

Jane Rasely

From: Stephen Crampton <SteveSings@gmail.com>
Sent: Sunday, March 25, 2018 11:11 PM
To: PCD; Kelly Tayara; Mack Pearl; Sarah Blossom; Ron Peltier; City Admin; Joe Levan
Cc: Spence, Michael A.; hayes@hayesthelawyer.com
Subject: Re: Wallace Cottages project (PLN50589 SUB)

Dear Ms. Tayara,

Would you please notify me once Wallace Cottages has submitted a new site plan or any other documents relating to the agreement with the City regarding the access road? I'm very interested in seeing what kind of setbacks and boundaries are shown on the plan.

Thanks,
Stephen Crampton

On Mon, Mar 12, 2018 at 10:57 PM Stephen Crampton <SteveSings@gmail.com> wrote:

Dear Ms. Tayara,

I am writing to express my concerns about the inadequate setbacks and lack of buffering for adjacent homeowners in the Wallace Cottages site plan that was shown at the February 8, 2018 Planning Commission meeting. Indeed, the site plan proposes to build a house on my property! Unless these concerns are met, the City should deny the application.

The February 8 plan allowed only 5-foot setbacks between adjacent properties and buildable areas in the Wallace Cottages subdivision. The plan furthermore did not retain any trees along the subdivision boundary, nor did it specify any landscaping to buffer the development from existing homes. The existing homes immediately adjacent to the proposed subdivision are zoned R4.3 and have 15-foot setback requirements.

The developer's attorney has asserted that only 5-foot setbacks are required under HDDP regulations. However, those regulations also state the following: "The applicant has demonstrated how relief from specific development standards, including setback reductions, lot coverage and/or design guidelines, is needed to achieve the desired innovative design and the goals of this chapter;" BIMC 2.16.020(Q)(5)(b)

There has been no showing that the 5-foot setback is "needed to achieve the desired innovative design" of the project. Indeed, at the February 8 meeting, the developer asserted that placing buildings that close to the subdivision boundary was not in fact required. Given that a 5-foot setback is not "needed," nor does it achieve "innovative design," the City should require a 15-foot setback. Within the setback, the developer should leave existing trees and provide additional landscaping to shield the development visually and auditorily from existing homes.

My property borders the development at the fence lines on the southern and eastern boundaries of my side and back yards. As shown in the attached survey, the eastern fence extends as much as 15 feet into the subdivision. The February 8 plan shows a house within 5 feet of the subdivision's asserted boundary. That would put the house 10 feet inside my property line! Clearly this has to be changed before it can be approved.

Moreover, as you know, there is a sewer easement along both boundaries between my property and the development. Regardless of exactly where the boundaries lie, the developer cannot construct houses on top of a sewer easement. That is another defect in the application.

Given my property rights and the existence of the easement, the City should require a setback to 15 feet from my eastern and southern fence lines, or to the boundary of the easement, whichever is greater. Further, the development should be buffered from my property by leaving any existing trees and dedicating the region as open space to prevent removal of trees in the future.

On a side note, the developer's attorney has asserted that the sewer easement defeats my legal claims, but my Complaint is carefully tailored to render that defense frivolous. I am explicitly excluding the easement from my requested relief. Here is a sample request from my Complaint: "An order of the Court granting fee simple title to the portion of Parcel 155 from Plaintiff's Property up to and including the South Fence through the doctrines of adverse possession and/or mutual recognition and acquiescence, subject to the 'North Interceptor' sewer easement."

I was planning to file the Complaint last week, but the developer's attorney requested that I hold off until the developer's current negotiations with the City conclude. If the developer still plans to run the road to Nakata, fails to recognize my property rights, or fails to provide setbacks and buffering for me and my neighbors, I fully intend to proceed with the lawsuit.

To prevent that from happening, and to allow the development to move forward, the City should insist on the access road to Madison, as well as setbacks and buffering, as a condition of approval of the Wallace Cottages application.

Respectfully,
Stephen C. Crampton