

**OPPOSE
APPEAL****APPEAL OF BRETT LAURILA**
SE BERKELEY WAY LU 11-153362 LDS ENMIF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)

ADDRESS AND ZIP CODE

Email

✓ Marianne Colgrove	3707 SE Berkeley Way 97202	mcolgrove@gmail.com
✓ Terry Griffiths	4128 SE Reedway	treeferry@yahoo.com
✓ Dan McCann	8260 S.E. CASSAD CHAVEZ BLVD	Dmccann@comcast.net
✓ DAN EGGLESTON	8251 SE CESAR CHAVEZ BLVD	KLEGG@COMCAST.NET

**SUPPORT
APPEAL**

APPEAL OF BRETT LAURILA
SE BERKELEY WAY LU 11-153362 LDS ENM

IF YOU WISH TO SPEAK TO CITY COUNCIL, **PRINT** YOUR NAME, ADDRESS, AND EMAIL.

NAME (print)	ADDRESS AND ZIP CODE	Email
✓ Cindy Laurila	5505 SE Oakkn Drive, Portland 97267	cindy-laurila@comcast.net
✓ Brett LAURILA	" " " " " "	brett@bkl-a.com
✓ Michelle Smit	4000 S.E. Tenino St. 97202	
✓ SCOTT WALKER	6443 SW BEAVERTON HILLS HWY PDX	Scott@WDYI.com
✓ DALE DILORBITO	6443 SW BEAVERTON HILLS HWY PDX	dale@wdyi.com
✓ Stan W. Winters	735 SE 53 RD AVE 97214	stanarch@comcast.net
✓ Bill Berry	20514 S SPRINGWATER RD ESTACADA, OR	bill@bkengineers.com

Moore-Love, Karla

From: Whiteside, Rachel
Sent: Monday, October 01, 2012 9:12 AM
To: Moore-Love, Karla
Subject: FW: Neighborhood Response to Berkeley Way Appeal
Attachments: Letter to Council 10-1-12 LU 11-153362 LDS ENM (HO4120015).pdf; Letter to hearings officer 7-27-12 LU 11-153362 LDS_ENM final.pdf

Karla,

I was cc'd on this email from the Neighborhood Association to the Commissioners. I am forwarding the letter to you as it should be included in the public testimony for the Land Use Hearing LU 11-153362 LDS ENM that will be heard on Oct. 10 @ 2:00pm. I believe you may have been faxed this as well.

Rachel Whiteside, City Planner
 Bureau of Development Services
 Land Use Services - Land Division/Environmental Team
 Phone: 503-823-7605
 Fax: 503-823-5630
 Email: rachel.whiteside@portlandoregon.gov

From: Marianne Colgrove [mailto:mcolgrove@gmail.com]
Sent: Monday, October 01, 2012 8:55 AM
To: Adams, Sam; Commissioner Fritz; Commissioner Fish; Commissioner Saltzman; Leonard, Randy
Cc: bob@southeastuplift.org Kellett; jennifer.yokum@portlandoregon.gov; Kuhn, Hannah; Bizeau, Tom; stu.oishi@portlandoregon.gov; Finn, Brendan; Matt Clark; Whiteside, Rachel; Terry Griffiths; Rod Merrick; Lisa Gunion-Rinker; Matt Rinker (mattrinker@hotmail.com); Marianne Colgrove; astrantialgr@gmail.com; Gene Dieringer; Jan Elliott; kloegg@comcast.net>; sharon larisch; les szigethy; carolyn Thurman
Subject: Neighborhood Response to Berkeley Way Appeal

Dear Mayor Adams and Commissioners Fish, Fritz, Leonard and Saltzman,

Re: Land Use Appeal LU 11-153362 LDS ENM (HO 4120015)

Mr. Brett Laurila proposes to create a four-lot subdivision at SE Berkeley Way and SE Cesar E. Chavez Blvd, located entirely within an environmental zone in the Johnson Creek Watershed. The application has already been denied by the hearings officer and the appeal will be brought before Council on October 10.

The Land Use Chairs of Ardenwald-Johnson Creek, Eastmoreland, and Woodstock neighborhood associations, along with other interested neighbors, strongly urge the Council to deny the appeal on the grounds that the applicant has failed to meet the minimum standards for development in an environmental zone and has failed to respond to the Hearings Officer's objections.

