



Bend City Council  
July 2, 2007 Council Meeting

## Issue Summary

Department: Community Development  
Staff Member: Greg Blackmore

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**Hold a discussion regarding whether or not to hear an appeal of Hearings Officer Karen Green's decision on File #PZ06-660. This file is a lot line adjustment application to eliminate a private street named Alexander Court.**

**Staff Review and Recommendation to Council:** The City Council is asked to decide whether or not to hear an appeal of the final Hearings Officer decision on planning file #PZ06-660; a lot line adjustment application to eliminate a private street named Alexander Court. Staff recommends that the City Council not hear the appeal of this case.

It is staff's opinion that only "Issue on Appeal #2" (attached), raised by the applicant, is a matter of community wide significance for the City. "Issue on Appeal #2" is in regards to the Hearings Officer's interpretation that a private street is unit of land other than a "lot" or "parcel." This distinction is significant in the Hearing Officer's Decision, as the Hearings Officer determined that only a "lot" or "parcel" can be adjusted by the "Lot Line Adjustment Procedures" of Section 4.3.600 of the Development Code. Although the language within the Development Code lacks specificity and the interpretations drawn by the Hearings Officer may have Citywide significance, Staff believes that the "Lot", "Parcel", "Private Street" distinctions drawn by the Hearings Officer are consistent with the intent of the Development Code, which has been clarified in a Planning Commission Recommendation for a Legislative Development Code Text Amendment (File # PZ 07-186) which has tentatively been scheduled for City Council review in August. Also, it is staff's opinion that the other 6 "Issues on Appeal" are project specific and do not present citywide significance for the City.

**History:** Hearings Office Public Hearing: March 29, 2007

Presented as discussion item: July 2, 2007

**Background:** This matter is before City Council as a result an appeal of Hearings Officer Karen Green's final decision of File #PZ06-660. This file is a Lot Line Adjustment application to eliminate a private street named Alexander Court from the Mountain Gate Planned Unit Development (PUD).

A Lot Line Adjustment application was submitted by AWBG Alexander Court LLC, on September 11, 2006. The application was deemed complete on

February 2, 2007. Due to the level of legal interpretation, discretion, and expressed opposition involved in the complex "Lot Line Adjustment" proposal, the application was elevated to the Hearings Officer jurisdiction. The Hearings Officer held a public meeting on March 29, 2007 and the record remained open through April 25, 2007. The 120-day period for issuance of a final local land use decision under ORS 227.179 will expire on July 2, 2007. Based on a review of the material submitted into the record the Hearings Officer **Denied** the applicant's proposed lot line adjustment.

It is staff's opinion that one of the "Issues on Appeal" does have significant public policy and community wide implications for the City, however the public policy and community implications explored and concluded upon in the Decision are consistent with those of a Planning Commission Recommended Development Code Text Amendment, PZ 07-186. PZ 07-186 is a Legislative Amendment that was initiated by the Current Planning Division to allow for the elimination of common property lines by means of the "Lot Line Adjustment Procedures", in addition to providing clarification and more specificity to Section 4.3.600 - Lot Line Adjustments, of the Development Code; the timing of the Development Code Text Amendment and this application is coincidental. On June 11, 2007 the Planning Commission recommended that the City Council "approve" the proposed Development Code text amendment PZ 07-186, that explicitly excludes private roads from the "Lot Line Adjustment" Procedures, and instead requires a "replat" for such a proposal. PZ 07-186 provides insight into the Planning Commission's intent of the public policy considerations of Section 4.3.600 and Staff believes that the interpretations drawn by the Hearings Officer are consistent with the Planning Commission's Recommendation. PZ 07-186 is tentatively scheduled for a Public Hearing before the City Council for August 1, 2007.

Please see submitted appeal application as well as the Hearings Officer decision attached to this issue summary.

**Discussion of the Issue and Alternatives Explored:** The Hearings Officer was asked to rule on a "Lot Line Adjustment" application to eliminate a private street named Alexander Court within the Mountain Gate subdivision.

During the review process, the City received letters in response to this application. In addition, representatives for the owners, the Mountain Gate Homeowners Association, and individual homeowners, testified at the public hearing on March 29, 2007. The Hearings Officer addressed the public comments in her written decision. Please see copy of Hearings Officer decision attached to this issue summary.

**Secondary Issues:** In the process of ruling on the proposed property line adjustment, the Hearings Officer made interpretations of "lots" and "streets" namely that there is a distinction between these two units of land which are

created through the subdivision process. This interpretation limits the scope to which property line adjustments can be used to reconfigure property lines.

**Committee Review and Recommendation to Council:** The Hearings Officer **denied** the applicant's proposed property line adjustment. Staff is unaware of any necessary committee involvement regarding this application request.

**Budgetary Considerations:** If the final City decision is appealed to the Land Use Board of Appeals (LUBA), costs will include the expense of preparing a LUBA record and all legal time and costs.