 will be able to comply with the standard setbacks of the zone. Both appellants concurred with the applicant's revised two-lot proposal. The city gave notice of this revised proposal.

Therefore, **IT IS HEREBY ORDERED** that APP2016-0002 and APP2016-0003 are **denied** and the Planning Director's decision to approve LD2016-0002 and TP2016-0003 subject to conditions 1 through 50, as amended, is **affirmed**, based upon the testimony and evidence presented during the public hearing on this matter and based upon the facts and findings in the Staff Report and Memorandums addressed to the Planning Commission and based upon the staff response to the statements of appeal as contained in the staff report addressed to the Commission dated March 22, 2017, and on the statements and evidence in the record of the hearing. Amended conditions of the Planning Directors decision are follows:

- A. Prior to any site work commencing and issuance of the site development permit, the applicant shall:
1. Submit the required plans, application form, fee, and other items needed for a complete site development permit application per the applicable review checklist. (Site Development Div./JJD)
 2. Contract with a professional engineer to design and monitor the construction for any work governed by Beaverton Municipal Code 9.05.020, as set forth in Ordinance 4417 (City Engineering Design Manual and Standard Drawings), Beaverton Development Code (Ordinance 2050, 4010 +rev.), the Clean Water Services District Design and Construction Standards (June 2007, Resolution and Ordinance 2007-020), and the City Standard Agreement to Construct and Retain Design Professionals in Oregon. (Site Development Div./JJD)
 3. Submit a completed and executed City Standard Agreement to Construct Improvements and Retain Design Professional(s) Registered in Oregon. After the site development permit is issued, the City Engineer and the Planning Director must approve all revisions as set out in Ordinances 2050, 4010+rev., and 4417; however, any required land use action shall be final prior to City staff approval of the engineering plan revision and work commencing as revised. (Site Development Div./JJD)

4. Have the ownership of the subject property guarantee all public improvements, site grading, storm water management (quality and quantity) facilities, facility landscape planting, CWS vegetative corridor plantings, and common driveway construction by submittal of a City-approved security. The security approval by the City consists of a review by the City Attorney for form and the City Engineer for amount, equivalent to 100 percent or more of estimated construction costs. (Site Development Div./JJD)
5. Submit any required off-site easements, executed and ready for recording, to the City after approval by the City Engineer for legal description of the area encumbered and City Attorney as to form. (Site Development Div./JJD)
6. Submit a copy of issued permits or other approvals as needed from the State of Oregon Division of State Lands and the United States Army Corps of Engineers (for work within or affecting a jurisdictional wetland). (Site Development Div./JJD)
7. Submit to the City a copy of issued permits or other approvals as needed from the Bonneville Power Administration for work within, and/or construction access to Washington County TL 1S1320001200. (Site Development Div./JJD)
8. Have obtained the Tualatin Valley Fire and Rescue District Fire Marshal's approval of the site development plans as part of the City's plan review process. (Site Development Div./JJD)
9. Have obtained approvals needed from the Clean Water Services District for storm system connections as a part of the City's plan review process. (Site Development Div./JJD)
10. Provide a detailed drainage analysis of the subject site and prepare a report prepared by a professional engineer meeting the standards set by the City Engineer. The analysis shall identify all contributing drainage areas and plumbing systems on and adjacent to the site with the site development permit application. The analysis shall also delineate all areas on the site that are inundated during a 100-year storm event in addition to any mapped FEMA flood plains and flood ways. A plan detail shall also be provided for the proposed surface conveyance channel, as identified on sheet eight (8) of the applicant's approved plans. The details shall show, at minimum, the slope and rock type used through the course of the channel, including the elbow between Lots 1 and 2. The proposed improvements must be sufficient to show that all drainage is managed and conveyed safely across the site, and away from abutting properties. (Site Development Div./JJD)

11. Provide construction plans that show how each lot will be independently served by utility systems as required by the City Engineer and City Building Official per City standards. All site sewer (storm and sanitary) plumbing that serves more than one lot, or crosses onto another lot, shall be considered a public system and shall be constructed to the requirements of the City Engineer. Sheet flow of surface water from one lot's area to another lot's area shall not be considered a direct plumbing service. (Site Development Div./JJD)
12. Submit a design for the grading surrounding, adjacent, and within the storm water quality facilities designed by a civil engineer or structural engineer for the expected hydrological conditions. Some minor changes to the grading may be needed in order to provide an adequate containment of the rain gardens/planters. This may require other minor modifications to the proposed storm water management facilities as reflected within the land-use application submittal. This land-use approval shall provide for such minor surface modifications (examples: revised grading or addition of small retaining walls, structure relocation, and interior grade changes less than two vertical feet variance) in the proposed facility without additional land-use applications, as determined by the City Engineer and City Planning Director. (Site Development Div./JJD)
13. Submit a revised grading plan showing that each lot has a minimum building pad elevation that is at least one foot higher than the maximum possible high water elevation (emergency overflow) of the storm water management facilities and show a safe overflow route. A minimum finish floor elevation shall be established for the future homes based on service provision needs and whichever of the following three is highest in elevation: 1) at least two feet higher than the rim elevation of the downstream public sanitary sewer manhole; 2) two feet higher than the rim/overflow of the water quality facility; and 3) as necessary to provide adequate fall per engineering and plumbing code standards to the furthest service point. It must also be shown that the existing home to remain will not have any potential adverse drainage impact from the proposed site grading changes, utility construction, and water quality facility overflow condition. (Site Development Div./JJD)
14. Submit to the City a certified impervious surface determination of the proposed project's new impervious area proposed for any common areas and common private driveways prepared by the applicant's engineer, architect, or surveyor. (Site Development Div./JJD)
15. Pay storm water system development charges (overall system conveyance and winter detention) for the new impervious area proposed for the common driveway. (Site Development Div./JJD) (Site Development Div./JJD)

