

MEMORANDUM FOR THE HEARING EXAMINER CONCERNING TREE COUNT

Date: October 27, 2015

Subject: Request for Information from Applicant's Representative Seeking Clarification of Appeal Points (Nouri Short Plat Appeal (LAND 2014-01980))

On October 13, 2015 Appellants received a two-part request for clarification on points raised in this appeal. This memo responds to those requests as directed by email on that date and a subsequent order.

Applicant Request - Part One

"The appeal as filed includes 5 alleged errors in regards to the trees. Each of the five items are detailed with the specific code reference and a description of what criteria is suspect to being deficient per code related to the Preliminary Short Plat plans. The appeal does not reference the tree report."

Appellant's Response - pertaining to specific errors cited in the Appeal.

1. Findings of the tree report with assessment and inventories of trees on the Nouri Short Plat dated September 29, 2014 are incorporated by reference in all subsequent tree retention/preservation/removal actions (labeled as "Tree Evaluation Data" on plan sets) and is contained in CEQA filings of October 14, 2014 and successive iterations of the developer plan submissions – specifically as reflected in the Summaries of Tree Retention (which have changed several times over the course of the permitting process). Location, health and condition of trees as stated therein have been part of the site design process throughout.
2. Re: the appeal itself, the first bullet under Section B of the appeal cites the Tree Removal plan in its first sentence regarding LANDMARK TREES AND RETENTION RATE. The fourth bullet in the same section/page "this plan" (drawing upon the tree report) is referenced in the second sentence regarding NEIGHBORHOOD IDENTITY.

ERROR #1 In three places, this section specifically addresses the Tree Removal Plan which is built upon the findings of the Tree Report incorporated by reference as noted in paragraph 1 above.

ERROR #2 Cites the Tree Removal Plan retention rate in the first ERROR statement. The Tree Removal Plan is built upon the findings of the Tree Report incorporated by reference as noted in paragraph 1 above.

ERROR #3 Site design and building location must give priority to trees per this section of code. The tree inventory/map prepared by as part of the tree report is central to site design standards and is hence an appropriate area to be resolved.

ERROR #4 A copy of the tree preservation plan is to be included in mailed notices of application per sub-paragraph B.3.a.xi. That tree preservation plan draws upon the findings of the Tree Report incorporated by reference as noted in paragraph 1 above. Such site map as was provided was incomplete and illegible.

ERROR #5 THIS Is a reiteration for emphasis of ERROR #2 as stated above.

Applicant Request - Part Two

"Within the appellants witness and exhibit list they note that the intent of having Tina Cohen attend is to express concerns regarding the "tree reports and tree count." This is the first mention of a contention with the Tree Report. We would like to request that the appellants outline their concerns with the tree report ahead of time, or specifically how their concerns with the tree report relate to the 5 alleged errors."

Appellant's Response – pertaining to relationship of errors cited and findings of our arborist, Tina Cohen.

1. Our arborist was retained to review the specifics of the Shoffner Tree Inventory Report of September 29, 2014 as commissioned by the Applicant and to perform an independent field assessment of the Tree Retention Plan for the Nouri Short Plat WHICH IS THE BASIS OF ALL TREE COUNTS IN THE APPLICATION. Findings of multiple inaccuracies or problems with the Applicant's tree inventory and tree retention plan are detailed in her report. Those independent findings substantiate the concerns expressed in our Appeal as ERRORS # 1, #2 and #3 addressed in paragraph 2 of the Part One response.

The nature of the inaccuracies cited in our arborist's report include the health/condition of several trees, factors related to site design and revisions to the tree retention tables ("tree count") requiring additional adjustment and/or mitigation plantings to the extent that a full review of the project including a new tree inventory and assessment was recommended.

Additional: Beyond this, an assessment of construction impact on several trees abutting the project is need since their driplines and root systems would be directly impacted in the grading process and they would likely die. This issue was not addressed in the tree plan and inventory.