Attached please find a letter to Council in response to the appeal, as well as our original letter to the hearings officer.

Yours truly,

Marianne Colgrove

10/1/2012

Ardenwald-Johnson Creek resident
Co-founder Friends of Tideman Johnson
mcolgrove@gmail.com



FRIENDS OF
Tideman Johnson

A community project to restore native habitat in Tideman Johnson Park

October 8, 2012

Portland City Council
Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman

Council Clerk
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

Re: Appeal of Land Use Decision to Deny a Four-lot Subdivision
Located at SE Berkeley Way and SE Cesar E Chavez Blvd.
LU 11-153362 LDS ENM (HO 4120015)

As a co-founder of the Friends of Tideman Johnson, and a resident near the proposed subdivision, I am concerned that the proposal does not give adequate attention to development requirements within an environmental zone. Our laws and regulations balance the competing goals of increased density with the many functional values provided by the environment. Developers are obliged to meet reasonable requirements for the privilege of developing within an urban watershed, and the applicant has failed to meet these requirements. I strongly urge the Council to deny the land use appeal submitted by the applicant, Brett Laurila.

The development site is located within a sensitive and high-quality natural area, adjacent to numerous valuable environmental resources, including:

- Tideman Johnson Natural Area Park
- the Springwater Corridor Trail
- public wetlands managed by the Bureau of Environment Services
- Johnson Creek itself

In 1991, the city formally adopted the *Johnson Creek Basin Protection Plan*, recognizing the many functional values of the Johnson Creek watershed and establishing three specific management principles within the basin:

1. Limit housing densities in areas that are difficult or hazardous to build on;
2. Expand plan district requirements to include protection of natural resources and neighborhood values;
3. Protect or restore habitat within the resource area as an approval criteria for new development. (page 5-6).

The *Plan* identifies numerous significant resource values in Tideman Johnson and the environmental area surrounding it: "Public access, water, storm drainage, scenic, fish and wildlife habitat, flood storage, recreation, scenic beauty, and education." (page 72). Furthermore, under **Consequences of allowing Conflicting Uses**, the *Plan* warns that "the natural habitat and character of the canyon would be diminished and irretrievably altered if not protected. The character of the park would be changed." (page 74). The scenic and recreational uses are fundamental to the environmental value of the proposed development site.

The city recognizes the value of this natural area and has made considerable investment in its restoration. In 2006, BES completed the Lents Interceptor project to repair an aging sewer pipe and restore the creek and floodplain in Tideman Johnson Park. Building on this work, we established the Friends of Tideman Johnson stewardship group with funds from the BES Community Watershed Stewardship Program. Working in partnership with Portland Parks and Recreation, the Johnson Creek Watershed Council, and the Ardenwald Johnson Creek Neighborhood, we have transformed the Tideman Johnson into a thriving urban natural area that provides environmental benefits such as storm water management, groundwater filtration, habitat for wildlife, and scenic and recreational spaces for the community.

Development within this environmental zone should not be undertaken casually. In an environmental zone the applicant is obliged to conduct an analysis of practicable alternatives and determine which alternative has the *least significant detrimental impact upon the resources and functional values*. The hearings officer was abundantly clear that the applicant's analysis of alternatives was "speculative and lacking detail" and did not provide "credible evidence of specific alternative locations, designs and construction methods" (Decision of the Hearings Officer, page 8).

The applicant did not improve the proposal in his appeal. He provides rough sketches of four alternative development schemes; the primary distinguishing characteristic among them is his cost to develop. The applicant does not provide the required substantive analysis of the impact his proposal will have on well-established environmental benefits of the site.

The City should resist the temptation to meet its density goals by allowing poorly planned and speculative development in high-quality urban natural areas. We have heightened expectations for development in an environmental zone and developers are obligated to take reasonable steps to demonstrate that their project will have the *least significant detrimental impact upon the resources and functional values* of the site. The applicant has failed to meet even this minimal criteria and the appeal should be denied.