16. Provide plans for the placement of underground utility lines within the site to the existing homes, and for services to the proposed new home sites. No overhead services shall remain to any lot. If existing utility poles along existing street frontages must be moved to accommodate the proposed improvements, the affected lines must be either undergrounded or a fee in lieu of undergrounding paid per Section 60.65 of the Development Code. (Site Development Div./JJD)
17. Provide plans showing a City standard commercial driveway apron (may be modified to have six foot wings) at the intersection of any private, common driveway and a public street. (Site Development Div./JJD)
18. Ensure all grading is consistent with the grading standards of Section 60.15.15, (Planning/ES)
19. Grading shall not occur within the 20 foot wide public utility easement located along the eastern property line of the parent parcel except if approved through additional land use applications. (Planning/ES)
20. Show the removal of shrubs from the subject site, in compliance with Section 60.55.35.3.C of the Development Code, along the street frontage of SW 155th Avenue that appear to impede vision of on-coming vehicles and pedestrians when exiting the street access.
21. Contact the City Arborist and a Public Works Site Inspector prior to boring. The City Arborist and Site inspector shall approve the location of the boring pit. (Public Works/PH)
22. Sanitary sewer installation shall utilize boring at a minimum depth of four (4) feet within the dripline of any tree shown on the submitted plans as remaining. (Planning / ES).
23. Trees 5, 10-18 and 24-28 shall be retained and protected during development. A plan for work within the dripline of these trees shall be approved by the City Arborist prior to Site Development permit issuance. (Planning/ES).
24. Show the location of tree protection fencing placed in proximity to all trees to be saved on-site prior to construction activities in compliance with Section 60.60.20 of the Beaverton Development Code. (Planning/ES)
25. The minimum available fire flow for one and two-family dwellings served by a municipal water supply shall be 1,000 gallons per minute. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to OFC Appendix B. (OFC B105.2) Provide documentation that 1,000 gpm at 20 psi is available from hydrant. This

can be completed at site development review time. A fire hydrant is required to be within 600 feet of all portions of structures. (TVF&R / JF)

26. Provide a construction equipment list intended for extending underground utility lines within that portion of the site identified for on-site wetlands. Use of machinery, including but not limited to a backhoe for trenching or dredging purposes, is prohibited within that portion of the site that contains the on-site wetland. This includes off-site wetlands and sensitive area at the sanitary sewer connection point. (Planning / ES)

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

27. Have commenced construction of the site development improvements to provide minimum critical public services to each proposed lot (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 adequate for the completed infrastructure, per adopted City standards. (Site Development Div./JJD)

28. Show granting of any required on-site easements on the partition 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./JJD)

29. Submit an owner-executed, notarized, City/CWS standard private stormwater facilities maintenance agreement, with maintenance plan and all standard exhibits for each parcel, ready for recording concurrently with the final plat at Washington County. (Site Development Div./JJD)

30. Submit a maintenance agreement to be recorded with the final plat, describing the ownership and maintenance responsibility of Tract A which is to serve as common access driveway. The maintenance agreement is to be reviewed by the City Attorney prior to recording with the final plat. Under the maintenance agreement option, applicant is to assign tract ownership to one of the abutting lot owners. The agreement is to describe a system for sharing the cost of periodic maintenance between the two lot owners. The maintenance agreement is to run with the deed and title of the properties. (Planning/ES)

31. Submit a document to be recorded with the plat describing the purpose of Tract B with assigned ownership and maintenance to the Murrayhill Owner's Association. The document is to describe the function of Tract B as a drainage tract and passive open space. The document is to run with

the deed and title of the property, as conveyed to Murrayhill Owner's Association. The document is also to be reviewed by the City Attorney prior to recording with the final plat. (Planning/ES)

32. Submit a document to be recorded with the plat describing the purpose of Tract C with assigned ownership and maintenance to the Murrayhill Owner's Association. The document is to describe the function of Tract C, a Clean Water Services mandated buffer area to the wetlands as delineated therein. This document shall also describe the landscape enhancement plan consistent with Clean Water Services standards and shall state that Tract C is to remain a natural area, undisturbed by grading, construction or other private use. This document shall also describe the location and method employed to physically delineate Tract C from Tract B and other abutting properties. At the very least a split-rail fence shall be installed to protect Tract C. (Planning/ES)

