



MEMORANDUM

TO: Planning Commission
FROM: Elena Sasin, Assistant Planner
DATE: December 14, 2016
SUBJECT: SW 155th Ave 3-Lot Partition (LD2016-0002 / TP2016-0003 / FS2016-0001)

The Planning Commission held a public hearing on this matter on November 9, 2016. One of the appellants, Richard King, requested that the record remain open to provide additional time to the appellants to review the application and submit additional evidence. The applicant agreed to keep the record open for an additional seven days followed by seven days for the applicant to formulate a final argument.

Due to a procedural misunderstanding, the record was not officially closed and the applicant submitted additional materials on November 16, 2016, 14 calendar days after the November 9, 2016 hearing. The materials submitted by the applicant included revised information and the appellants argued that they were not provided sufficient time to review and respond to the changes. At the November 30, 2016 hearing, the Planning Commission agreed to postpone their deliberation until December 21, 2016 in an effort to correct any procedural errors.

Staff Communication:

One of the questions asked of staff at the November 9, 2016 hearing was clarification on vegetation located within public utility easements, specifically the 20 foot height limit as mentioned in the November 9, 2016 Staff Report on page TA-9, in which staff writes:

Trees marked 26, 27 and 28 are located within the proposed Public Utility Easement. During a meeting held on September 7th, the City Site Development Engineer, Jim Duggan, informed the applicant that vegetation over 20 feet in height is not permitted within utility easements. Therefore, trees numbered 23, 26, 27, and 28 warrant removal.

The 20 foot height limit is not a restriction imposed by the Beaverton Development Code nor is it from the Engineering Design Manual. However, in an email (Exhibit 18) received by Planning staff, Floyd Harrington, City Engineer, explains that Title 5 of the Beaverton Code grants authority to the City to regulate what is allowed in a public utility easement. Mr. Harrington further explains that because tree roots have the potential to damage utility facilities and impede maintenance, trees have generally not been permitted within easements. Mr. Harrington concludes his email by stating that the City will make an effort to work with the applicants to preserve trees on the subject site without compromising safety and health.

Due to the relatively large number of exhibits, staff has provided the following list for clarity:

Exhibit 1	Appeal of Preliminary Partition from Margot Seitz on behalf of appellant Richard King – October 4, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 2	Appeal of Preliminary Partition from Murrayhill Owner's Association – October 4, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 3	Staff Report – September 22, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 4	Email from Bill Athenas to Planning staff – October 31, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 5	Written public testimony received by Planning staff – August 23, 2016 through September 7, 2016.	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 6	Applicant's materials – Stamped 'Received' November 2, 2016 Includes: Written response to appeals, EMS Stormwater Report, and plan set.	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 7	Proposed plat map highlighting (existing and proposed) easements, tracts and flexible setback location – July 13, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 8	Boring recommendation provided by applicant's arborist, Morgan Holen – July 24, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 9	Email from applicant to staff regarding Kinder Morgan planting restrictions in their easement – September 9, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 10	Letter from Kinder Morgan to applicant - August 23, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 11	Email from applicant to staff regarding home sizes and lot sizes – October 24, 2016	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 12	Murrayhill No. 3 Plat – September 1988	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 13	Murrayhill No. 18 Plat – October 18, 1990	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.
Exhibit 14	Letter from Mayor of Beaverton, Larry Cole, releasing access restriction to lot 108 - June 12, 1992	Included in the first packet provided to Planning Commissioners prior to November 9, 2016 hearing.

Exhibit 15	Appellant's materials submitted after the first Planning Commission hearing – November 16, 2016	Submitted to Planning Commissioners on November 23, 2016.
Exhibit 16	Applicant's materials submitted after the first Planning Commission hearing – November 23, 2016.	Submitted to Planning Commissioners on November 23, 2016.
Exhibit 17	Andrew Stamp memo – November 7, 2016	This memo was emailed to Commissioners on November 8, 2016 because the appellant missed the November 2 nd deadline to submit materials.
Exhibit 18	Email from Floyd Harrington, City Engineer, regarding trees in utilities – November 28, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets.
Exhibit 19	Email from Andrew Stamp – November 29, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets.
Exhibit 20	Email from Margot Seitz – November 30, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets.
Exhibit 21	Andrew Stamp memo – December 7, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets. New evidence exchanged with applicant one week after the November 30, 2016 hearing.
Exhibit 22	Richard King letter – December 7, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets. New evidence exchanged with applicant one week after the November 30, 2016 hearing.
Exhibit 23	M&T Development letter and materials – December 7, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets. New evidence exchanged with appellants one week after the November 30, 2016 hearing.
Exhibit 24	M & T Development final rebuttal – December 14, 2016	Included in this December 14, 2016 packet. Has not been previously included in any other packets. New evidence exchanged with appellants one week after the November 30, 2016 hearing.