

131/340/MAYOR/AMY RUIZ

YVONNE POELWIJK
1900 SW 4TH AVE, STE 5000
PORTLAND, OR 97204

RACHEL WHITESIDE
DEVELOPMENT SERVICES
299/5000

DOUG MORGAN
299/5000

KURT KRUEGER
PBOT
106/800

DAWN KRANTZ
PORTLAND FIRE BUREAU
472/100

WATER BUREAU PERMITS
106/601

OREGONIAN
PORTLAND TEAM
1320 SW BROADWAY
PORTLAND, OR 97201

DOUGLAS CAPPS
PORTLAND PUBLIC SCHOOLS
PO BOX 3107
PORTLAND, OR 97208

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PACIFIC NW TITLE
9020 SW WASH. SQ. RD.
#140
TIGARD, OR 97223

BRETT AND CINDY LAURILA
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MARY KING
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JENNIFER ANTAK
BES, WATERSHED SVCS
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DANIEL EGGLESTON
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6329 SE 47TH AVE
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MARIANNE COLGROVE
FRIENDS OF TIDEMAN JOHNSON
3707 SE BERKELEY WAY
PORTLAND, OR 97202

MICHELLE SMIT
AND ERIC BUTLER
4000 SE TENINO ST
PORTLAND, OR 97202

MATT LOOSEMORE
5818 SE 18TH AVE
PORTLAND, OR 97202

LU 11-153362 LDS ENM
HEARING NOTICE MAILED: 9/12/12
23 MAILING LABELS



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

**NOTICE OF A PUBLIC HEARING BEFORE
THE CITY COUNCIL ON AN APPEAL OF THE
PORTLAND LAND USE HEARINGS OFFICER**

CASE FILE: LU 11-153362 LDS ENM
WHEN: WEDNESDAY, OCTOBER 10, 2012 @ 2:00 PM
WHERE: COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

Date: September 12, 2012
To: Interested Person
From: Rachel Whiteside, Land User Services, 503-823-7605

A public hearing will be held to consider an appeal of the Land Use Hearings Officer decision to deny a four-lot subdivision and environmental review with modification at for property located on SE Berkeley Way and the southern end of SE Cesar Chavez Boulevard. The Hearings Officer decision of denial has been appealed by the applicant, Brett Laurila. At the hearing City Council will consider the appeal. You are invited to testify at the hearing.

This will be an Evidentiary Hearing, one in which new evidence can be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

File No. LU 11-153362 LDS ENM (HO 4120015)

**Appellant/
Applicant/Owner:** Brett Laurila
5505 SE Oetkin Drive
Milwaukie, OR 97267-4110

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Representative: Rachel Whiteside

Site Address: Vacant site on the SE corner of SE Berkeley Way and SE 39th Avenue

Legal Description: BLOCK A, BERKELEY
Quarter Section: 3834
Tax Account No.: R070912980
State ID No.: 1S1E24DD 01700

Neighborhoods: Ardenwald-Johnson Creek and Woodstock
Business District: None
District Coalition: Southeast Uplift

Plan District: Johnson Creek Basin
Other Designations: Potential Landslide Hazard Area, Special Flood Hazard Area
Zoning: R10c,p - Single-Dwelling Residential 10,000 with Environmental Conservation (c) and Environmental Protection (p) Overlay Zones

Land Use Review: Type III, Land Division with an Environmental Review and Modifications through Environmental Review (LDS ENM)

BDS Staff Recommendation to Hearings Officer: Approval with conditions

Public Hearing: The hearing was opened at 9:01 a.m. on July 30, 2012, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was closed at 10:15 a.m. The record was held open until 4:30 p.m. on August 6, 2012, for new written evidence, and until 4:30 p.m. on August 13, 2012, for the Applicant's final rebuttal. The record was closed at that time.

Testified at Hearing:

Rachel Whiteside, BDS Staff Representative, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201

Brett Laurila, 5505 SE Oetkin Drive, Milwaukie, OR 97267

Cindy Laurila, 5505 SE Oetkin Drive, Milwaukie, OR 97267

Daniel Eggleston, 8251 SE Cesar Chavez Boulevard, Portland, OR 97202

Sharon Larisch, 8242 SE Cesar A. Chavez Boulevard, Portland, OR 97202

Kym McCown, 8260 SE Cesar Chavez Boulevard, Portland, OR 97202

Terry Griffiths, 4128 SE Reedway, Portland, OR 97202

Proposal:

The Applicant proposes to divide a 53,115-square foot property (the "Site") into four lots and a large open space tract. Proposed lots range in size from 3,460 to 5,289 square feet. Tract A is an environmental resource tract that will contain undisturbed areas of the Environmental Conservation and Protection overlay zones. Tract A is proposed to be 36,894 square feet and will be owned in common by the owners of the lots or possibly transferred to a public agency.

Proposed Lots 1-3 will front on SE Berkeley Way, which is currently unimproved, and Lot 4 will front on SE Tenino Street. The Applicant proposes to improve the SE Berkeley Way right-of-way with a 20-foot wide street and a 10-foot wide swale for stormwater. A water line will be installed within SE Berkeley to serve the Site. There is an existing 8-inch concrete public combination sewer line in SE Berkeley Way. New service branches are proposed to serve the three Berkeley Way lots. Due to the limited access for fire apparatus maneuvering, all four lots are proposed to have residential fire suppression systems within the new developments. (Exhibit C.1)

The Applicant proposes to use flow-through planter boxes to manage stormwater from the improvements on the individual lots. The approximate location of the planter boxes are shown on plans. (Exhibit C.3) Stormwater from the private street is proposed to be treated by planter boxes and then piped to the combination sewer line in SE Berkeley Way for disposal. (Exhibit C.3)

The entire Site is within the Environmental Conservation and Protection overlay zones. Therefore, the proposal must meet the Portland City Code ("PCC") development standards for environmental zones (PCC 33.430.160 Standards for Land Divisions and Planned Developments). The Applicant proposes lots, street improvements, and stormwater facilities in the Environmental Conservation zones; development is not proposed in the Environmental Protection zone. The total development exceeds the allowed disturbance area (Standard D) and a portion of the development is within 50 feet of an identified wetland (Standard G). Therefore, the development standards cannot be met and an Environmental Review is required.

The Applicant requested Modifications through Environmental Review for the following development standards:

Notice of Appeal to City Council for LU 11-153362 LDS ENM

- Reduce the minimum lot size from 6,000 square feet to 3,460 square feet for Lot 1; 3,926 square feet for Lot 2; 5,289 square feet for Lot 3; and 3,499 square feet for Lot 4.
- Reduce the minimum lot depth for Lot 1 from 60 feet to 38.5 feet.
- Reduce the minimum street frontage for Lot 4 from 30 feet to 21 feet.
- Reduce the minimum lot width from 50 feet to 45 feet for Lot 2 and to 21 feet for Lot 4.
- Reduce the minimum side and rear setbacks from 10 feet to 5 feet for all lots except where the geotechnical engineer has recommended a specific slope setback on Lots 3 and 4.
- Increase the maximum height limit from 30 feet to 35 feet for all lots.

The Applicant proposed over 8,400 square feet of native plantings within the 15-foot deep slope setback, per geotechnical recommendation, as part of a mitigation plan to compensate for significant impacts. The mitigation plantings are also designed to act as a buffer between proposed development on the "plateau" portion of the Site and the undisturbed resource tract, Johnson Creek, and Springwater Trail to the south and east.

This subdivision proposal is reviewed through the Type III land use review procedure because it is a land division that also requires Environmental Review (See PCC 33.660.110). For purposes of State Law, this land division is considered a Subdivision. To subdivide land is to divide land into four or more lots (or tracts of land) within a calendar year (See Oregon Revised Statutes 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- PCC 33.660.120 Approval Criteria for Land Divisions in Residential Zones
- PCC 33.430.250.A Approval Criteria for Environmental Review
- PCC 33.430.280 Approval Criteria for Environmental Modification

REVIEW BODY DECISION

The Hearings Officer found that the failure of the Applicant to provide sufficient evidence to satisfy PCC 33.430.250 A.1, A.3 and A.4 and also PCC 33.641 required that the application be denied.

Denial of a Preliminary Plan for four standard lots and an open space (environmental resource) tract.

Denial of an Environmental Review and Modifications for creation of four lots for single-family development and street improvements within SE Berkley Way.

APPEAL

The Land Use Hearings Officer decision of denial has been appealed by the applicant, Brett Laurila. As allowed with an Evidentiary Hearing, the applicant/appellant has submitted additional evidence that, according to the appellants' statement, addresses the inadequacies of PCC 33.641 and PCC 33.430.250.A.1, A.2, and A.3 cited by the Hearings Officer. The new evidence includes an on-street parking analysis in response to PCC 33.641 and site plans and construction costs to support the applicant's preferred alternative under PCC 33.430.250.A.1, A.2, and A.3.

Review of the case file: The Hearings Officer decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, # 5000, Portland OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone.

We are seeking your comments on this proposal. The hearing will be held before the City Council. To comment, you may write a letter in advance, or testify at the hearing. In your comments, you should address the approval criteria, as stated above. Please refer to the file number when seeking information or submitting testimony. Written comments **must be received by the end of the hearing** and should include the case file number and the name and address of the submitter. It must be given to the Council Clerk, in person, or mailed to 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. A description of the City Council Hearing process is attached.

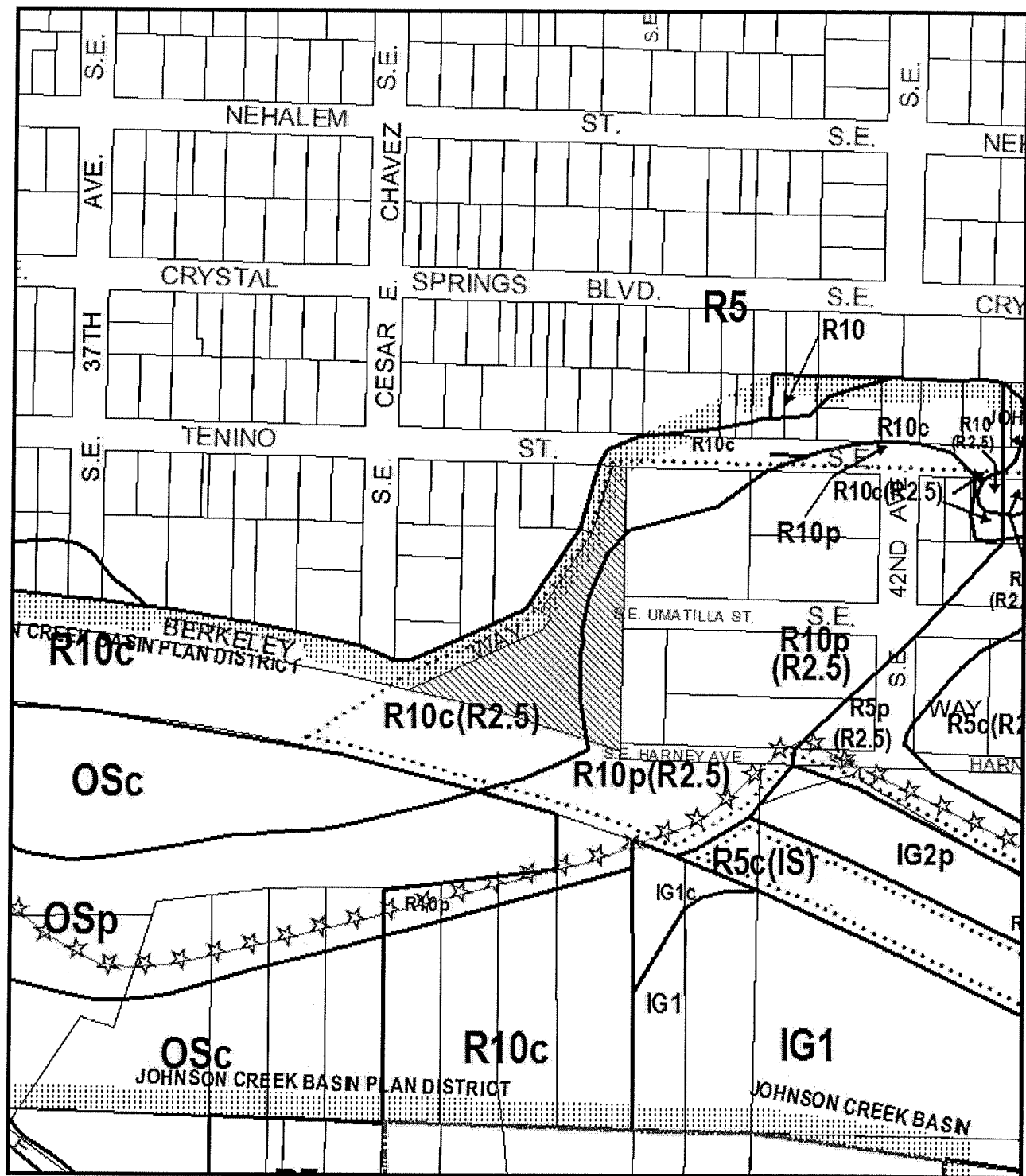
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk [karla.Moore-Love@portlandoregon.gov]. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be received no less than one hour prior to the time and date of the scheduled public hearing. The Council Clerk will ensure that all City Council members receive copies of your communication.