33. Submit a Land Division - Final Plat application. In accordance with Section 50.90 of the Development Code, submittal of a complete final plat application shall be made within 24 months after preliminary plat approval, unless a time extension is approved. The Final Plat shall not be submitted until the Site Development Permit has been issued. (Planning/ES)

34. Submit a final plat that is fully dimensioned and indicate the square footage of all lots and tracts. Plat notes shall state the ownership and maintenance responsibilities of all tracts. (Planning/ES)

35. Provide a street tree fee of \$200.00 for the city to plant one street for the loss of one street tree identified to the plan. (Planning/ES)

C. Prior to building permit issuance for a new home, the applicant shall:

36. Submit a complete site development permit application and obtain the issuance of site development permit from the Site Development Division. (Site Development Div./JJD)

37. Have recorded the final plat with the County Surveyor and submitted a copy to the City. (Site Development Div./JJD)

38. Have substantially completed the site development improvements as determined by the City Engineer. (Site Development Div./JJD)

39. Submit plans that reflect the minimum finish floor elevations determined and shown on the approved site development plans based on service provision needs and whichever of the following three is highest in elevation:

1) at least two feet higher than the rim elevation of the downstream public sanitary sewer manhole; 2) two feet higher than the rim/overflow of the LIDA planters; and 3) as necessary to provide adequate fall per engineering and plumbing code standards to the furthest service point. (Site Development Div./JJD)

40. Have placed underground all existing overhead utilities and any new utility service lines within the project and along any existing street frontage, as determined at site development permit issuance. (Site Development Div./JJD)

41. Make provisions for installation of all mandated erosion control measures to achieve City inspector approval at least 24 hours prior to call for foundation footing form inspection from the Building Division. (Site Development Div./JJD)

42. Ensure plan for dwelling constructed on Lot 2 show protection with an approved automatic fire sprinkler system. (Planning/ES / TVF&R / JF)

43. Ensure new home construction complies with R-5 zone standards for height and setbacks (Planning/ES)

44. Provide a paper copy of the recorded partition to the City of Beaverton Building Division. (Building Div./BR)

D. Prior to final inspection of any building permit, the applicant shall:

45. Install or replace, to City specifications, all sidewalks, curb ramps and driveway aprons which are missing, damaged, deteriorated, or removed by construction along the new house frontage and any the existing house frontage. (Site Development Div./JJD)

46. Have the landscaping completely installed, have the storm facilities planted, or provide for erosion control measures around any disturbed or exposed areas per Clean Water Services standards. (Site Development Div./JJD)

47. Have shrubs removed along the street frontage of SW 155th Avenue to the satisfaction of the City Transportation Engineer to ensure appropriate vision clearance at the existing access. (Planning/ES & KR).

E. Prior to release of performance security, the applicant shall:

48. Have completed the site development improvements as determined by the City Engineer and met all outstanding conditions of approval as determined by the City Engineer and Planning Director. Additionally, the applicant and professional(s) of record shall have met all obligations under the City Standard Agreement to Construct Improvements and Retain Design Professional Registered in Oregon, as determined by the City Engineer. (Site Development Div./JJD)
49. Submit, if needed, any required on-site easements not already dedicated on the plat, executed and ready for recording, to the City after approval by the City Engineer for area encumbered and City Attorney as to form. The applicant's engineer or surveyor shall verify all pre-existing and proposed easements are of sufficient width to meet City standards. (Site Development Div./JJD)
50. Provide an additional performance security for 100 percent of the cost of plants, planting materials, and any maintenance labor (including irrigation) necessary to achieve establishment/replacement of the vegetation and restoration of full function within the private surface water management facility areas and CWS-vegetated corridor, as determined by the City Engineer. If the plants are not well established or any of the facilities not properly functioning (as determined by the City Engineer) within a period of two years from the date of substantial completion, a plan shall be submitted by the engineer of record or landscape architect that documents any needed remediation. The remediation plan shall be completely implemented and deemed satisfactory by the City Engineer prior to release of the security. (Site Development Div./JJD)

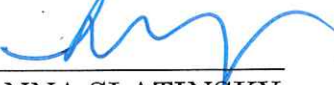
Motion **CARRIED**, by the following vote:

AYES: Nye, Lawler, Matar, North, Nye, Overhage, Winter
NAYS: None.
ABSTAIN: None.
ABSENT: None.

Dated this 5th day of April, 2017.

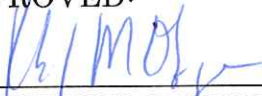
PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST



ANNA SLATINSKY

APPROVED:



KIMBERLY OVERHAGE
Chair

ATTEST:



ELENA SASIN
Assistant Planner