

RECEIVED

MURRAYHILL

OCT 04 2016

City of Beaverton
Planning Services

City of Beaverton Planning Division
12725 SW Millikan Way
P.O. Box 4755
Beaverton, OR 97076

Re: **Appeal of Preliminary Partition Decision**

Project Name: SW 155th Avenue 3-Lot Partition

Applicant: ADTM Development, LLC

Case File No.: LD2016-0002, TP2016-0003, FS2016-0001

Project Location: 10510 SW 155th Avenue, Tax Lot 00100 of
Washington County's Tax Assessor's Tax Map
1S132BD

Dear Planning Commission,

The Murrayhill Owners Association ("MOA") hereby appeal the above-referenced decision conditionally approving ADTM Development, LLC's ("ADTM's") partition application for the Property (the "Decision"). We respectfully request that the Planning Commission reverse the Decision and deny ADTM's application proposal.

This appeal satisfies the requirements of Beaverton Development Code ("BDC") 50.65.1 - 2. As a preliminary matter, this appeal is being timely submitted by the October 3, 2016 deadline with required appeal form, attached hereto. BDC 50.65.1. Additionally, this appeal satisfies the conditions of BDC 50.65(2)(A)-(F) as follows:

A. The case file number designated by the City.

The City has designated three file numbers for the land use applications associated with the proposed partition: LD2016-0002, TP2016-0003, and FS2016-0001.

B. The name and signature of each appellant.

The appellant is Murrayhill Owners Association. The signature of the Vice Chair of the Board, Mr. Scott Wilson, who is an authorized representative of the MOA, is provided on the attached appeal form.

C. Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.

In September of 2016, The Murrayhill Owners Association submitted two comment letters in opposition to ADTM's partition application ("Application") to the City Planning Division. Those comments addressed a myriad of legal and factual issues. However, the decision approved the Application over these objections and without adequately addressing these concerns. As such, the "written evidence provided to the decision making authority by the appellant...is contrary to the decision."

D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.

As provided on the attached appeal form, the contact representative for the Murrayhill Owners Association is Andrew H. Stamp.

E. 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.

1. THE FINDINGS ARE INADEQUATE TO SUPPORT ANY CONCLUSION THAT THE LOT LINES AND YARDS MEET THE STANDARDS AND DEFINITIONS SET FORTH IN THE CODE.

The decision under appeal is not supported by adequate findings explain how the determination was made as which lot lines constituted "front lot lines," "side lot lines," and "rear lot lines," as defined in Chapter 90 of the Beaverton Development Code ("BDC") and made applicable to this decision via BDC 20.05.15. Nor does it explain how the city identified and measured the front, side, and rear yards and associated setbacks, as shown on the plat.

- The Code definition of front lot line presumes that any lot is either an "interior lot," "corner lot," or "flag lot." The findings do not identify which of these three categories of "lot" applies to each of the three proposed lots.
- The existing structure was previously approved as having the northwesterly façade of the dwelling identified as facing the "front lot line" and the south easterly façade facing the "rear lot line." The decision under appeal does not explain how that determination can be changed retroactively, even though the determination is supposed to be made at "initial construction." If the time of initial construction (~1992) is used as the milestone for the existing dwelling on proposed Lot 1, then, as proposed, the "rear lot" does not meet the 20 foot setback.

- The decision does not determine whether Tract A is a “street” for purposes of the definition of “front lot line.” It does not appear to meet the definition of “street” set forth in the Code, because it is not “a public way.” If “Tract A” is considered to be a “street,” then the decision also does not account for the fact that the definition of “front lot line applies to any and all lot lines that “abut” a “street.” Assuming that Tract A is a “street,” then proposed Lots 1 and 2 each have two “front lot lines.”
- Proposed Lot 1 cannot be an “interior lot” because it does not “abut” a “street.” In any event, the decision does not explain how the lot “abuts” a street, nor does it explain the city’s reasoning as to how the city determined which, of the two competing lot lines that connect to the street at a single point, is the “front lot line.”
- If proposed Lots 2 and 3 are considered “flag lots” then the decision does not identify which boundary of the “flag” is a “front lot line.”
- The yard setbacks are incorrectly measured on the plat. The definitions of “front yard,” “side yard,” and “rear yard” all require the city to identify a “line which is parallel to the [front, side or rear] lot line or reservation line” and runs the “full width” of the lot. Once that line is drawn, the setback is to be measured as the “distance between the two lines.” The only logical way to read that requirement is to measure the distance of a line that is *perpendicular* to those two lines. The decision errs by measuring the yard at an oblique angle in some instances.

2. FLEXIBLE SET-BACK IS NOT COMPATIBLE WITH SURROUNDING AREA -

As explained in the Decision, the proposal requires Flexible Setback approval. BDC 40.30.15(3)(C)(3) states that a flexible setback application cannot be granted unless the applicant demonstrates that the building sizes, lot plan, and building character are “compatible” with the “surrounding area”. The decision under appeal does not identify a “surrounding area,” which is a fatal flaw. As detailed in our original comments, the “surrounding area” includes, at a minimum, the four (4) houses on SW Herron Court and one house on SW 155th Avenue. The average sized houses on lots are 3,278 SF, whereas this partition shows proposed house sizes of about one-third that size, and also set backs to neighboring properties which are much closer than is compatible with Murrayhill’s high priority given to providing reasonable open distances, greenspaces and low percentages of hardscape which still balances comfortable living distances of maintaining greenspaces and reasonably low hardscape, while balancing the need for optimizing reasonable density requirements. Also, there are not enough details in this application regarding other important components of “compatibility” standards, which include the intended design features of the homes and surrounding vegetation and planting plans, which therefore does not allow any method to properly evaluate full compatibility with the “surrounding area”

The flexible setback was included in the application to allow the developer to place two additional homes on a severely angled triangular-shaped lot. The proximity and relative sizes of the proposed homes and yards are in stark contrast to those in the immediate neighborhood. Although the proposal does not contain specific home designs, the resulting lot shape and size strictly constrain the size of the homes that can be built. The surrounding single family lots

contain sizable houses with ample yards. The “building character, and site design” for the proposed development are in stark contrast.