Yours truly,



Marianne Colgrove
Friends of Tideman Johnson Co-Founder
3707 SE Berkeley Way

CC: Ardenwald-Johnson Creek Land Use Committee
Eastmoreland Land Use Committee
Woodstock Land Use Committee
Bob Kellett, Southeast Uplift Land Use Program Manager

October 1, 2012

Portland City Council
Mayor Sam Adams
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Randy Leonard
Commissioner Dan Saltzman

Council Clerk
1221 SW Fourth Avenue, Room 140
Portland, OR 97204

Re: Appeal of Land Use Decision to Deny a Four-lot Subdivision
Located at SE Berkeley Way and SE Cesar E Chavez Blvd.
LU 11-153362 LDS ENM (HO 4120015)

The Ardenwald-Johnson Creek and Woodstock Neighborhood Associations strongly urge the Council to deny the land use appeal submitted by the applicant, Brett Laurila. The Applicant has the burden of proof to show that the approval criteria have been satisfied. The appeal fails again to provide alternatives that respond to criteria identified by the Hearings Officer, to the objections of the Neighborhood Associations and other signatories to their letter (attached), or to provide alternatives that demonstrate that his proposal has the *least significant detrimental impact upon the resources and functional values* including scenic resources.

The Applicant proposes to create a four-lot subdivision entirely within a highly sensitive environmental zone in the Johnson Creek Basin. In an environmental zone, the applicant is obliged, among other things, to conduct an analysis of practicable alternatives and determine which alternative has the least significant detrimental impact. In the words of the hearings officer:

...to satisfy these criteria, the Applicant needs to supply credible evidence of specific alternative locations, designs and construction methods, determine the practicability of each specific alternative and to determine which of the practicable alternatives creates the least significant detrimental impact upon the identified resources and functional values. (Page 8)

The hearings officer found the Applicant's discussion of possible alternatives "speculative and lacking detail." (Page 8). In objecting to the proposal before the Hearings Officer, neighborhood stakeholder opposition cited five areas (detailed in the attached letter) that violate the intent of the zoning that were reinforced in the Decision by the Hearings Officer.

In his appeal of the Decision, the Applicant provides sketches of four alternative development schemes. The distinguishing characteristics among them are the cost to develop. Alternative #1, a single lot, is described as "impractical" without further explanation. Alternative #2 is the same as #3 but removes the challenging-to-develop lot 4. Alternative #3 is the baseline proposal. Alternative #4 is the same as #3 but adds a lot straddling the edge of the bluff on unstable soil conditions. Lacking for all alternatives is the thorough and detailed analysis of factors identified

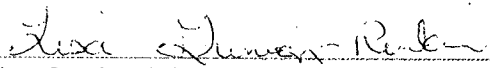
AUDITOR 10/01/12 AM 8:50

by the hearings officer or response to any of the concerns of the neighborhood stakeholders, such as alternative locations, designs and construction methods, height, setback, and visual screening. Lacking such an analysis, the Applicant again fails to identify the least significant detrimental impact on this valuable environmental resource.

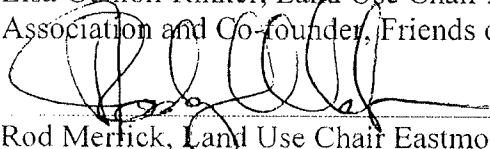
The proposed subdivision site is entirely within an environmental zone and protected under the Johnson Creek Basin Plan. The land sits above and includes a steeply sloping bluff overlooking the Tideman Johnson Natural Area, the Springwater Trail, and undeveloped wetland managed by BES. The City of Portland, through the work of the Bureau of Environmental Services, Portland Parks and Recreation, and the Community Watershed Stewardship Program, has spent hundreds of thousands of dollars and countless hours on habitat and floodplain restoration in this segment of the Johnson Creek Watershed. Development within this high value urban watershed should not be undertaken casually, and should be held to the highest standards provided by law.

The Applicant has failed to meet the minimum standards for development in an environmental zone, failed to respond to Hearings Officer objections, and failed to respond to neighborhood concerns based on the zoning code. Future proposals for this site should be required to respond to the full criteria stipulated in the code and responsive to the concerns expressed by the neighborhood associations and other stakeholders. The appeal should be denied.

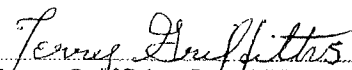
Yours truly,



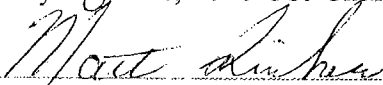
Lisa Gunion-Rinker, