



Staff Report

Meeting Date: July 25, 2022
From Kelly O'Neill Jr., Development Services Director
SUBJECT: 22-026 AP Tickle Creek Partition Appeal

BACKGROUND / CONTEXT:

Dubarko Development Corporation owned by Gerry Engler, submitted a land use application requesting to partition Parcel 2 of Partition Plat No. 1991-152 into two (2) parcels: Parcel 1 (4.44 acres) and Parcel 2 (5.88 acres). The common lot line is proposed to the north of the development area that is being constructed with Tickle Creek Village (File No. 19-038 DR/FSH/VAR/TREE). The minor partition was reviewed according to the requirements for a Type I procedure as the land division did not create a street and the resulting parcels complied with the Development Code.

On May 24, 2022, staff approved the partition for File No. 22-015 MP with conditions (Exhibit G). The property owner appealed the staff decision on June 2, 2022, primarily for two reasons as explained in Exhibit I.

The first reason for appeal is regarding the termination of an existing sanitary sewer easement and the creation of a new sanitary sewer easement. Section 17.84.90 contains requirements for creating easements for public sanitary sewer, water, stormwater, and pedestrian/bicyclist facilities whenever these facilities are located outside the public right-of-way. As noted by the Public Works Director in File No. 19-038 DR/FSH/VAR/TREE the applicant proposed several buildings over or encroaching into the existing 20-foot-wide sanitary sewer trunk line easement and proposed to relocate approximately 500 linear feet of this line to the common drive and parking areas. The applicant was conditioned to terminate the existing 20-foot-wide sanitary sewer easement (No. 74-4252) prior to recording the plat and dedicate a minimum 15-foot-wide public sanitary sewer easement to the City of Sandy to accommodate the new sanitary sewer line that is being installed on Parcel 1. The recorded plat should identify this new public sanitary sewer easement.

The second reason for appeal is the applicant's desire to not install required right-of-way frontage improvements (i.e., curbs, sidewalks, street trees, and lighting) on Freightway Lane. Chapter 17.84 contains requirements for construction of public improvements. Section 17.84.20 (A)(1) requires installation of frontage improvements prior to approval of the final plat. As part of File No. 19-038 DR/FSH/VAR/TREE the applicant is required to improve street frontages along Dubarko Road to City standards. The frontage improvements required along Ruben Lane are already complete. Parcel 2

has frontage along a short stretch of right-of-way that was dedicated with Partition Plat No. 1991-152. This right-of-way is defined as approximately 112.79 feet on its southern line and has a 45.70-foot curve into Ruben Lane, and is detailed as Ruben Lane in some documentation, but as Freightway Lane in other documentation. This right-of-way regardless of the actual name is a local street. The applicant was conditioned to install the frontage improvements along Freightway Lane and the corner radius prior to approval of the final plat or to financially guarantee the improvements at 110 percent of the value of the improvements to be guaranteed in the form of a bond, letter of credit, set-aside agreement, cash, or another approved guarantee. The right-of-way improvements are an important step in making sure that adequate pedestrian facilities are constructed along the subject property.

Summary of Important Dates:

ACTION	DATE
Application for Partition Received	April 6, 2022
Application Deemed Complete	May 4, 2022
Final Order Issued for File No. 22-015 MP	May 24, 2022
Appeal Submitted	June 2, 2022
Neighborhood Notice Sent	June 23, 2022
Legal Notice Published by Pamplin Media	July 6, 2022
Planning Commission Appeal Hearing	July 25, 2022
120-Day Rule	September 1, 2022

RECOMMENDATION:

Staff recommends the Planning Commission hold a hearing de novo to avoid a procedural error by reviewing ‘on the record’. This means that the entire partition review may be open to modification. However, staff recommends that the Planning Commission only review the two items that are being contested by the appellant.

The applicant should review the following documents:

- The applicant’s original narrative and partition plat (Exhibits B and E).
- The Final Order issued for File No. 22-015 MP, which includes staff’s analysis of the partition request and rationale for the decision (Exhibit G).
- The appellant’s grounds for appeal narrative, which includes the appellant’s reasons for appealing the staff decision. (Exhibit I).

Staff recommends the Planning Commission do one of the following:

1. Uphold the staff decision per the final order for File No. 22-015 MP.
2. Modify the staff decision.
3. Deny the partition request.

LIST OF ATTACHMENTS/EXHIBITS:

- A. Land Use Application Form
- B. Narrative
- C. Tickle Creek Partition email from Tracy Brown (received May 3, 2022)
- D. Topographic Survey
- E. Preliminary Partition Plat
- F. Partition Plat No. 1991-152
- G. Final Order for File No. 22-015 MP (staff issued decision)
- H. Notice of Intent to Appeal submitted by Gerry Engler
- I. Grounds for Appeal Narrative