City Council's decision is final. Any further appeal must be filed with the Oregon Land Use Board of Appeals (LUBA). Failure to raise an issue in a hearing, in person or by letter, by the close of the record or at the final hearing on the case or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to LUBA on that issue. Also, if you do not provide enough detailed information to the City Council, they may not be able to respond to the issue you are trying to raise. For more information, call the Auditor's Office at (503) 823-4086.

If you have a disability and need accommodations, please call 503-823-4085 (TDD: 503-823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.

Attachments

1. Zoning Map
2. Site plan
3. Appeal Statement
4. City Council Appeal Process



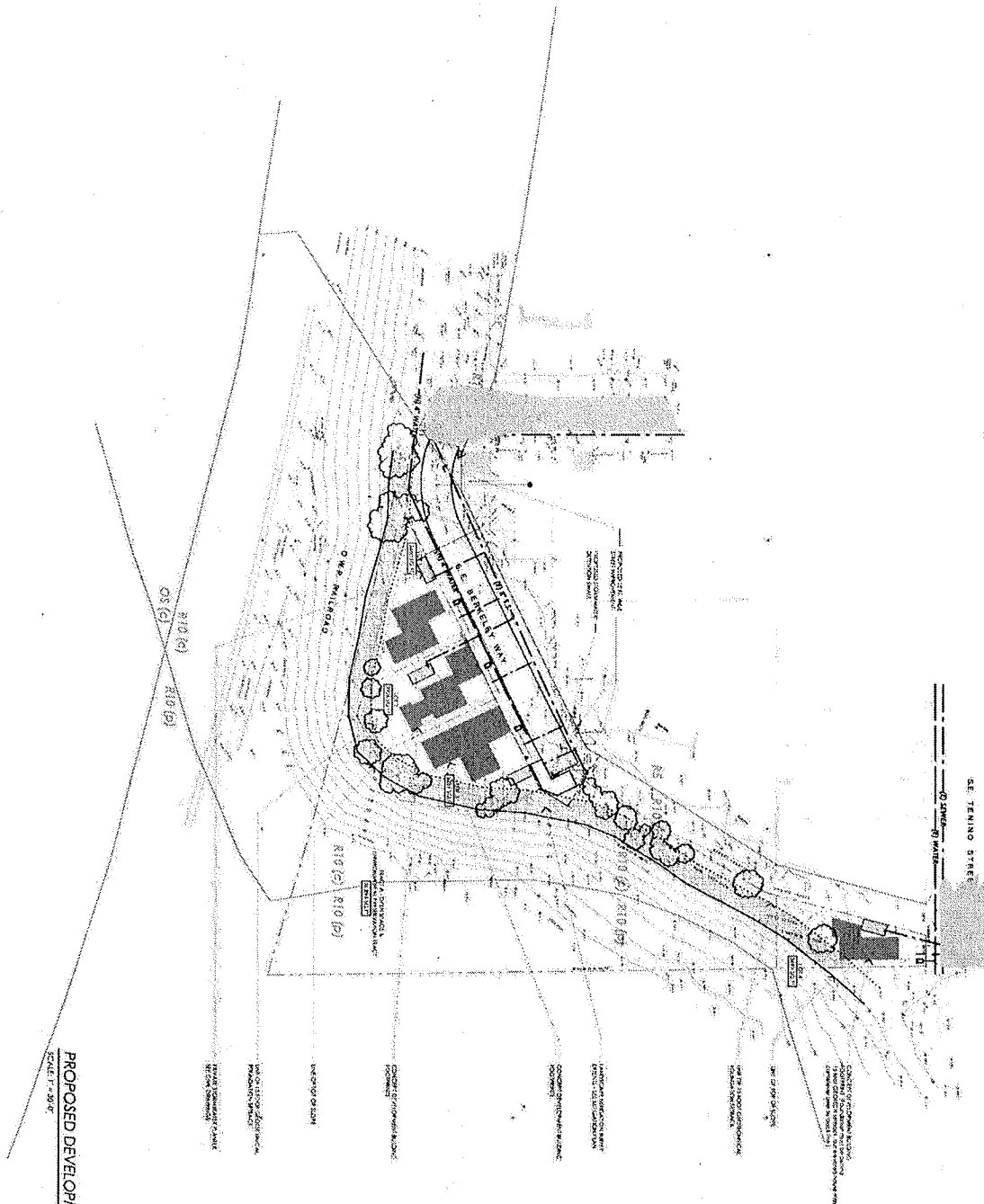
ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

| | |
|-------------|----------------------|
| File No. | LU 11-153362 LDS ENM |
| 1/4 Section | 3834 |
| Scale | 1 inch = 417 feet |
| State Id | 1S1E24DD 1700 |
| Exhibit | B (Jul 05, 2011) |



CASE NO. 11-153362 LDS ENM
EXHIBIT C.1

BKL/A
ARCHITECTURE
3401 E. 12th Ave.
Suite 200
Denver, CO 80202
303.733.1100
bkl@aarchitecture.com

REVISION
1. 11/15/11
2. 11/15/11
3. 11/15/11

PROPOSED DEVELOPMENT PLAN
PROJECT: THE SPRINGWATER PROPERTY
LAND DIVISION

THE SPRINGWATER PROPERTY
3401 E. 12th Ave.
Denver, CO 80202
303.733.1100
bkl@aarchitecture.com

REVISIONS
1. 11/15/11
2. 11/15/11
3. 11/15/11

PROPOSED DEVELOPMENT PLAN
SCALE: 1\"/>



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Dan Saltzman, Commissioner
 Paul L. Scarlett, Director
 Phone: (503) 823-7300
 Fax: (503) 823-5630
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City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7526 • www.portlandonline.com/bds



Type III Decision Appeal Form

LU Number: 11-153362-LDS ENM

FOR INTAKE, STAFF USE ONLY

| | |
|-----------------------------------------------------------|-----------------------------------------------------|
| Date/Time Received <u>9/5/12 @ 8:00 AM</u> | <input checked="" type="checkbox"/> Action Attached |
| Received By <u>R Whiteside</u> | Fee Amount <u>\$ 3,575.00</u> |
| Appeal Deadline Date <u>9/5/12</u> | <input type="checkbox"/> (N) Fee Waived |
| <input checked="" type="checkbox"/> Entered in Appeal Log | Bill # <u>3386606</u> |
| <input type="checkbox"/> Notice to Auditor | <input type="checkbox"/> (N) Unincorporated MC |
| <input checked="" type="checkbox"/> Notice to Dev. Review | |

APPLICANT: Complete all sections below that apply to the proposal. Please print legibly.

The appeal must be filed by the deadline listed in the Decision

Development Site
 Address or Location SE BERKELEY WAY & SE CAESAR CHAVEZ BLVD.
 Date SEPTEMBER 5th 2012 Land Use Number 11-153362-LDS ENM
 Appellant's Name BRET & CANDY LAURILA
 Street Address 5505 SE OETKIN DR.
 City MILWAUKIE State OR Zip Code 97201
 Day Phone 503.720.4055 FAX 0 email bret@bkl-a.com
 Appellant's Interest in the case (applicant, neighbor, etc.) APPLICANT

Appellant's Statement Please describe how the proposal meets or does not meet approval criteria, or how the City erred procedurally. The statement must address specific approval criteria or procedures and include the appropriate code citation(s).

PER THE EVIDENCE IN THE ATTACHED DOCUMENT, THE PROPOSAL MEETS PCC 33.041 & PCC 33.420.250 A.1, A.2 & A.3 AND SHOULD BE APPROVED. I RESPECTFULLY REQUEST THAT THE HEARINGS OFFERED DECISION BE OVERTURNED AND THE LAND USE APPLICATION BE APPROVED WITH CONDITIONS AS DETERMINED AND ADDRESSED IN THE STAFF REPORT SUBMITTED TO THE HEARINGS OFFICER.

Appellant's Signature [Signature]

To file this appeal, take the following to the Development Services Center

- ☐ This completed appeal form
- ☐ A copy of the Type III Decision being appealed
- ☐ An appeal fee as follows:
 - ☐ Appeal fee as stated in the Decision, payable to City of Portland
 - ☐ Fee waiver for ONI Recognized Organizations approved
 - ☐ Fee waiver for low income individual approved (attach letter from Director)
 - ☐ Fee waiver for Unincorporated Multnomah County recognized organizations is signed and attached

The Portland City Council will hold a hearing on this appeal. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

The appeal must be filed by the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 a.m. and 3:00 p.m. on Tuesday through Friday. On Mondays, and between 3:00 - 4:30 p.m. on Tuesday through Friday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

CASE NO. 11-153362
 EXHIBIT I.1



September 4, 2012

Rachel Whiteside, Planner
City of Portland – Bureau of Development Services
1900 SW fourth Ave. Suite 5000
Portland, OR 97201

RE: LU 11-153362 LDS ENM (HO 4120015)

Ms. Whiteside;

With this letter please receive our appeal of the above noted Type III decision mailed on August 22nd, 2012 with a deadline of 4:30pm on September 5th, 2012 to file.

Attached are the completed filing form, a check for the appeal fee of **\$ 3,575.00** (three thousand five hundred seventy five dollars) and a copy of the decision of the hearings officer.

Further, attached is an additional evidentiary response that addresses the criteria noted by the hearings officer to have inadequately reviewable responses.

These criteria are:

- On street Parking impact related to the 20 foot street improvement requiring no on street parking.
- Development Alternatives Analysis

This appeal requests that the application be approved with conditions as noted in the staff report and recommendation to the Hearings Officer.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brett K. Laurila'.

Brett K. Laurila
Principal / Architect

CASE NO. 11-153362
EXHIBIT I.1a

September 4, 2012

Rachel Whiteside, Planner
City of Portland – Bureau of Development Services
1900 SW fourth Ave. Suite 5000
Portland, OR 97201

Subject: LU Case # 11-153362 LDS ENM
HO Case # 4120015

From: Brett K. Laurila, Applicant & Architect

Re: Appeal Additional Evidentiary Response

Introduction:

This appeal seeks to redress the insufficient responses to two criteria noted by the Hearings Officer leading to a denial of the Land use application. Responses addressing the two criteria responsible for the denial are noted below:

I. On-Street Parking Review Criteria

Hearing Officer Comment:

"PCC33.641 requires the applicant to provide evidence in the record sufficient to demonstrate that the identified evaluation factors are satisfied. One of the evaluation factors requires the applicant to review on-street parking impacts of the proposed development. The hearing officer found that the applicant failed to provide adequate evidence in the record."

Response:

On-site parking is accommodated on each of the proposed lots. (Lot 4 fronting on SE Tenino is not affected, as it does not abut the SE Berkeley Way Right of way.) A minimum of two on-site parking spaces can be accommodated with a typical 18-foot setback and a 16-foot wide driveway for the lots abutting SE Berkeley Way. Up to four parking spaces could be accommodated on each site should a two-car garage be developed in conjunction with the aforementioned driveway. (See figure 1)

This allows up to four (4) on site parking spaces limiting the on-street parking impact.

The proposed 20-foot wide street improvement requires that there be no on street parking due to emergency vehicle access on a dead end street. On street parking, when required and not accommodated by on-site parking, would then be forced out onto SE Caesar Chavez Blvd.

CASE NO. 11-153362
EXHIBIT I.1.b

SE Caesar Chavez Blvd. is signed as a dead-end at SE Crystal Springs Boulevard, ultimately ending at the intersection of SE Berkeley Way. This limits traffic to residents, visitors and service vehicles past SE Crystal Springs Blvd. Further, only SE Tenino Street and SE Berkeley Way (unimproved) intersect SE Caesar Chavez Boulevard south of the intersection of SE Crystal Springs Blvd. This limits on-street parking to the residents abutting SE Caesar Chavez Blvd. and the associated service and visitor use vehicles.

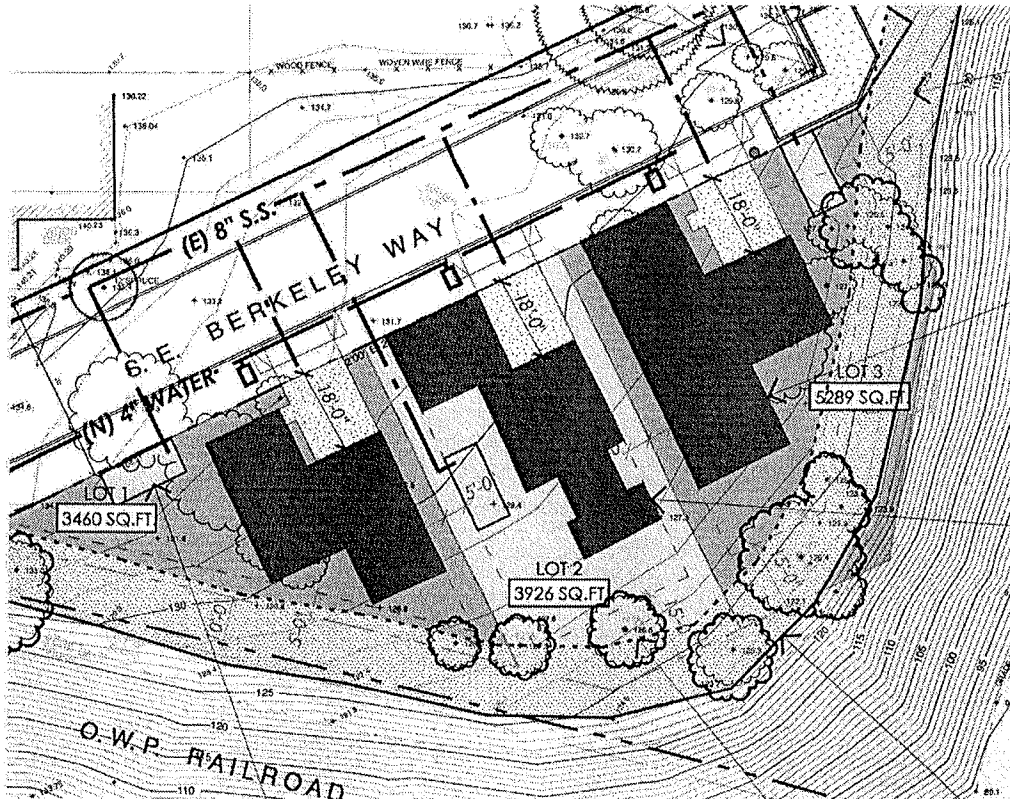


Figure 1
Enlarged View of proposed lot layout at
SE Berkeley Way.

A low level parking study is underway and should be completed prior to the hearing date.

On street parking, when required, can easily be accommodated on SE Caesar Chavez Blvd. near the intersection of SE Berkeley way for the proposed three single-family lots. Any on-street parking being accommodated on SE Caesar Chavez Blvd. keeps additional parking out of the environmental zone encumbered by the limited improvements within SE Berkeley Way. (See image below.)

Alternatively, A 28 foot street improvement in the SE Berkeley Way Right of Way would allow parking on one side of the Berkeley Way improvement. This alternative, however, increases the paved surface by nearly one third over the 20-foot street. This alternative would require the additional removal of three to four **ROW** (Right of Way) trees at the

intersection of SE Caesar Chavez Blvd. Further, the storm water planter would be increased in size to accommodate the additional surface area, requiring the additional removal of three to four **ROW** trees at the dead end of SE Berkeley Way. The additional cost for the widened street along with the expanded environmental resource impacts made this solution impracticable. The SE Caesar Chavez Blvd. can very easily accommodate the limited amount of on-street parking created by the adjacent three lots on SE Berkeley Way.

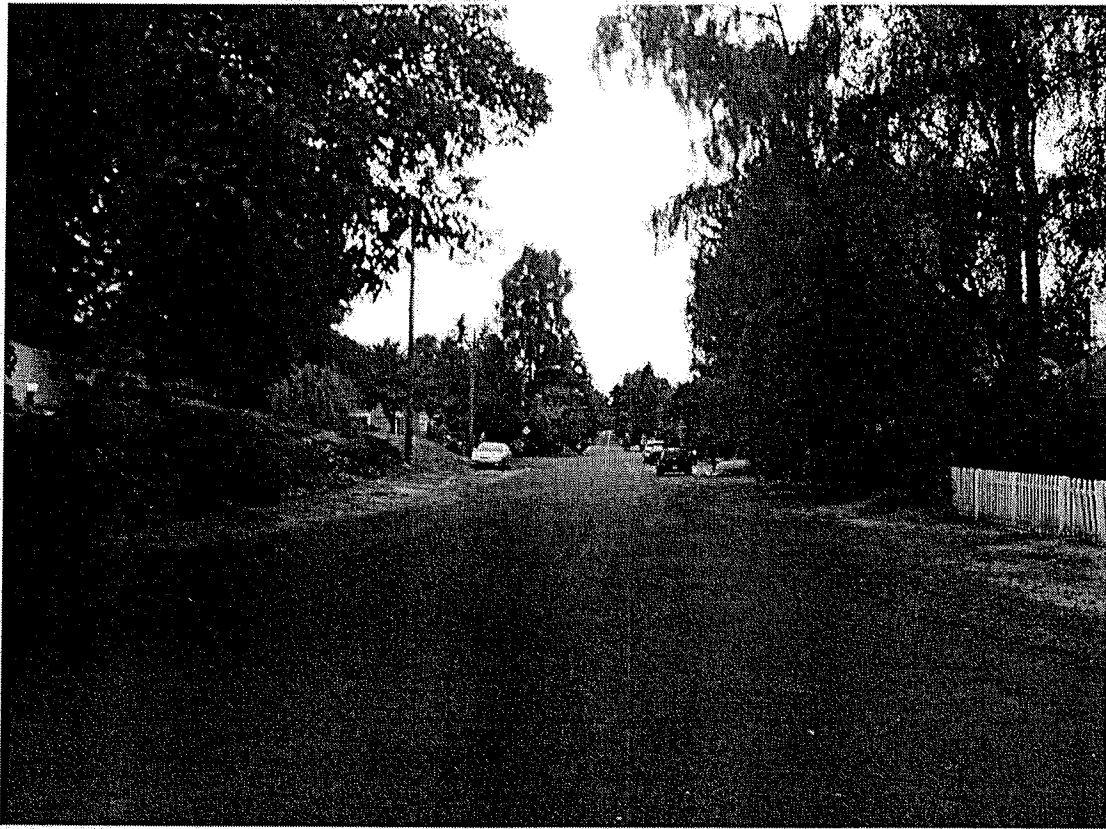


Figure 2
View north from SE 39th dead end
(Intersection with SE Berkeley Way 7:00 am 09/03/2012)

II. Alternatives Analysis Criteria

Hearing Officer Comment:

"PCC 33.430.250 A.1, A.3 and A.4 require an applicant to conduct an environmental alternatives analysis related to locations, designs and construction methods. The alternatives analysis must consider whether or not proposed alternatives are practicable and then determine which of the practicable alternatives creates the least significant detrimental impacts upon identified environmental resources and functional values. The Hearings Officer found that the applicants submissions failed to provide substantial evidence to satisfy the PCC 33.430.250 A.1, A.3 and A.4 approval criteria."

Response:

Attached are four (4) alternative proposals for a land division on this parcel. Each requires street improvements within the SE Berkeley Way unimproved right of way (ROW).

Due to the unimproved status of SE Berkeley Way, any proposed development of the subject parcel requires street and storm water improvements within the ROW to service the proposed lots in the land use application in addition to lots abutting the north side of SE Berkeley Way that are not a part of this land use application. The required street improvements are responsible for the majority of tree removal and mitigation required in this application.

Proposed development of the southeastern portion of the site is not practicable due to:

1. Topography and slope of the bluff limits vehicular access to the eastern portion of the site
2. No public ROW access (except for the Springwater Corridor Bike Path)
3. It lies within the 100 year flood plain
4. The line dividing the (c) environmental and (p) protected R10 zoning bisects the lower level flat portion.
5. The adjacent wetlands, Johnson Tideman Park and the Springwater Corridor Bike Path are identified environmental resources.

Attached is a **General Site Characteristics** (figure 3) diagram identifying the important site characteristics and four (4) alternative proposals for a land division. Each alternate requires street improvements within the SE Berkeley Way unimproved right of way (ROW) and places lots away from identified resources of the protected zone wetlands and flood plain, Johnson Tideman Park, the Springwater Corridor bikeway and the bluff overlooking all of the resources.

Alternate 1 (figure 4) reflects the applicant's initial exploration of a single-family residence with the required "substandard" street improvements including required storm water management for said improvements. Street improvements were required to allow access to the applicants parcel as well as a lot on the north side of Berkeley Way. Design, Infrastructure (street improvements and storm water management) and land use application / approval cost estimates far exceeded the value for the land and the ability for the applicant to build a single-family residence. A single-family residence was not practicable.

The applicant met with planning on August 31, 2005 (IQ 05-150281) to gain information about the requirements and process to divide the parcel into multiple lots in order to assist with the infrastructure improvement costs. By subdividing the parcel into multiple lots, the required infrastructure costs could be spread equitably between each new lot.

The applicant submitted a three-lot land use action in 2007 (**Alternate 2** – figure 5) that was withdrawn due to more clearly identified costs of the required infrastructure improvements, including providing water to the lots and upgrading a portion of the water main in SE Caesar Chavez Blvd. The costs outlined in table 1 reflect a reduction of infrastructure costs per lot between alternative 1 and alternative 2 of nearly 50%. However, the increase of water service upgrades is a required additional expense added to multiple lot scenarios not required for the single-family residence alternative.

Alternate 4 (figure 7) reflects placing a fifth lot at the end of the SE Berkeley Way ROW. Five lots are allowed in the R10 zone due to the size of the parcel. Infrastructure costs per lot are further reduced; unfortunately, this scenario of adding an additional fifth lot is not practicable. The fifth lot (lot number 4 in **Alternate 4** diagram) sits over the setback noted by the geotechnical engineer in the landslide Hazard Study. Further, required setback from the (p) protected portion of the site would limit the ability to place a reasonably sized building footprint. A five-lot development scenario not practicable.

Table 1
Probable Project Cost
(Lots recorded – ready for development)

| Land Division Approval Costs | Alternate 1 | Alternate 2 | Alternate 3 | Alternate 4 |
|-------------------------------------------------------|---------------------|---------------------|---------------------|---------------------|
| Land Use App fees | | | | |
| • Pre-application | | | | |
| • Land Use (type III) | | | | |
| • Appeal | | | | |
| • Lot recording | \$16,000.00 | \$26,000.00 | \$28,000.00 | \$30,000.00 |
| Professional Services | | | | |
| Consultants | | | | |
| • Civil Engineering | | | | |
| • Geotechnical | | | | |
| • Landscape | | | | |
| • Survey | | | | |
| • Land Use | | | | |
| | \$31,000.00 | \$42,000.00 | \$44,000.00 | \$46,000.00 |
| Street ROW | | | | |
| Improvements | \$120,000.00 | \$120,000.00 | \$120,000.00 | \$120,000.00 |
| Water Utility | | | | |
| Improvements | \$0 | \$46,000.00 | \$56,000.00 | \$62,000.00 |
| Total | \$167,000.00 | \$234,000.00 | \$248,000.00 | \$258,000.00 |
| Land Use approval & Infrastructure Cost per lot | \$167,000.00 | \$78,000.00 | \$62,000.00 | \$51,600.00 |

The current land use action (**Alternate 3** - figure 6) was made possible by the partial vacation of the north Berkeley way Right of Way, allowing a fourth lot at the Northern corner of the tract based on the **Alternate 2** scenario. This alternate provides the least significant detrimental impacts to the environmental zone by limiting development to the upper level portions of the site. Limiting development to existing ROW access (whether improved or not) limits the ability to provide viable lots at any other location on site.

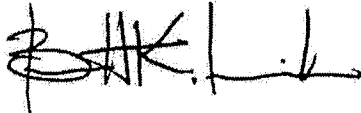
The Public works cost to the applicant for the required street and infrastructure improvements, whether for one lot or four, is over \$120,000. Water service to the lots plus required upgrade of the water main in SE Caesar Chavez Blvd adds an additional \$56,000 to the development costs. (See table 1) The noted costs, however, do not include public works permit or review fees associated with the design and permitting of said street and storm water improvements.

III. Conclusions

Based the additional evidentiary information provided in this appeal, the criteria noted by the Hearing Officer have sufficient responses for approval. The criteria for approval are met.

I respectfully request that the Land use application be approved with conditions as determined and addressed in the staff report submitted to the Hearings Officer.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brett K. Laurila', with a stylized flourish at the end.

Brett K. Laurila, Applicant

GENERAL SITE CHARACTERISTICS

NO SCALE

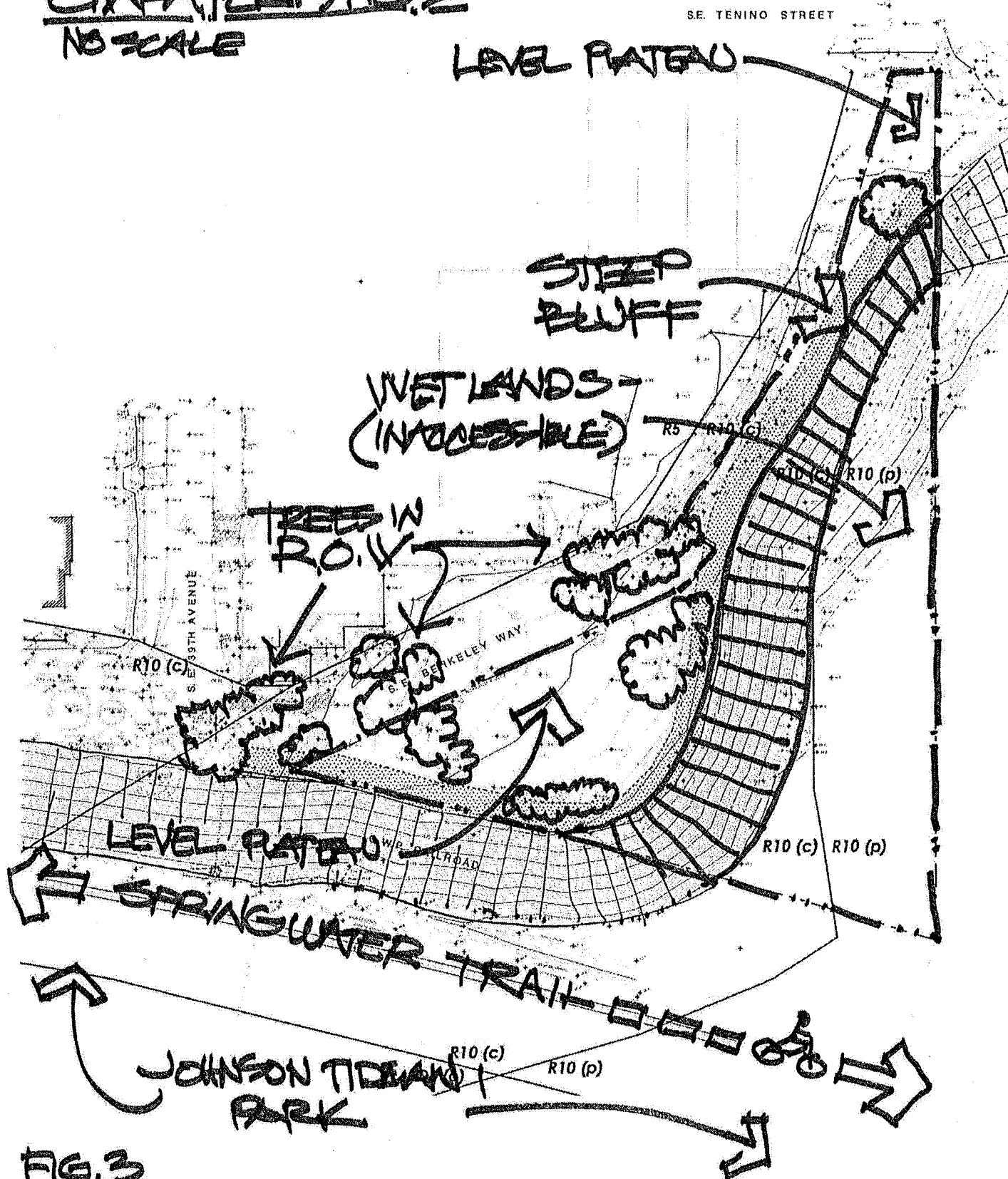


FIG. 3

ALTERNATE #1

- SINGLE LOT & ASSOCIATED GREEN TRACT
- SUBSTANDARD (EO) STREET IMPROVEMENT
- LAND USE (ENVIRONMENTAL) REVIEW
- STORMWATER IMPROVEMENT

ADJACENT LOT REQUIRING ACCESS TO BERKELEY WAY

TREE MITIGATION REQUIRED IN R.O.W.

LOT #1

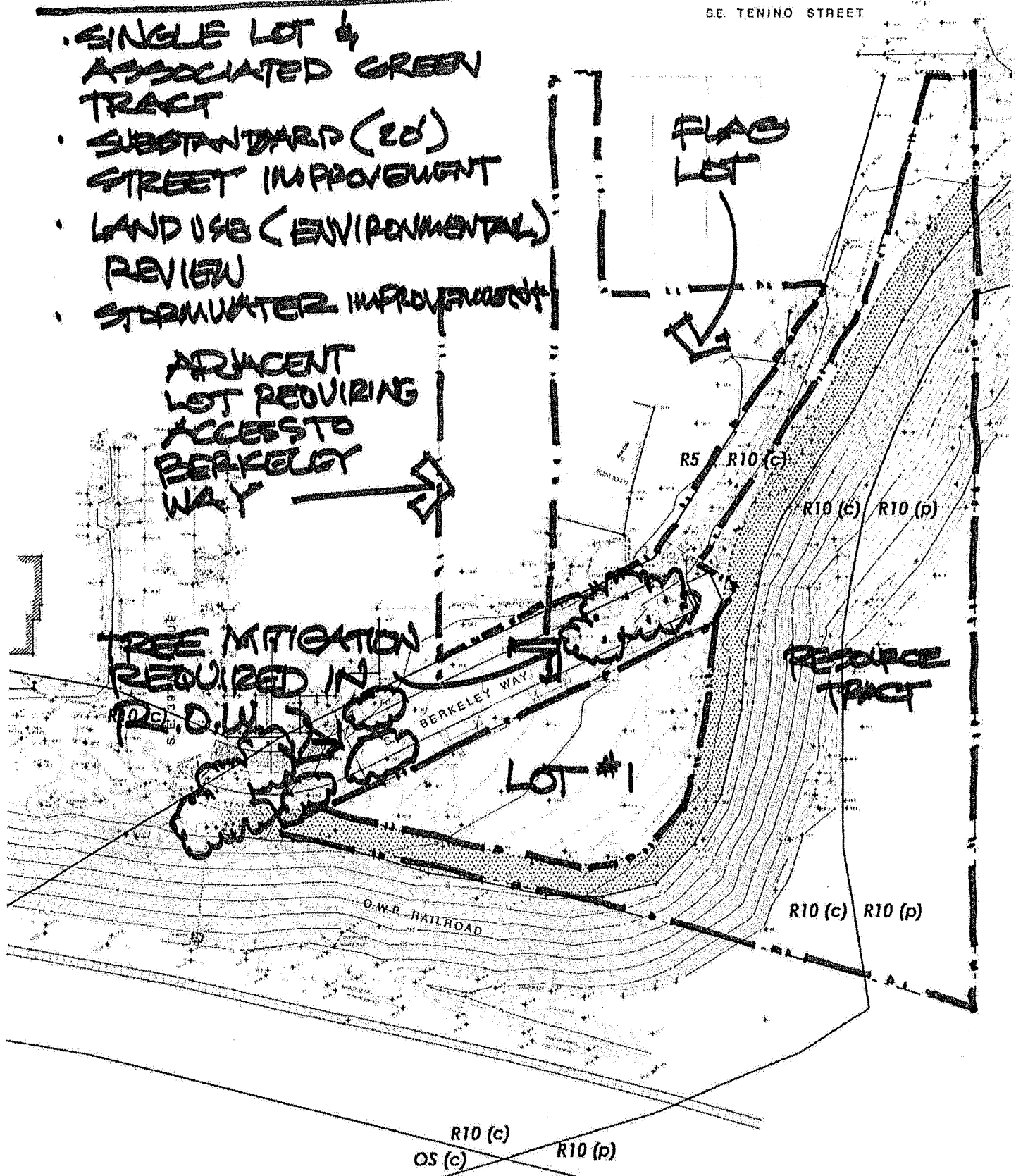
SE. TENINO STREET

FLAG LOT

RESOURCE TRACT

R10 (c)
OS (c) R10 (p)

FIG. 4



ALTERNATIVE #2

- 3 LOTS & ASSOC.
- GREEN RESOURCE TRACT
- SUBSTANDARD (20') STREET IMPROVEMENT
- STORMWATER IMPROVEMENT
- LAND USE REVIEW
- WATER SERVICE UPGRADE

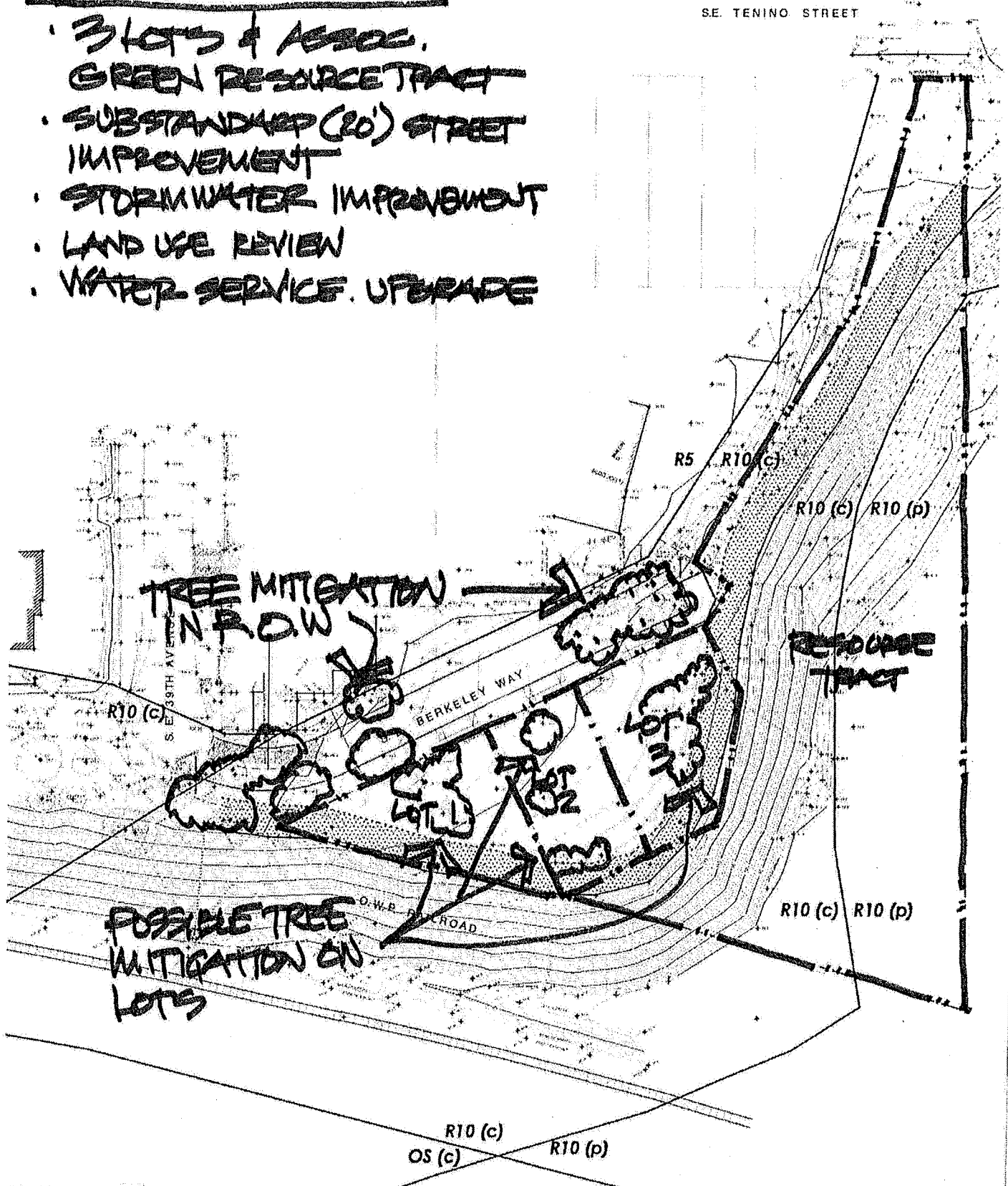


FIG. 5

ALTERNATIVE #3

- 4 LOTS & ASSOCIATED GREEN RESOURCE TRACT
- SUBSTANDARD (20') STREET IMPROVEMENT
- STORMWATER IMPROVEMENT
- LAND USE REVIEW
- WATER SERVICE UPGRADE

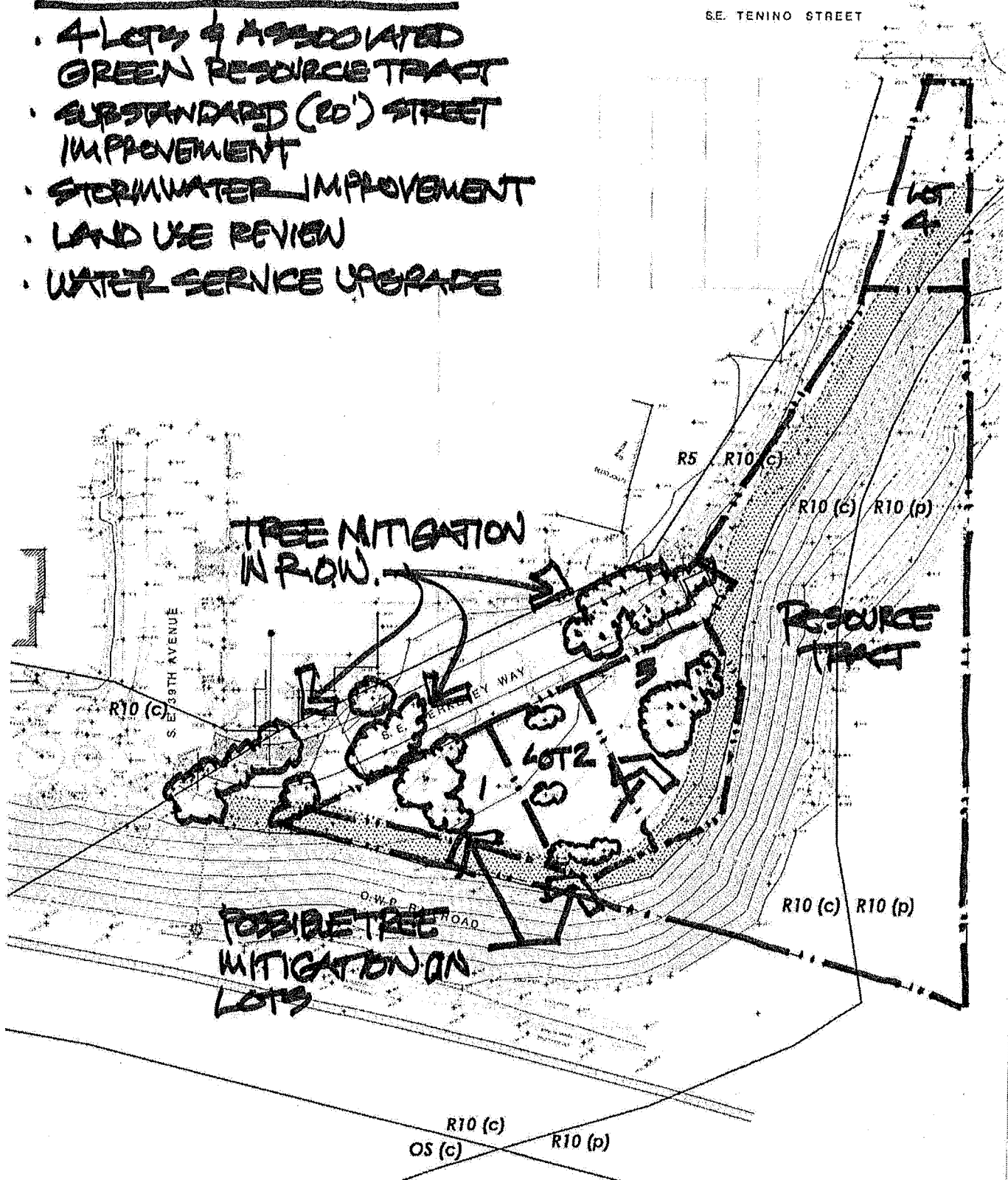


FIG. 4

ALTERNATE #4

- 5 LOTS & ASSOCIATED GREEN RESOURCE TRACT
- SUBSTANDARD (20') STREET IMPROVEMENT
- STORMWATER IMPROVEMENT
- LAND USE REVIEW
- WATER SERVICE UPGRADE

S.E. TENINO STREET

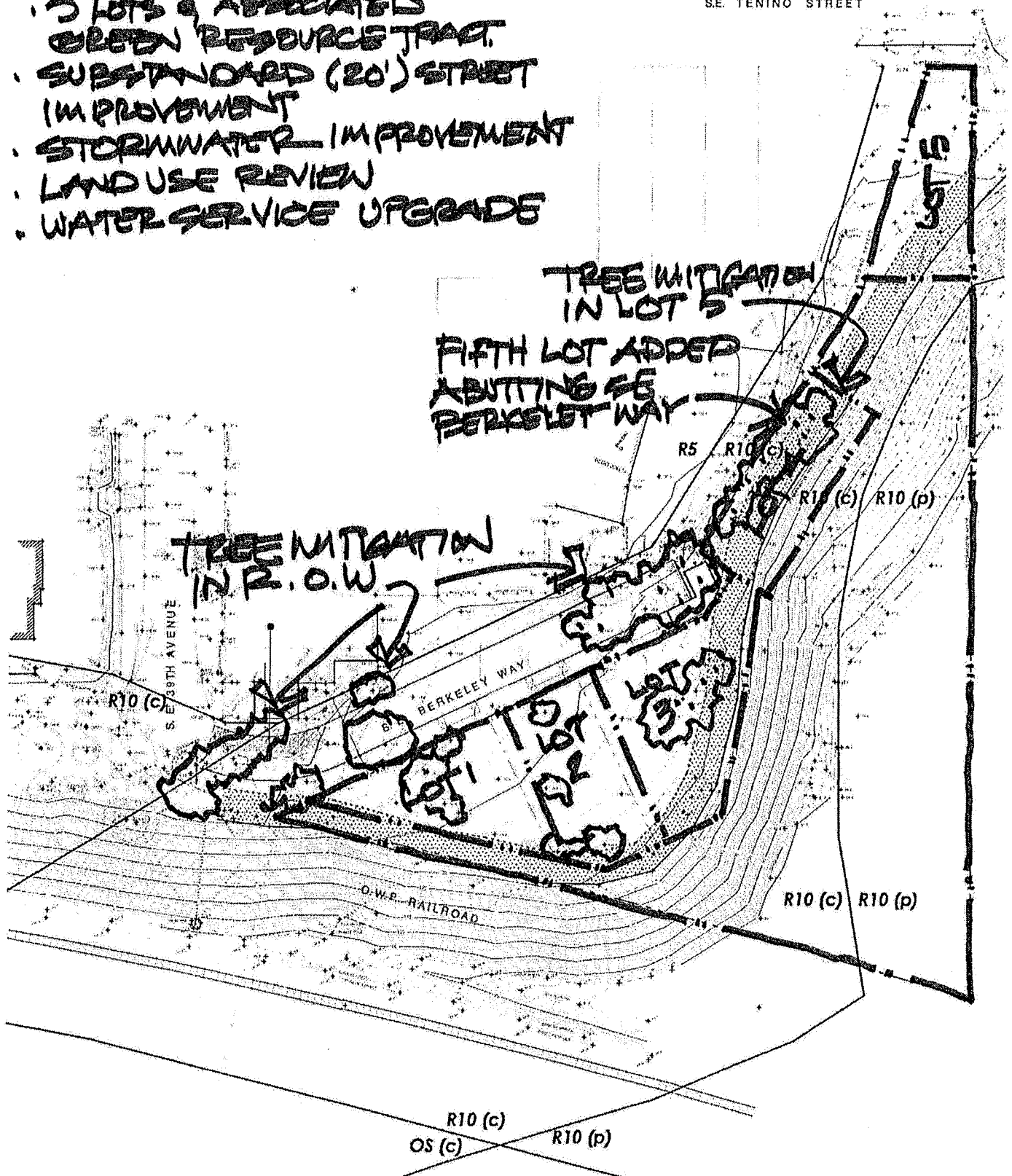


FIG. 7

**GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR
EVIDENTIARY/DE NOVO APPEALS**

1. SUBMISSION OF TESTIMONY

- a. Testimony may be submitted in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 140, Portland, Oregon 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

2. HEARINGS PROCESS

- a. The order of appearance and time allotments is generally as follows:

| | |
|----------------------------------|----------------|
| Staff Report | 10 minutes |
| Appellant | 10 minutes |
| Supporters of Appellant | 3 minutes each |
| Principal Opponent of the Appeal | 15 minutes |
| Other Opponents of the Appeal | 3 minutes each |
| Appellant Rebuttal | 5 minutes |
| Council Discussion | |

- b. The applicant has the burden of proof to show that each and every element of the approval criteria can be satisfied. If the applicant is opposing the Hearings Officer's recommendation, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the application must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidence submitted in support of the application demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong criteria are being applied or additional approval criteria should be applied.
- d. The failure to address an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) on that issue.

3. OTHER INFORMATION

- a. Prior to the hearing, the case file and the Review Body decision are available for review, by appointment, at the Bureau of Development Services, 1900 SW 4th Avenue, Portland, OR 97201. Call 503-823-7617 to make an appoint to review the file.

If you have a disability and need accommodations, please call 823-4085 (TDD: 823-6868). Persons requiring a sign language interpreter must call at least 48 hours in advance.



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Dan Saltzman, Commissioner ■ Dean Marriott, Director

Bureau of Environmental Services

Land Use Response

Date: January 23, 2012
To: Rachel Whiteside, BDS Land Use Services
503-823-7605, Rachel.Whiteside@portlandoregon.gov
From: Jocelyn Tunnard, BES Systems Development
503-823-5780, Jocelyn.Tunnard@portlandoregon.gov
Jennifer Antak, BES Watershed Services
Case File: LU 11-153362
Location: SE Berkeley Way and SE Tenino Street at SE Cesar Chavez Boulevard
R#: R115444
Proposal: Four lot subdivision with environmental review and modifications lot dimensional standards, building coverage, and building setbacks.

The following recommended conditions of approval and informational comments are based on the land use review documents and plans provided to the Bureau of Environmental Services (BES). The applicant may contact above listed staff with questions about the information presented in this memo.

A. RESPONSE SUMMARY

BES cannot recommend approval of the Land Division with an Environmental Review because the applicant has not demonstrated a feasible stormwater management plan (per Zoning Code Chapter 33.653) for public and private stormwater runoff from this project. Please see the following comments for more information.

B. SANITARY SERVICE

1. *Existing Sanitary Infrastructure:*
 - a. There is an 8-inch concrete public combined gravity sewer located in SE Berkeley Way (BES project #1606).
 - b. There is a 6-inch concrete public combined gravity sewer located in SE Tenino Street (BES project #1606).
2. *Service Availability:* Each lot must be shown to have a means of access and individual connection to a public sewer, as approved by BES, prior to final plat approval.
 - a. All new laterals required to serve the project must be constructed to the public main at the applicant's or owner's expense at the time of development.
3. *Private Easements:* If private utility easements are required they must be no less than 10 feet wide. Please refer to the BDS Private Sewer Easements Code Guide for more information. A successful plumbing code appeal is required before an easement of lesser width will be accepted. See the BDS appeals page for more information, including an online appeals form. Questions regarding private easements and plumbing code appeals may be directed to McKenzie James, BDS Senior Plumbing Inspector, at (503) 823-7317.
4. *Connection Requirements:* Connection to public sewers must follow the BES Rules of Connection and meet the standards of the City of Portland's Sewer and Drainage Facilities

Ph: 503-823-7740 Fax: 503-823-6995 ■ www.cleanriverspdx.org ■ Using recycled paper. ■ An Equal Opportunity Employer.
For disability accommodation requests call 503-823-7740, Oregon Relay Service at 1-800-735-2900, or TDD 503-823-6868.

CASE NO. _____
EXHIBIT E.1a

Design Manual. The Rules of Connection can be found in Appendix H of the Design Manual.

C. STORMWATER MANAGEMENT

1. *Existing Stormwater Infrastructure:*
 - a. There is no public storm-only sewer available to this property..
 2. *General Stormwater Management Requirements:* All development and redevelopment proposals are subject to the requirements of the City of Portland Stormwater Management Manual (SWMM). The SWMM is periodically updated; projects must comply with the version that is adopted when permit applications are submitted. The 2008 SWMM may be obtained at the City of Portland Development Services Center (1900 SW 4th Ave) and from the BES website (www.portlandonline.com/bes/2008SWMM). Development projects are evaluated using the criteria described in Section 1.3 of the SWMM. The Stormwater Hierarchy guides the applicant in determining where stormwater runoff should be conveyed (i.e. infiltrated on-site or discharged off-site). The highest technically feasible category must be used. Regardless of the discharge point, vegetated surface facilities are required to the maximum extent feasible to meet SWMM pollution reduction and flow control requirements.
 3. *On-Site Stormwater Management Comments:* BES reviews stormwater management facilities on private property for the feasibility of infiltration, pollution reduction, flow control, and off-site discharges. The Site Development Section of BDS determines if stormwater infiltration on private property is feasible when slopes on or near the site present landside or erosion related concerns, or where proximity to buildings might cause structural problems.
 - a. It is suspected that stormwater naturally drains from this site to the downhill portion of this parcel via seeps and springs or overland flow. This hydrology supports an area that acts as a wetland that is located east of this site, between the base of the slope and Johnson Creek. Maintaining this hydrology is essential to maintaining the wetland ecological function. BES recommends that hydrology in this area be maintained or improved by meeting pollution reduction and flow control requirements of the SWMM. **Stormwater runoff from this project will be discharged to the public combined sewer system, as required by the SWMM.**
 - b. Inadequate information has been received by BES to determine if the project stormwater plan is acceptable for the purposes of land use review. On-site infiltration is not recommended for this project. Therefore, off-site discharge to the public combined sewer system after treatment and detention in lined stormwater planters sized per the Presumptive Approach is required. Discharge to this system has been approved by BES. BES has no objections to this approach for the purposes of land use review, as on-site infiltration is not feasible for this project. **BES has reviewed the stormwater report from WDY dated March 4, 2011 provided at the time of Completeness Review and has required the following additional information be provided prior to preliminary plat approval:**
 - (1) A pre-developed curve number of 86 was provided with no explanation. The stormwater report must be modified to provide justification of the curve number.
 - (2) Note that for public stormwater facilities, the applicant must complete the 30% concept review phase of the Public Works Permit review prior to approval of the preliminary land division.
- NOTE: Any geotechnical information that addresses slope stability or other landslide hazard issues must also be submitted, as required by BDS Site Development.*
- c. Currently the street and surrounding area is served by an existing public combination sewer, which carries both stormwater and sanitary discharges. This type of sewer contributes to the combined sewer overflow (CSO) problems within the city. Stormwater from any new or redeveloped impervious surface area shall be managed

on-site to the maximum extent feasible according to the requirements of the SWMM. New connections or additional stormwater disposal to the combination system will be restricted through requirements of the SWMM. Please be aware that if disposal of stormwater to the combination system is necessary, capacity of the combination sewer system will need to be evaluated to determine detention requirements. Pollution reduction and flow control requirements would need to be met by means of vegetated, surface, flow-through facilities.

- d. If private utility easements are required they must be no less than 10 feet wide. Please refer to the BDS [Private Sewer Easements Code Guide](#) for more information. A successful plumbing code appeal is required before an easement of lesser width will be accepted. See the [BDS appeals page](#) for more information, including an online appeals form. Questions regarding private easements and plumbing code appeals may be directed to McKenzie James, BDS Senior Plumbing Inspector, at (503) 823-7317.
4. ***Revised Site Plan Required: Prior to preliminary plat approval, the project's site utility plan must be revised to include the following:***
- a. Include Lot 4 – the Onsite Grading Plan that BES reviewed (sheet C2.2) cut off the northern portion of Lot 4 and the SE Tenino right-of-way.
 - b. Existing sanitary sewer mains and existing/proposed sanitary service laterals.
 - c. Clearly show all proposed stormwater management facilities on site and in the right-of-way that meet the SWMM and setback requirements. Show the entire system, including the off-site discharge point.
 - d. Existing and proposed building locations (show approximate building footprints if no specific development plan is being proposed at this time). Locations of buildings on adjacent properties are relevant to determining whether stormwater facilities meet setback requirements.
 - e. Public right-of-way dedications and improvements.
 - f. Existing and proposed easements, both public and private.
 - g. Topography
 - h. Property lines
 - i. Drainageways (if applicable).
 - j. Trees to be protected on-site, with root protection zones.
5. ***Public Right-of-Way Stormwater Management Comments:*** BES reviews stormwater management facilities in the public right-of-way for compliance with SWMM requirements such as Infiltration and Discharge, Pollution Reduction, and Flow Control. The following comments apply to this project, as required by the City of Portland Bureau of Transportation (PBOT).
- a. PBOT requires public right-of-way improvements as part of the proposed development. A minimum 20-foot substandard roadway is required to be constructed to serve the new lots. Public drainage improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual will be required. Public improvements must meet the Stormwater Hierarchy for runoff from impervious area in the right-of-way. Per the 2008 SWMM, stormwater facilities in the right-of-way must be sized using the Presumptive Sizing Approach, which requires site-specific infiltration testing in or near the right-of-way in order to determine a design infiltration rate. For more information, see [Section 2.2.2](#) of the SWMM (Presumptive Approach) and [Appendix F.2](#) (infiltration testing procedures). If infiltration is not feasible, an acceptable discharge point must be identified.
 - b. The City of Portland has revised the process for how public works projects are reviewed

and permits are issued. **The applicant must complete the concept review (30% design) phase of the public works permitting process, including a meeting with City staff to discuss the scope and details of the required improvements, prior to preliminary plat approval.** BES requires completion of this phase prior to land use approval in order to identify significant issues that affect the feasibility of the development relative to required improvements. **Please contact Public Works Permitting at (503) 823-1987 to begin this process.** An approvable engineered design (as determined by BES engineering staff), financial guarantee (bond), and engineering fees must also be received by BES prior to final plat approval. More information about the new process can be found on the City of Portland Public Works Permitting website.

6. *TMDL Requirements:* The project site is located in the Willamette River Watershed, in the Johnson Creek watershed. Total Maximum Daily Load (TMDL) water quality requirements apply in the Willamette River Watershed, as required by Oregon DEQ. The Stormwater Management Manual (SWMM) requires that applicants use pollution reduction facilities that are capable of reducing TMDL pollutants. Vegetated facilities sized according to the Simplified or Presumptive Approaches meet these requirements.

D. SITE CONSIDERATIONS

The following information relates to specific site conditions or features that may impact the proposed project.

1. This parcel is located within one of the BES Target Restoration Areas. Restoration projects have been implemented both upstream and downstream of this property. BES has purchased several parcels adjacent to the applicants parcel in efforts to conduct further restoration. The environmental tract the applicant is proposing has valuable restoration potential. The applicant is coordinating with the BES, Grey to Green Land Acquisition Coordinator, Shannah Anderson (503-823-2605), to help maximize the projects restoration potential.
2. *Sewer Easement:* A sewer easement granted to the City of Portland exists on this site over the vacated portion of SE Berkeley Way at SE Tenino Street. The applicant has been coordinating with City staff via PBOT's street vacation process. For reference, be aware that all sewer easements granted to the City of Portland are exclusive. No other utilities, facilities, or easements are to be located within the boundaries of these sewer easements without prior written consent of the Director of the Bureau of Environmental Services. Sewer easements granted to the City of Portland include the right of access for construction, inspection, maintenance, or other sewerage system activities. In addition, no building construction, material storage, grade reduction, or tree planting shall be permitted within these sewer easements without the prior written consent of the Chief Engineer of the Bureau of Environmental Services, City of Portland. Landscaping, which by its nature is shallow rooted and may be easily removed to permit access to sewer lines, shall be allowed to be planted within sewer easements granted to the City of Portland. However, no deep-rooted vegetation (such as certain trees) is to be located within the boundaries of these sewer easements.
3. *Plantings:* Portland's Zoning Code (33.248) includes specific requirements for mitigation and restoration plantings, including that the plant materials must be native and selected from the Portland Plant List. Where mitigation and/or restoration plantings are not required, BES still recommends the use of native plants to help stabilize soils and minimize erosion. **The applicant is currently working with BES' Watershed Revegetation Team to remove invasive plant species and replant natives along the slope and base of slope. Staff from the Revegetation Team reviewed the applicant planting plan and have no concerns.**
4. *Mature Trees:* The site contains mature trees, which are beneficial because they intercept at least 30% of precipitation that falls on the canopy, filter stormwater, help prevent erosion,


and provide shade which cools the air and stormwater runoff. It is difficult to mitigate for the removal of mature trees as it can take decades for new trees to provide equivalent benefits. BES recommends that future development at this site include measures to preserve as many of the site's existing trees as possible. Financial incentives for existing trees taller than 15 feet on private property may be available for ratepayers who register with Clean River Rewards, the City's stormwater discount program. Call 503-823-1371 for more information.

5. *100-Year Floodplain:* This site is located in or near the delineated 100-year floodplain. The 100-year floodplain boundary is an estimate based on the best available data. BES recommends that the applicant coordinate with BDS Site Development for related requirements that may apply to this site.
6. *Nature in Neighborhoods Inventory Information:* The natural resources at this site were identified in Metro's Nature in Neighborhoods inventory of regionally significant riparian corridors and wildlife habitat. Specified resources and functions include the following:
 - a. *Regionally Significant Riparian Corridors:* Vegetated riparian corridors provide important natural watershed functions. Tree canopy shades streams, helping to keep streams cool. Riparian vegetation helps to stabilize stream banks, capture sediment in stormwater runoff, support natural hydrologic flow processes and nutrient cycling, and provide a source of woody materials to the streams. Wood in streams enables natural channel-forming processes that support native aquatic species.
 - b. *Regionally Significant Wildlife Habitat:* These resources provide important feeding, breeding and nesting habitat for native wildlife.

To protect the natural functions provided by these resources, BES recommends that the applicant minimize site disturbance and replant disturbed areas with native vegetation. Doing so will help minimize erosion, protect slope stability, and restore lost functions.

7. *Slope Information:* A portion of this site is steeply sloped and has evidence of a recent landslide; therefore, BES recommends that slope stability be carefully considered in all aspects of site development. This may include strategies such as replanting disturbed areas with native plants to help stabilize soils and minimize erosion, and placing stormwater facilities in areas that will protect slope stability. **The applicant is currently working with BES' Watershed Revegetation Team to remove invasive plant species and replant with natives along the slope and base of slope of this parcel.**
8. *Soil Information:* Generally, Cascade silt loam soils predominate in this area. Cascade soils have a surface layer and subsoil of silt loam and a substratum of silt loam fragipan that can restrict water flow. The depth of the fragipan layer varies from 2-4 feet, or more. This type of soil is moderately- to poorly-drained and can become saturated during the rainy season, resulting in surface runoff, erosion, and landslides. Therefore, to minimize these effects and to protect slope stability, BES recommends that native plants be planted on disturbed areas.
9. *Wetlands:* **There is a wetland on this site at the base of the slope and on adjacent property owned by the City Of Portland. The wetland on the site is within the proposed environmental tract.** BES recommends the applicant protect the existing wetlands. If the applicant's proposal will impact the wetland, permits may be required from State and/or Federal agencies, including Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers.

E. CONDITIONS OF APPROVAL

 BES cannot recommend approval of this land use application until additional information is provided to demonstrate a feasible stormwater management plan (per Zoning Code Chapter 33.653) for public and private stormwater runoff from this project.

F. PERMIT INFORMATION

At the time of permit review the applicant should be aware of the following:

1. *Connection Fees:* Sewage system connection fees are assessed at the time of building plan review and change every fiscal year on July 1st. For additional information on these fees, visit the [BES website](#) or call the BES Development Review Team at 503-823-7761.
2. *Building Plans:* Building plans for this project must include a detailed site utility plan which shows proposed and existing sanitary connections, as well as stormwater management that meets the requirements of the version of the SWMM that is in effect at the time permit applications are submitted.

G. ADDITIONAL STORMWATER MANAGEMENT CONSIDERATIONS

Included below is information regarding programs and technologies that the project team may choose to utilize for this project.

| Topic | Comments | Links & Contacts |
|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LEED (Leadership in Energy and Environmental Design) | The LEED (Leadership in Energy and Environmental Design) Green Building Rating System is a voluntary, consensus-based, market-driven building rating system designed to assist in the creation of high performance, healthful, durable, and environmentally sound buildings. The City of Portland encourages green building, and the stormwater management requirements identified in the City's Stormwater Management Manual support the achievement of LEED Version 2.2 for New Construction Sustainable Sites, Credits 6.1 and 6.2. NOTE: Incentives to construct to LEED standards may be available through the Oregon Department of Energy. | 2008 SWMM Section 1.6 (LEED Credits) Oregon Department of Energy |
| Rainwater Harvesting | Stormwater may be collected and reused for non-potable water uses within a building, or for landscape irrigation purposes. Reducing the water used from the City water system can reduce the water portion of the utility bill and is encouraged through the LEED Green Building Rating System. The Bureau of Development Services (BDS) plumbing approval must be obtained for any such system. During building permit review a discharge meter will be required to monitor the reused stormwater discharging to the City's sanitary sewer. Sanitary fees will be assessed on the volume of discharge. | BDS Code Guide 2008 SWMM Section 2.3.3 (Facility Design Criteria) McKenzie James (BDS Plumbing) for plumbing code questions: 503-823-7317 Sebrina Nelson-Deal (BES) for billing questions: 503-823-5843 |
| Ecoroof | Planted roofs (ecoroofs) are encouraged by the City as a sustainable method of stormwater management. By installing an ecoroof on all or a portion of your roof area, the size of additional required stormwater facilities may be reduced because it reduces the amount of impervious area on the site that needs to be managed. Ecoroofs also | 2008 SWMM Section 2.3.3 (Facility Design Criteria) 2008 SWMM Section 1.6 (LEED Credits) |

| Topic | Comments | Links & Contacts |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>insulate the building, reducing heating and cooling costs, last many years longer than conventional roofs, and provide wildlife habitat. Ecoroofs are also encouraged in the LEED Green Building Rating System and a project can earn credits toward LEED certification. Tom Liptan in the BES Sustainable Stormwater Management Program may be contacted for additional information or for assistance with design.</p> <p>In addition, the City of Portland, through BES, is offering financial grants to select projects that install new ecoroofs. Information regarding grant requirements, evaluation criteria, and the review process is available on the BES website.</p> | <p><u>BES Sustainable Stormwater Management Program</u>: 503-823-7267 (Tom Liptan), or 503-823-7378 (general).</p> <p><u>BES Ecoroof Grant Program</u>: contact Alice Coker in BES at 503-823-7914</p> |
| Clean River Rewards Program | <p>Clean River Rewards, Portland's stormwater discount program, offers discounts up to 100% of the City's on-site stormwater management charge to ratepayers who manage stormwater runoff on their property. The discount is calculated on a sliding scale for how much and how well properties manage stormwater on-site. Ratepayers must register their property and describe how stormwater is being managed to qualify. BES offers workshops to ratepayers who want to learn more about stormwater management and the program. See the Clean River Rewards website for more information.</p> | <p><u>BES Clean River Rewards Program</u>: 503-823-1371 (hotline)</p> |



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Dan Saltzman, Commissioner ■ Dean Marriott, Director

ADDENDUM TO LAND USE RESPONSE

Date: July 17, 2012
To: Rachel Whiteside, BDS Land Use Services 503-823-7605
From: Jocelyn Tunnard, BES Development Services 503-823-5780
Subject: LU 11-153362 LDS_ENM
Location: SE Berkeley Way and SE Tenino Street at SE Cesar Chavez Boulevard
R No: R070912980

A. ADDENDUM RESPONSE SUMMARY:

Sufficient information has been provided to BES in order to recommend preliminary plat approval for this land division project, with the following conditions that must be met prior to final plat approval:

Prior to final plat approval, approved public works permit 60% design drawings, financial assurances (performance guarantee) and all engineering fees (total design fee and construction/inspection fees) must be secured in order for BES to release any portion of the sewer easement granted to the City of Portland that exists on this site.

B. ADDENDUM GENERAL COMMENTS:

BES has reviewed the following additional information provided by the applicant in response to the initial BES Land Use Response dated January 23, 2012:

- Preliminary Storm Drainage Calculations submitted by WDY (dated 6/18/12) for the public works permit required to improve the SE Berkeley Way right-of-way
- Revised public works permit plans:
 - Proposed Development Plan – Sheet A2.00 (dated 5/28/12)
 - Proposed Lot Plan – Sheet A2.10 (dated 5/28/12)
 - Onsite Utility Plan – Sheet C2.1 (dated 7/2/07)
 - Onsite Grading Plan – Sheet C2.2 (dated 2/15/12)
 - Berkeley Street Plan and Profile (City job #EP9304 and #TM5150) – Sheet CS2.0 (dated 3/29/12)
 - Site Plans With Existing Conditions – Sheet L1 (dated 5/22/12)
 - Mitigation Plan, Stormwater Planter and Streetscape Planting – Sheet L2 (dated 5/31/12)
- Letter submitted by WDY (dated 9/8/11) that addresses the BES Completeness Review Response dated 7/28/11

1. BES Development Engineering has reviewed the above referenced information related to the public works permit required for this site. It is consistent with the information submitted to BES for review under the concept review (30% design) phase of the public works permitting process. **The applicant has provided BES with sufficient information for the concept review (30% design) phase, as requested under comment C.5 of the BES Land Use Response. No additional public works permit information is required to be submitted for BES to support this land use review.**
2. As requested by BES, WDY has provided an explanation for the pre-developed curve number of 86 provided in the stormwater report dated March 4, 2011. **WDY submitted a letter dated September 8, 2011 that includes an explanation for the curve number. The information provided is sufficient for BES at the time of land use review. No additional information is required at this time.**
3. A sewer easement granted to the City of Portland exists on this site over the vacated portion of SE Berkeley Way at SE Tenino Street. The sewer easement is located over a portion of proposed Lot 4. The applicant has been coordinating with City staff via the public works permit and PBOT's street vacation processes. BES has no objections to quit claiming the sewer easement granted to the City of Portland located on Lot 4. **However, in order for BES to release any portion of the sewer easement, approved 60% design drawings, financial assurances (performance guarantee) and all engineering fees (total design fee and construction/inspection fees) must be secured prior to final plat approval.**

**RESPONSE TO THE BUREAU OF DEVELOPMENT SERVICES
LAND USE REVIEW REQUEST**

**Portland Transportation
Development Review
Bureau of Transportation Engineering & Development**

LU: 11-153362-000-00-LU Date: January 27, 2012
To: Rachel Whiteside, Bureau of Development Services, B299/R5000
From: Robert Haley, B106/800, 503-823-5171
Applicant: Brett K Laurila
5505 SE OETKIN DR
MILWAUKIE, OR 97267-4110

Location:

TYPE OF REQUEST: Type 3 procedure LDS_ENM - Subdivision w/ Environmental Rev. & Mod.

DESCRIPTION OF PROJECT

Four lot subdivision with environmental review and modifications lot dimensional standards, building coverage, and building setbacks.

RESPONSE

Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

At this location, SE Berkeley Street is classified as a Local Service street for all transportation modes in the City's Transportation System Plan.

According to City database sources, the street is an unimproved 40-ft ROW. It is located at the southern terminus of SE Cesar E. Chavez Blvd.

While PBOT believes the proposal can be approved, the applicant has not submitted concept plans that PBOT can support at this time. The most recent submittal included flush curbs and bollards that were not acceptable. The applicant was provided direction to revise the plans to show a standard vertical curb with driveways and no sidewalk. At this time, PBOT has not seen the results of a Fire Bureau appeal to eliminate the requirement for a turnaround at the terminus of the street. Since PBOT has not seen an acceptable concept plan that meets requirements, we cannot make a recommendation at this time.

Transportation System Development Charges (Chapter 17.15)

System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-7080.

Driveways and Curb Cuts (Section 17.28)

Curb cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

RECOMMENDATION

Not enough information in the file to make a recommendation at this time.

*Not
30%
Submitted*

CASE NO. _____
EXHIBIT F.2a

**RESPONSE TO THE BUREAU OF DEVELOPMENT SERVICES
LAND USE REVIEW REQUEST**

**Portland Transportation
Development Review
Bureau of Transportation Engineering & Development**

LU: 11-153362-000-00-LU Date: July 18, 2012
To: Rachel Whiteside, Bureau of Development Services, B299/R5000
From: Robert Haley, B106/800, 503-823-5171
Applicant: Brett K Laurila
5505 SE OETKIN DR
MILWAUKIE, OR 97267-4110

Location:

TYPE OF REQUEST: Type 3 procedure LDS_ENM - Subdivision w/ Environmental Rev. & Mod.

DESCRIPTION OF PROJECT

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Portland Transportation/Development Review has reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17, and for potential impacts upon transportation services.

At this location, SE Berkeley Street is classified as a Local Service street for all transportation modes in the City's Transportation System Plan.

According to City database sources, the street is an unimproved 40-ft ROW. It is located at the southern terminus of SE Cesar E. Chavez Blvd.

The site has only about 20-ft of frontage on SE Tenino, a Local Service Street for all modes. It is a 50-ft wide right-of-way improved up to the site frontage with center strip paving, but lacks curbs and sidewalks. Given the narrow frontage and the environmental overlay zone, standard improvements are not necessary at this time to serve the one new single family residence. As a condition of final plat approval, the applicant must provide signed waivers of remonstrance that will obligate any future property owners to participate in a Local Improvement District (LID) should one be formed.

The applicant has submitted an approvable 30% engineered public works permit that documents adequate transportation facilities can be provided to serve the proposed 4 lot project. Three of the lots will be served by a 20-ft new roadway and the fourth lot has frontage on SE Tenino. The four new single family residences can be expected to generate 40 daily vehicle trips with 4 trips occurring in each of the AM and PM Peak Hours. This small amount of trips will have an insignificant impact on LOS standards or street capacity. Each lot will have on-site parking. Impacts on all other transportation evaluation factors will also be insignificant. PBOT staff finds that with the street improvements to SE Berkeley Way, the transportation system can safely support the proposed development in addition to existing development in the area.

CASE NO. 11-153362 LOS ENM
EXHIBIT E-2.5

Transportation System Development Charges (Chapter 17.15)

System Development Charges (SDCs) may be assessed for this development. The applicant can receive an estimate of the SDC amount prior to submission of building permits by contacting Rich Eisenhauer at 503-823-7080.

Driveways and Curb Cuts (Section 17.28)**RECOMMENDATION**

No objection to approval subject to the street improvements to SE Berkeley Way currently under public works permitting review, and signed waivers of remonstrance for SE Tenino. A bond and contract ensuring those improvements will be completed shall be a condition of final plat approval.



City of Portland, Oregon
Bureau of Development Services
Site Development

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Land Use Review Response
Site Development Section, BDS

To: Rachel Whiteside, LUR Division
From: George Helm, Site Development (823-7201)

Location/Legal: INC PT VAC ST BLOCK A, BERKELEY
Land Use Review: LU 11-153362
Proposal: Four lot subdivision with environmental review and modifications lot dimensional standards, building coverage, and building setbacks.
Quarter Sec. Map: 3834
Date: January 6, 2012

Stormwater discharge and treatment. The geotechnical report specifically recommends against on-site subsurface disposal. An off-site method of disposal approved by the Bureau of Environmental Services is required.

Floodplain. The southeastern most corner of the site is within the 100-year floodplain. This area is proposed as a tract and no development will occur in this location.

Potential Landslide Hazard Area. A landslide recently occurred in the area of Lot 4 that has not been addressed in the December 2010 Geotechnical Engineering Report and Landslide Hazard Study prepared by GeoPacific. Site Development requests further investigation in to the cause of the landslide, to determine whether the site is still suitable for a new structure and to provide recommendations to stabilize the site. Until stabilization measures are designed, the slide area should be covered with plastic sheeting to prevent further intrusion of surface waters. An addendum describing the cause and proposed stabilization measures, stamped by both the geotechnical engineer and the engineering geologist should be submitted prior to approval of the land division, as conditions of approval may need to be set based on the requested addendum.

The Geotechnical Engineering Report and Landslide Hazard Study recommends a minimum setback from the nearest structural elements (including decks) to the top of slope. This setback is recommended as fifteen feet for Parcels 1 and 4, and twenty feet for Parcels 2 and 3. In view of the recent landslide, Site Development requests confirmation that these setback distances are still suitable and also a review, by the geotechnical engineer and the engineering geologist, of Sheet A2.00 to confirm that the top of slope line and the setback distances, as shown by the architect, are correct. Site Development will recommend a "No Build" area, either tract or easement, be delineated on the plat, pending additional information from the engineers.

The Geotechnical Engineering Report and Landslide Hazard Study recommends that lot specific geotechnical investigations be required for each specific house plan, and that building foundations be supported on drilled pier or auger-cast pile foundations. Site Development concurs that a condition of approval specifying the lot specific reports and pile foundations is required. A preliminary condition is proposed, this may change pending additional information from the engineers.

Applicant: It may be determined that additional geotechnical information is required following our review of the building permit application.

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

Site Development requests that the following conditions of approval be required as part of the decision:

**Conditions of Approval
Requested by Site Development**

A. Supplemental Plan

B. The final plat must show the following:

Top of bank and minimum slope setback lines as recommended in the Geotechnical Engineering Report and Landslide Hazard Study shall be shown in the form of a No Build easement, or a separate tract.

A. The following must occur prior to Final Plat approval:

B.

Required Legal Documents

1.

D. The following conditions are applicable to site preparation and the development of individual lots:

1. A lot specific geotechnical report with a geotechnical engineer review of the foundation plan shall be required for all building permits submitted .
2. No structures shall be constructed within the slope setbacks recommended by the Geotechnical Engineering Report and Landslide Hazard Study.
3. Future building foundations shall consist of drilled pier or auger-cast piles as designed by a professional engineer.
- ④ 4. The landslide on Lot 4 shall be mitigated as recommended by the geotechnical engineer.

Revise - not
on Lot 4?



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Land Use Review Response
Revised July 17, 2012
Site Development Section, BDS

To: Rachel Whiteside, LUR Division
From: Jason Butler-Brown, Site Development (823-4963)

Location/Legal: INC PT VAC ST BLOCK A, BERKELEY
Land Use Review: LU 11-153362
Proposal: Four lot subdivision with environmental review and modifications lot dimensional standards, building coverage, and building setbacks.
Quarter Sec. Map: 3834
Date: July 17, 2012

Stormwater discharge and treatment. The geotechnical report specifically recommends against on-site subsurface disposal. An off-site method of disposal approved by the Bureau of Environmental Services is required.

Floodplain. The southeastern most corner of the site is within the 100-year floodplain. This area is proposed as a tract and no development will occur in this location.

Potential Landslide Hazard Area. A landslide recently occurred in the area of Lot 4. A quantitative slope stability analysis was included in the July 5, 2012 GeoPacific Engineering letter report. This report supplements the September 13, 2011 *Review of Proposed House Locations and Slope Setbacks* and the December 14, 2010 *Geotechnical Engineering Report and Landslide Hazard Study* prepared by GeoPacific Engineering respectively.

The September 13, 2011 report recommends a minimum 15 foot footing-to-slope setback for the four lots. This set back applies to all structural foundations including decks. In addition, the letter recommends that lot specific geotechnical investigations and/or reviews be required for each specific house plan, to determine appropriate foundation types. Site Development is in agreement and will request that a "No Build" area be established as either a tract or easement delineated on the plat as recommended by the geotechnical engineer and approved by Site Development. Site Development will request that lot specific soils reports be required at the time of building permit.

Applicant: It may be determined that additional geotechnical information is required following our review of the building permit application.

Erosion control. Erosion prevention and sediment control requirements found in Title 10 apply to both site preparation work and development. Full compliance with the erosion control requirements of Title 10, as well as maintenance of the erosion control elements, such as silt fences on private property, storm drain inlet protection and bio bags in the public right-of-way, is the responsibility of the property owner, the developer of the land division and the builders of structures on the individual lots. Please refer to the City of Portland *Erosion and Sediment Control Manual* for additional information regarding erosion and sediment control requirements.

Site Development requests that the following conditions of approval be required as part of the decision:

**Conditions of Approval
Requested by Site Development**

A. Supplemental Plan

B. The final plat must show the following:

Top of bank and minimum slope setback lines as recommended in the Geotechnical Engineering Report and Landslide Hazard Study, subsequent report addenda and approved by Site Development shall be shown in the form of a No Build easement, or a separate tract.

A. The following must occur prior to Final Plat approval:

B.

Required Legal Documents

1.

D. The following conditions are applicable to site preparation and the development of individual lots:

1. A lot specific soils report providing a summary of soil and groundwater conditions, an evaluation slope stability with respect to proposed construction and with recommendations for the design and construction of building foundations shall be required for all building permits submitted.
2. No structures shall be constructed within the slope setbacks recommended by the Geotechnical Engineering Report and Landslide Hazard Study, supplemental addenda, and approved by Site Development.
3. Future building foundations shall designed by a registered design professional licensed in the State of Oregon based on the recommendations of a soils report specific to the proposed construction.