Notably, one of the proposed homes has a square footage that is a small fraction of the size of single family homes in the Murrayhill and Williamsburg neighborhoods. The home proposed for Lot 3 is a mere 1,034 square feet. Single family homes in the surrounding area are easily more than twice that size.¹ Additionally, the proposed development includes extensive private driveways, which merge into a single egress, as well as a private sidewalk. It is our understanding that Williamsburg and Murrayhill do not have any similar 3-home flag lots.

The findings contained in the Decision do not take into account the fact that the site design, home size constraints, “bulk, lot coverage, [and] density,” are *inconsistent* with the surrounding area. The findings also rely on the MOA to insure that the rooflines and building materials are consistent with the surrounding areas. However, the MOA has taken the position that the proposed development is fundamentally inconsistent with the surrounding area. The MOA cannot resolve this issue by restricting building materials or rooflines.

In sum, ADTM has not met its burden to show that the flexible setback and the Decision should be reversed on that basis. At a minimum, ADTM should be required to supplement its application with the required evidence and provide sufficient time for public comment on that additional information.

3. STORM DRAINAGE SYSTEM IS INADEQUATE TO PROTECT NEIGHBORING PROPERTIES FROM REDIRECTED AND CHANNELIZED FLOW OF STORMWATER.

BDC 40.03(A)(1) requires that “[a]ll critical facilities and services related to the proposed development have, or can be improved to have, adequate capacity to serve the proposed development at the time of its completion.” BDC 40.03(1)(J) requires that “[g]rading and contouring of the development site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system. However, the proposed storm drainage system is proposed to have an “outfall” “at the southernmost portion of proposed Lot No. 3. This outfall is not adequate to prevent channelized flow of storm water from exiting the property, in violation of both state and local law. The original lots in Murrayhill were laid out with optimum drainage in mind, and to minimize impact to downstream water quality and on neighboring properties. This is why this lot was maintained as a single house lot, instead of re-engineered for 2 or more houses by the original engineering and environmental team at Columbia Willamette (the original developer of Murrayhill). The extremely high percentage of hardscape proposed in this application on this steep slope on Lot 108 will capture water which is currently absorbed into the ground over a broad area and instead concentrate and accelerate these surface waters into channelized flows. The use of a rip rap outfall area will greatly increase channelized flow onto neighboring properties, in

¹ Also note that it appears ADTM has under-reported the actual square footage of the existing home on Lot 1. According to the tax assessor, that structure is 2,522 square feet, rather than the 2,014 square feet reported on the Application. See Application, p. 7 (compare to attached Property Profile Report, p. 2).

violation of BDC 40.03(1)(J). This application does not adequately define how the proposed partition and development will diffuse water to prevent erosion and impact on downstream water quality.

4. **TREE REMOVAL PLAN.**

This application shows an aggressive removal of trees, including many which are not within the proposed building envelopes. Murrayhill has taken extra measures since the mid-1980's to preserve existing trees and greens spaces on every lot in a balanced fashion which takes into account air quality, erosion control, wildlife habitats (including fish), and the aesthetics of mature trees. Trees marked 3, 7, 8, 9, 10, 26, 27, 28 are not within the proposed building envelopes, and are marked for removal for intended grading and extensive hardscape on this steep lot, which also is not consistent with the surrounding area, and creates a lot of extra channel water to concentrated drainage area and into rip rap. This pushes extra water onto neighboring lots, especially Murrayhill lots 28 & 29., creating liability for neighbors and downstream fish habitats, which also violates Metro's objectives. Also, trees #20 (34" dbh) & #25 (33 dbh) are large trees over 75' tall, and take in huge amounts of water per day during the rainy season on this steep lot, and therefore the intended removal will further exacerbate drainage and compatibility issues. The combined results will push extra water onto neighboring lots, especially Murrayhill lots 28 & 29., creating liability for neighbors and downstream fish habitats, which also violates Metro's objectives.

5. **TRAFFIC SAFETY ISSUES.**

The applicant has not demonstrated that the approach road has adequate sight distance to not create a safety issue for the 85 percentile speed of traffic using SW 155th Avenue. The applicant has not provided a sight distance study. This study is a required component necessary to adequately demonstrate safe access to the street system, as required by BDC 60.55.35(1). Neighbors have commented about previous accidents near where the proposed side street will access SW 155th Avenue, and there is some concerns about some sight-line issues, especially turning left out of a steep and angled approach to 155th street, thus potentially putting vehicular traffic and pedestrians at risk.

F. ***The appeal fee, as established by resolution of the City Council.***

The appeal fee of \$250 as specified in the Decision is submitted herewith.

We respectfully request that the Planning Commission reverse the Decision. Thank you for your consideration of this appeal. If you have any questions or would like any additional information, please let me know.

Very truly yours,



Murrayhill Owners Association
Board of Directors

