

**From:** Kristen Benkstein [mailto:klm018@yahoo.com]  
**Sent:** Thursday, February 22, 2018 9:21 PM  
**To:** Davis, Ellen <edavis@ci.oswego.or.us>  
**Cc:** Leah Puhlman <lpuhlman@gmail.com>  
**Subject:** RE: Tree hearing reschedule date 2/28

Ellen,

Ok, in that case I cannot make it to the hearing. That is disappointing as the appellant that I cannot attend.

I put my testimony in the mail prior to my departure, but in case it doesn't arrive in time, I have attached it here.

I do not believe I will have access to email while I am gone since I will be out of the country.

Thanks,  
Kristen Benkstein

Get organized with Yahoo Mail

**EXHIBIT**  
**G-207**

I object to the removal of 7 native trees in this application, trees #6-11 and #25, which are 5 doug firs, 1 western red cedar, and 1 big leaf maple.

ID	Trunk Diameter	Tree Type
6	30"	Douglas Fir
7	27"	Douglas Fir
8	31"	Douglas Fir
9	28"	Douglas Fir
10	17"	Big Leaf Maple
11	37"	Western Red Cedar
25	30"	Douglas Fir

I have 3 main points to my objection: significance of the trees, the applicable exception to subsection 3 in the code, and mitigation.

### Significance

I believe these trees meet the definition of significant, as defined by section 55.02.020 in the tree code.

A significant tree is defined as a quote “a healthy, noninvasive tree over 15 in. DBH that is considered significant to the neighborhood due to size, species, or distinctive character, or the only remaining tree on a property” end quote.

These trees are native, noninvasive, and exceed the size requirements as stated in the definition. The code does not state that all conditions need to be met (meaning size, species, distinctive character, and the only remaining tree.) Therefore, these trees meet the definition of significance based on size alone. The only reference to size in the code is a tree over 15 in. DBH. If the Commission interprets size to be something other than what is stated in the code, then I would suggest the code be changed to spell out exactly what size means.

Regarding species or distinctive character, I believe these trees already meet the definition of significant based on size alone, so there is no need to present evidence as to whether species or distinctive character elements are met.

If the Commission interprets what species or distinctive character means, I would suggest that species and distinctive character be defined in the code to better represent their relationship to significance.

There are 5 elements by which the removal of a tree cannot be granted according to section 55.02.080, subsection 3, which are 1. a significant tree, 2. alterations to the neighborhood skyline, 3. a visual screen between residential and non-residential zones, 4. a street tree, or 5. greater than 50% of a stand of trees.

Based on the verbiage of the code, only one of these 5 elements has to be met to prevent removal of the tree. The statement is written with an “or,” not an “and.”

Because these 7 trees are healthy, noninvasive, and over 15 inch DBH, they meet the definition of

significant and therefore, the first element is met.

If the Commission interprets that more than one element must be met for subsection 3, then these trees also alter the distinctive features of the continuity of the neighborhood skyline as viewed from all public streets and properties within 300 ft of the property, which is the definition in the code. The trees in question are viewable from Thoma Rd, Knaus Rd, and Alto Park Rd.

### Exception to subsection 3

The applicable exception in this case per the code is “no reasonable alternative exists to allow the property to be used as permitted in the zone.” I believe the applicant did not reasonably seek out alternatives to the tree removal, such as alternative placement or orientation of the proposed structure. Given the allowed build-able area of this lot, an alternative to the tree removal would be to reduce the size of the proposed structure.

I would appeal to the applicant to consider a smaller home on the site that preserves these significant trees and still allows for a reasonably-sized home to be built. Prior to this developer purchasing this lot there were plans allowing these trees to be saved.

A compromise could be to save trees #9, #10, #11, #14, and #25, which are located on the perimeter of the proposed structure.

### Mitigation

As a condition of the tentative approval, 11 mitigation trees are required to be planted on the site, with 9 being native species. It is my understanding that the submitted mitigation plan was not approved at the time of the tentative approval for the permit because it did not contain native species. I believe the mitigation plan should be submitted with the permit and the permit should not be approved until the mitigation plan is received and meets the code requirements. In this case, an approved mitigation plan was not made available to the public during this period which limits our ability to review all information related to this case.

As required in section 55.02.084, an exception to the mitigation of type II trees at a 1:1 ratio, is when there is removal of significant trees for development purposes. These trees must be replaced with two minimum 1.5 inch caliper deciduous trees or minimum of two six-foot tall evergreen trees for each tree removed. There are 7 trees in the application that would be considered significant based on size, health and noninvasive species, thus requiring 14 replacement trees, not 11 as stated in the condition of approval. I believe this is in violation of the code.

**From:** Kristen Benkstein [mailto:klm018@yahoo.com]  
**Sent:** Thursday, February 22, 2018 2:24 PM  
**To:** Davis, Ellen <edavis@ci.oswego.or.us>  
**Cc:** Leah Puhlman <lpuhlman@gmail.com>  
**Subject:** Tree hearing reschedule date 2/28

Ellen,

I am concerned that the reschedule date for the tree removal hearing does not give ample notice time.

Per the tree code, it states

"The notice shall be sent at least 10 days in advance of the hearing." This date does not give us 10 days notice.

I will be going out of town today and cannot make this meeting with such short notice.

Can you consider a date that gives us the required advance notice? Thanks for your consideration.

Kristen Benkstein

Get organized with Yahoo Mail

**EXHIBIT**  
**G-208**

AP 18-02 [TR 499-17-04630]

**From:** Leah Puhlman [mailto:[lpuhlman@gmail.com](mailto:lpuhlman@gmail.com)]

**Sent:** Friday, February 23, 2018 9:07 AM

**To:** Siegel, Scot <[ssiegel@ci.oswego.or.us](mailto:ssiegel@ci.oswego.or.us)>; Davis, Ellen <[edavis@ci.oswego.or.us](mailto:edavis@ci.oswego.or.us)>; Kristen Benkstein <[klm018@yahoo.com](mailto:klm018@yahoo.com)>; Council Distribution <[CouncilDistribution@ci.oswego.or.us](mailto:CouncilDistribution@ci.oswego.or.us)>

**Subject:** Re: TONIGHT'S DEVELOPMENT REVIEW COMMISSION MEETING CANCELED DUE TO INCLEMENT WEATHER

Mr Seigel -

I am an appellant for the Type II Application 499-17-04630 13132 Thoma Rd. The DRC meeting was scheduled for Tuesday, February 20, but was cancelled due to inclement weather. I received notice of this through and email from Janice Bader. I DID NOT receive notice of the rescheduled meeting, and only heard about through the grapevine yesterday afternoon. When I requested a full 10 days notice as required by the tree code, Ms. Davis responded:

Notice was properly provided 10 days prior to the hearing for AP 18-02, which was continued to Feb 28<sup>th</sup> due to inclement weather. Hearings may be delayed for a variety of reasons, including weather, but notice was properly provided for the hearing AP 18-02 "

Rescheduling a hearing should again give appellants a full 10 days notice. Kristen Benkstein is scheduled to be out of town and I have a long-standing previous engagement, and we are the appellants, it does not seem unreasonable to reschedule the meeting when we both can attend. Offering to have us submit written comments is not nearly the same as being able to testify in person, as hear comments by Renaissance Homes.

I respectfully ask that this hearing be postponed until some time in March, when the appellants can attend.

Leah Puhlman

[lpuhlman@gmail.com](mailto:lpuhlman@gmail.com)

503-502-9819

[www.common senseinteriors.com](http://www.common senseinteriors.com)

**EXHIBIT  
G-209**

AP 18-02 [TR 499-17-04630]