Wilsonville City Hall
29799 SW Town Center Loop East
Wilsonville, Oregon

Approved
March 23, 2015

Development Review Board – Panel B
Minutes–February 23, 2015 6:30 PM

I. Call to Order
Chair Aaron Woods called the meeting to order at 6:30 p.m.

II. Chair's Remarks
The Conduct of Hearing and Statement of Public Notice were read into the record.

III. Roll Call
Present for roll call were: Aaron Woods, Cheryl Dorman, Dianne Knight, Richard Martens, Shawn O'Neil, and Council Liaison Julie Fitzgerald

Staff present: Blaise Edmonds, Barbara Jacobson, and Steve Adams

IV. Citizens' Input This is an opportunity for visitors to address the Development Review Board (DRB) on items not on the agenda. There were no comments.

V. City Council Liaison Report
No Councilor liaison report was given due to Councilor Fitzgerald's absence.

VI. Consent Agenda:

A. Approval of minutes of November 24, 2014 DRB Panel B meeting

Dianne Knight moved to approve the November 24, 2014 DRB Panel B meeting minutes as presented. Cheryl Dorman seconded the motion, which passed 3 to 0 to 2 with Shawn O'Neil and Richard Martens abstaining.

B. Approval of minutes of January 26, 2015 DRB Panel A meeting

Dianne Knight moved to approve the January 26, 2015 DRB Panel B meeting minutes as presented. Shawn O'Neil seconded the motion, which passed 4 to 0 to 1 with Cheryl Dorman abstaining.

VII. Public Hearing:

A. Resolution 299. Downs Appeal: Gerald and Joanne Downs – owners. The applicant is appealing the Staff Decision of a two parcel land partition approval in Case File AR14-0077. The property is located at 28205 SW Canyon Creek Road South on Tax Lot 2700, Section 13BA, T3S-R1W, Clackamas County, Oregon. Staff: Blaise Edmonds

Case Files: DB15-0006 – Appeal

Chair Woods called the public hearing to order at 6:36 pm and read the conduct of hearing format into the record. All Board members declared for the record that they had visited the site. No board member, however, declared a conflict of interest, bias, or conclusion from a site visit. No board member participation was challenged by any member of the audience.

Barbara Jacobson, Assistant City Attorney, noted Staff's memorandum (Exhibit A4) in the packet explained that as a de novo hearing, the Applicant had appealed specific criteria as outlined in the Applicant's letter; however, the DRB could look at the entire application and was free to ask questions on

any issues. While the hearing was open to all issues, the focus would be on the criteria that were appealed. She confirmed that the Board received the revised, redlined Staff report. Originally, some of the red lines had gotten deleted, so a revised Staff report was sent so the Board and Applicant could see exactly all of the changes made from the original Director's decision to the revised Staff report.

- She also noted her legal memorandum (Exhibit A5), which was distributed to the Board. As the representative of the City, it was her duty to look at the legal issues on appeal and render an opinion on whether or not the recommendations in the Staff report were correct under the law and particularly, under the City's Code and land use regulations. While she concurred with Staff's recommendation, this was a public hearing; it would be the Board's decision to weigh tonight's testimony and the information in Staff's memo as well as the Applicant's memo and presentation.

Blaise Edmonds, Manager of Current Planning, announced that the criteria applicable to the application were stated on page 2 of the Staff report, which was entered into the record. Copies of the report were made available to the side of the room.

Mr. Edmonds noted that all references to DB14-0077 in the revised Staff report needed to be corrected to AR14-0077. He entered the following new exhibits were entered into the record as follows:

- Exhibit B10: Letter entitled, "Appeal Pursuant to Section 4.022" submitted by the Applicant, Ronald Downs PC, dated February 13, 2015.
- Exhibit A5: Memorandum from Barbara Jacobson, Assistant City Attorney, dated February 20, 2015, providing a legal response to the Appeal Letter submitted by the Applicant. (Exhibit B10)
- Exhibit D1: Email received February 23, 2015 from Wayne Kirk, which was read into the record by Mr. Edmonds.

- He explained that as mentioned, this was a de novo hearing. It was a brand new hearing, and did not just involve sidewalks. Board and audience members could comment on anything found in the Staff report as if it were a brand new application for the first time.
- Comments would be heard regarding new conditions of approval, including:
  - Condition PFA8 on Page 6 of 36 of the revised Staff report which referred to a waiver of remonstrance. This type of condition was added to practically every planned development in the city for the past 35 years.
    - If a local improvement district existed for Canyon Creek South for improvements, such as storm drainage, the property owners had the right to challenge the cost assessment, but as written, this particular remonstrance condition required the Applicant to participate in a local improvement district.
  - Condition PFA27 on Page 14 of 36 would be the focus of most of tonight's discussion as some additional language was added by the Engineering Division.
  - He noted the revised redlined Staff report also included new language shown green colored text.
- He continued by presenting the Staff report via PowerPoint, noting the subject site's location, surrounding features and nearby development with these comments:
- Canyon Creek Rd South used to intersect with Boeckman Rd, but was closed off into a cul-de-sac a few years back due to sight distance. The road intersection was too close to the major intersection of Boeckman Rd and Canyon Creek Rd.
- The subject property was approved through administrative action for a tentative land partition resulting in two land parcels with an existing house on the north parcel owned by Gerald and Joanne Downs.
  - The portion of the tentative plat approved through administrative action was displayed. Parcel 2 showed the footprint of a future brand new house the Applicant, representing his parents, proposed to build.

- Slide 4 indicated the existing sidewalks as well as future sidewalks that would be built throughout the neighborhood. Both the Renaissance development and CrossCreek Subdivision have sidewalks on both sides of the street. A sidewalk would also be installed along the Renaissance properties purchased to the south of the site when those homes were built. Other sidewalk segments included the one built by James Knorr as building street frontage was a condition of their property being partitioned. Some connectivity could start to be seen and with effort over time the street would eventually have sidewalks.
- He reviewed several pictures showing views of the streets and sidewalks adjacent to recent developments in the immediate neighborhood, and especially along Canyon Creek Rd South. His key comments included:
  - Parcel 2, the future home site, had a small swale or drainage ditch on the east side facing Canyon Creek Rd South and Parcel 1 with the existing house owned by Gerald and Joanne Downs.
  - Both curbside and offset sidewalks could be seen along each side of Canyon Creek Rd South. Hopefully over time there would be more of a semblance of one sidewalk over another.
  - CrossCreek Subdivision is a good example of an offset sidewalk along Canyon Creek Rd South.
- Staff's memorandum summarized Staff's recommendation. Should the DRB affirm the Director's decision, a draft Resolution was included that would accept the revised Staff report, thereby denying the appeal.
  - If the DRB granted the appeal tonight, revisions would be required to the Staff report and conditions of approval, in addition to the need to prepare new findings and conclusions. Due to the time needed to craft those findings and conclusions, Staff advised continuing the matter to March 23, 2015.

Ms. Jacobson clarified if the Board was satisfied with everything and wanted to close the hearing, but decided to grant the appeal, the hearing would not really be continued, but the record kept open solely to bring in the revised findings. The Board would direct Staff to work with the Applicant on the revised findings and then bring them back at the March 23rd meeting.

Mr. Edmonds noted Steve Adams from the Engineering Division was present to answer any technical questions about streets, patches, sidewalks, drainage, etc. and why street frontage was required.

Richard Martens asked what triggered the requirement for the improvement. If the Applicant were endeavoring just to replace the existing house, would that trigger the street improvements as well?

Mr. Edmonds replied the Development Code allowed a homeowner one year to replace a house in its current configuration in the case of a house fire or other disaster, but he did not believe that would trigger a new sidewalk or street improvement. The new house would have to be built close to the same size and location as the previous house. A larger, Street of Dreams type house might trigger some additional improvement.

Ms. Jacobson clarified that the Development Code cited in her memorandum included a definition of development as well as the Code section that required the sidewalk. There might be an exception in the Code if there was a fire, but the definition of development under the City's Code was quite broad.

Mr. Edmonds said the issue had not come up before, so whether development would trigger street improvements was uncertain; it was a gray area.

Chair Woods called for the Applicant's presentation.

Ron Downs, Attorney, stated he was representing the Applicants, Gerald and Joanne Downs, who were also his parents. He distributed several items to the Board, which were later entered into the record by

Staff as noted. The handouts included a bound notebook, as well as several literature pieces from the Oregon State Bar Continuing Legal Education (CLE) on land use planning and subdivision law with a case attached as well as Title II and Title III of the Americans with Disabilities Act because it was cited in Staff's memorandum and warranted a short discussion. He noted these applicable materials were for the Board to read at a future time.

- He presented the notebook (Exhibit B11), titled Appeal of Downs Partition Plat #AR14-0077, with these comments:
  - The law in this area was fairly succinct and stated that a government entity may not impose conditions of approval on a permit unless they establish two things. First, there had to be a direct relationship between the conditions that are imposed and the impact created by the development or project.
    - Second, there had to be a rough proportionality determined, essentially, the condition imposed was roughly proportional both in terms of the scope and the cost to the actual impact created by the development or project. The law said and the courts had defined this to say that the government had to make individualized findings on each applicant. This came from Supreme Court case ***Dolan v City of Tigard*** that addressed the constitutionality in takings and established the law that was the focus of most of the discussion in the material provided.
  - It was a two-part test and the Supreme Court had established that it was a must, not a shall or should, the government entity must meet both those criteria. A governmental entity had to impose conditions that mitigate whatever new impact was created by whatever the condition, development or project before them.
  - Since ***Dolan***, a number of cases, including Oregon Court of Appeals cases, had tinkered with the language on what the limits were and tried to interpret it in various ways, including whether or not the imposed standards were legislative in nature, in which case some courts of appeals decided they do not apply. ***Dolan*** did not apply to those kinds of decisions.
    - Recently, the Supreme Court case of ***Koontz v St Johns River*** put that to rest. The Supreme Court was literal and said, "We meant what we said in ***Dolan*** and if it is a condition that required exactions then the government have to meet that test." This was the standard by which all land applications and permits were to be judged.
- The Applicant's moved to Wilsonville 45 years ago and bought the subject property, which was featured in several pictures included in Part 1 of the notebook. The third picture showed Parcel 2, which had been used for gardening, horses, a number of different things over the years. The Applicants wanted their son to move home and build a house on this new parcel.
- Parcel 2 measured 60 ft across and it was on that parcel and that parcel alone that a single-family house would be developed. Any new impacts in terms of the sewer system, sidewalks, water, electricity, gutters, system development charges (SDCs) and permit fees would all be associated with this newly created 60-ft parcel.
  - The remaining parcel, as shown on subsequent pages, measured 90 ft across, so both parcels together were 150 ft total. There would be no new development or impacts to the system caused by the 90-foot parcel. While a separate tax lot with a separate owner, the land would remain as it had for the last 45 years, the single-family residence of the Applicants.
- The simplest way to look at the issue before the Board was Condition PFA27, noted in Part 2 of the notebook. The only issue, which was very narrow, was the street frontage required to have utilities and, specifically, facilities, such as sidewalks, curbs, etc. The issue was should the street frontage be 60 ft or along the entire 150-ft parcel.
  - The requirement was that the Applicant either deposit roughly $45,000 into an account for future construction of that sidewalk and gutter for the entire 150-ft, or design and construct those additional facilities themselves.
  - Parts 3 and 4 of the notebook (Exhibit B11) discussed his interpretation of the Code provisions themselves and then reverted back to the law with regard to this notion.

- Part 3 addressed the difference between a land partition and a development. The Code contained definitions for both which was important because, per the Code definition, partition and development require two different things.
    - As defined, land partition meant to divide an area or tract of land into two parcels, an act of partitioning land or an area or tract of land. It was more of a paper type process. An applicant would fill out an application for a partition, pay the fee, hire a land surveyor to do a metes and bounds description, and then submit it. Once approved, the partition would be filed with the County and the County would then create two separate tax lots.
    - The definition of a development went to the next step. A development was any human-caused change to improved or unimproved real estate, including, but not limited to, buildings or other structures. The definition also talked about mining; basically, physical acts. Development was really what it sounded like; actually doing something to develop the land, improve the land, or change the land physically, which he believed was a completely different definition from a partition. Nowhere in the definition of a development did it say partition; a partition was completely separate.
    - A partition required a whole separate process for approval. Section 4.030.01(b)5 listed the specific conditions that had to be met for a land partition. He believed everyone, including Staff agreed for the most part that Sections A through H were all met; the submittal, materials, if any easements or public right-of-ways would need to be provided, and the plan met the lot size and yard setbacks.
        - Section G was probably the one condition that was going to be an issue and was probably the basis from which Condition PFA27 had come from. It stated, "All public utilities and facilities are available or can be provided prior to the issuance of any development permit for any lot or parcel." It literally stated that as a condition for granting the partition, the applicant had to tell the City that public utilities, sewer, water, electricity, and the sidewalks, gutters, and all those facilities would be available or could be provided prior to the issuance of any development permit for any lot or parcel.
            - The assumption was that it would be for any development permit. In this particular case, once the partition was done and filed with the County, there would be two separate legal parcels, two separate tax lots, two separate owners. At that point, he would be going through the permit process, the development process, paying the fees and the associated SDCs, and going through the new process to develop that newly created parcel. Again, nothing would happen on the remaining parcel.
            - In reading Section G, the only development permit that would be submitted was for the newly created parcel. Having read that to the extent that was the whole hang up or basis for whether or not it was 60 ft or 150 ft, the Applicant was not developing Parcel 1, the remaining parcel.
    - He had pointed out the literal definitions because the City's position was that the definition of development was to be broadly interpreted, and under Staff's reading of it, if that was what the Board accepted, the definition of development included a partition, and if a partition was considered a development then that in and of itself would trigger all of the rest of the Codes, not just for the newly created parcel, but the entire parcel as one, which was the basis for wanting to impose the condition that facilities were to be provided for the entire 150 ft.
        - He submitted that Staff had interpreted the definitions in the Code in an overbroad manner that went too far. Even without the constitutional analysis, which he would discuss, calling a partition a development did not meet the Code definition. If the Board agreed, Staff could simply be advised to change the required facilities from 150 ft to 60 ft because it met the definition and requirements for a land partition.
- Part 4, the Applicant's legal argument, was where the ***Dolan*** standard came into play. ***Dolan*** did, in fact, set the tone for all permit conditions. Nexus and proportionality were the tests the Supreme Court had established as having to be met.

        - He did not dispute that utilities and facilities had to be provided for a portion of the property. In this case, about 40 percent of the 150 ft was the new parcel and he agreed that all of the facilities would need to be provided to that parcel. The ***Dolan*** standard stated there had to be a relationship, a nexus, between the imposed condition, in this case regarding facilities, and the impact that would be caused by the newly created development or project. When applying a strict reading of ***Dolan***, the only thing that would be newly created was the 60-ft street frontage, so for the City to impose 150 ft was well beyond what the Supreme Court established as reasonable in ***Dolan***.
        - The Court also stated that the government entity had to go through a finding to determine rough proportionality. As mentioned with the 2013 ***Koontz*** case, the Supreme Court stated that they meant what they said in ***Dolan***, which was the condition imposed had to be proportional to the actual impact created by the project.
            - In applying that analysis to the current application, the conditions that should be imposed would be simply limited to 60 ft, not 150 ft. No argument could be made that would fit going beyond that rough proportionality standard because no new impacts were being created.
- The ***Hallmark*** case cited in Staff's memorandum (Exhibit A5) was one of the decisions Staff had relied on to argue that the conditions were reasonable and met the ***Dolan*** rough proportionality standard. However, he submitted that was not an apples-to-apples analysis.
    - The ***Hallmark*** case involved Hallmark Inns and Resorts, which had a large property site in Lake Grove on which they were going to build their new corporate headquarters. The City of Lake Oswego imposed a condition requiring Hallmark to build a pedestrian sidewalk to connect Waluga Park and the residential homes on one side of the corporate headquarters with the shopping center on the other side. The Hallmark property did not include multiple parcels, but was one big parcel on which Hallmark wanted to build a corporate headquarters with parking and all of the related facilities. Factually, it was different; a completely different scenario than what was being addressed tonight.
    - In his reading of the ***Hallmark*** case, he realized that the Court of Appeals was really saying the same thing that he had said. The Court of Appeals noted that the conditions focused on "The expected use of the facility that Hallmark applied to build and actually built." The focus was not on what was going on at some other parcel. It was focused on what Hallmark was doing. The Court talked about the standards saying, "Here the City's findings demonstrate that without the pathway, the development would impede the flow of pedestrian and bicycle traffic from the adjoining residential area to the adjoining shopping center. The pathway removes that impediment."
    - He noted that the need for the pathway was directly related to the development itself and, thus, satisfied the related-in-nature aspect. This case showed the basis for the rough proportionality and what the Supreme Court said, that it had to be related to that parcel. There was no relationship to the remaining parcel that had been there for 45 years. Nothing new would be added, so it would not create any impact or affect on the system.
- He also noted the third paragraph on Page 2 of Staff's memorandum (Exhibit A5) stated, "The requirement being imposed by Wilsonville was simply that street frontage improvements be placed in front of the full length of the partitioned property only, which improvements will directly serve those two partitioned lots." Not only did that statement go beyond what the Supreme Court stated could be done, but it was also an acknowledgement by the City that there are two parcels. The City was trying to argue it both ways. On the one hand, the City was imposing conditions on the whole thing, but, in reality, after being filed with the Country and creating two separate tax lots, both lots would be served by that. He believed that was going too far, which was also what the Courts had consistently held.
- He noted the excerpts pertaining to American with Disabilities Act (ADA) laws that were provided for the Board's review and explained that ADA had three parts. Title I pertained to prohibiting discriminating people with disabilities with regard to employment. Title II regarded public

accommodations and was created to require public entities' facilities to be accessible to individuals with disabilities. It required public entities to change their policies and practices to allow individuals with disabilities access to public facilities, public meetings like this, etc. Title III took it to the next level by addressing commercial facilities, such as restaurants and malls. These regulations were designed to provide accommodations to individuals with commercial facilities, requiring such things as wide enough aisles and water fountains low enough for people with disabilities.
    - Title III did not extend to or regard residential or private houses. He did a lot of ADA work and, as he read the statute, Title II did extend beyond providing access and services to public entities either. It did not mandate that individual residents build a sidewalk in front of their house to allow people with disabilities access onto that sidewalk. That was not what the ADA regulations stated.
- From a practical standpoint, this was a 60-feet parcel, essentially, what would be seen for a single-family home. The Applicant was going to build a single-family home and was open to providing the sidewalks and public facilities for that parcel.
    - After submitting the materials and paying to get the survey done, he was surprised to learn that per the Staff report, if he agreed to the conditions, he would have to write a check for $45,000 now, and when it came time to build, he would have to pay another $25,000 for SDCs, in addition to the building permit fees. So he would have to pay roughly $70,000 to $80,000 for the right to build a single-family home in the town he grew up in. He found this excessive and believed the Board might suffer the same shock factor if they were in his shoes and received the report.
- He reiterated that he did not oppose improving streets or changes in Wilsonville, but there had to be a limit and it had to be considered reasonable and fair. That was what the Supreme Court said. That was what the Supreme Court demanded. And that was all the Applicant was asking from the DRB.

Mr. Edmonds entered the additional exhibits distributed by the Applicant into the record.as follows:
- Exhibit B11: Bound notebook titled, "Appeal of Downs Partition Plat #AR14-0077 Index", containing colored photographs and the applicant's comments in opposition to Condition of Approval PFA-27. Distributed by the Applicant at the meeting.
- Exhibit B12: Multiple-page, stapled packet, "II. Takings Issue...The *Nollan* "Nexus" Test" printed from OSB Legal Publications. Distributed by the Applicant at the meeting.
- Exhibit B13: Multiple-page, stapled packet, titled, "Subdivision Law and Growth Management Database updated November 2014; Chapter 6. Financing Capital Improvements References." Distributed by the Applicant at the meeting.
- Exhibit B14: Stapled, 9-page packet, titled, "US Department of Justice Title II Highlights" discussing ADA requirements. Distributed by the Applicant at the meeting.
- Exhibit B15: Stapled, 11-page packet, titled, "US Department of Justice Title III Highlights" discussing ADA requirements. Distributed by the Applicant at the meeting.
- Exhibit B16: Stapled, 5-page packet, Louis F. Schultz and Anna May Schultz, Appellants v. City of Grants Pass Oregon Court of Appeals case. Distributed by the Applicant at the meeting.

- In response to the question submitted by Mr. Martens about an existing house being burned or destroyed, he cited Section 4.190.03, noting he believed that when the existing house was built, it predated the Development Code. He read, "When a non-conforming structure is damaged by any cause exceeding 75 percent of the replacement cost, as determined by the building official, the non-conforming structure shall not be reestablished unless all required building permits for repair and replacement are received within 18 months of damage. The City will endeavor to contact the owner of properties that have been damaged to alert them of the time limitations for receiving a building permit for repair or replacement. The property owner's failure to receive such notification does not alter or extend the time limit specified in this subsection."
- He did not know if it was considered a development permit. In past practice for a non-conforming structure, the City only required a building permit to replace the house.

Ms. Jacobson agreed, noting that was an exception to the Code for a catastrophic happening to an existing dwelling, which was why it was called out separately.

Mr. Martens understood the Applicant's argument early on was that the proposed partition should not trigger the improvements, as it was a paper process that would get recorded with the County and should be separated from the requirement to do any improvements.

Mr. Downs clarified he was asserting that the partition was not considered a development, so that in and of itself would only trigger Subsection G; it would trigger that "when." The partition was a paper process. The partition itself would be approved under Subsection G conditioned upon the applicant being able to provide those utilities. The trigger was that when the partition, the new piece of property, was developed, the Applicant could assure that adequate utilities and facilities were provided. The partition itself did not trigger all of it. Subsection G did only to the extent that the applicant could assure the City that those things would be provided for that newly created parcel.

Mr. Martens asked if the Applicant was asking the Board to approve the partition without any requirements, and then have those requirements wait and be contingent upon the ultimate construction of the home.

Mr. Downs answered no; he was asking the Board to only change one thing, that the Board require, as a condition of approval of the land partition, that the Applicant provide all of that for 60 ft, which was being developed, not 150 ft.

Mr. Martens responded that if it was based upon a partition that was not requiring anything, why would the Applicant not then say there should be no requirement at all for the entire 150 ft until such time as the Applicant applied for a building permit.

Mr. Downs confirmed that would be the condition, and was, in fact, what Subsection G stated. Subsection G stated that the applicant had to assure the City that the facilities could be provided at the time of development. At that time the partition is granted and as a condition of granting the partition, the applicant assures that those facilities would be provided when the parcel is developed. If the partition was done and the owner just sat on the property, it would just sit there. The condition of installing and providing utilities and sidewalks did not go into effect until the land was developed, from both a practical and definitional standpoint, as he read the Code.

Cheryl Dorman understood that this would be granting approval to partition the land.

Mr. Edmonds agreed the administrative review application was for a land partition.

Ms. Dorman stated in her interpretation, it had nothing to do with the future and that although the future was being discussed, in order to grant approval for the partition, these terms would need to be met, 150 ft.

Ms. Jacobson agreed that was Staff's opinion as well.

Ms. Dorman asked if that was the Applicant's interpretation as well; that to grant partition, the 150 ft had to be met.

Mr. Downs agreed that was the issue; whether it was 150 ft or some other configuration that was the issue as a condition of granting the partition. There was still a whole other process related to development, such as the requirement to pay SDCs and etc. It was a separate issue, the cart before the horse, so to speak.

Chair Woods called for public testimony in favor of, opposed and neutral to the application. Seeing none, he asked if Staff had further comments.

Ms. Jacobson stated that Staff's reading of the definition of development included a partition, as outlined in her memorandum. It was any action; it did not need to be physical. The applicant did not need to be turning soil. The act of taking one parcel and making it into two to provide the ability to have two homes, or 20 homes, would be making a change to improve property. Section 4.005 listed those things that were exempted from development permit requirements, and a partition was not listed as exempt. The City's Development Code stated that any time there was development that was when there was a requirement under both the City's Comprehensive Plan and City Code that sidewalks, which were public improvements that serve not only the properties they front, but the public in general, had to be installed in order to achieve the connectivity standard needed so people could safely walk in the neighborhoods. Although the improvement would be put in by a private party, it was, in fact, a public sidewalk and would have to meet certain City requirements that would make it level and accessible for wheelchairs or any member of the public to be able to use.

Chair Woods confirmed there was no further questions and closed the public hearing at 7:33 pm.

Ms. Jacobson confirmed the Board could accept the amended Staff report with the exhibits that were read into the record first, and then address the resolution.

Chair Woods moved to deny the Applicant's appeal of the Director's Class II Administrative Decision of application AR14-0077, case file DB15-0006, and that the Board approve Resolution 299, which affirms the Director's Class II Administrative Decision, Findings and Conditions, approving a tentative land partition for two parcels, as rendered in Case File AR14-0077 Class II Administrative Review, but as amended by the revised staff report, dated February 12, 2015, correcting references to "DB14-0077" to state "AR14-0077" and including Exhibits A5, B10, B11, B12, B13, B14, B15, B16, and D1 as read into the record by Blaise Edmonds. Dianne Knight seconded the motion.

Chair Woods clarified his motion would approve the Resolution 299, which affirmed the Director's Class II administrative decision, findings, and conditions that approved a tentative land partition for those two parcels, as rendered in Case AR14-0077, the Class II administrative review, but as amended by the revised Staff report dated February 12, and including all the exhibits as read into the record by Mr. Edmonds. Basically, the Board would be accepting the revised Staff report and its contents and particulars.

Ms. Dorman appreciated the process the Applicants had gone through, and their hard work in providing the Board with a lot of information. While she was sympathetic to their cause, she strongly believed the partition, by its very nature of dividing one property into two, was a human-caused change to the improved real estate in this case, and would trigger the requirements of the improvements as Staff had recommended. The human-caused change to improve real estate caused Condition PFA27 to come into play.

Chair Woods added that it would be for the entire 150.01 ft of frontage.

Shawn O'Neil agreed. He noted the email (Exhibit D1) Staff received regarding the neighborhood in question. After seeing the site and envisioning children and older citizens trying to walk down that road, it just made sense to require improvements for that entire parcel.

Chair Woods believed with the City's imposed requirements to require a sidewalk on that portion in front of the property, which he believed was 60.01 ft, appeared to be consistent with the requirements of the City Code, Comprehensive Plan, Transportation System Plan, ADA requirements, and sidewalk requirements, and it appeared to him that the entire 150 ft would fall under this and would then need to be developed, particularly in light of the definitions.

Chair Woods called the question.

The motion passed unanimously.

Chair Woods read the rules of appeal into the record.

VIII. Board Member Communications

A. Results of the February 9, 2015 DRB Panel A meeting

There were none.

IX. Staff Communications

There were none.

X. Adjournment

The meeting adjourned at 7:43 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription Services, Inc. for
Shelley White, Planning Administrative Assistant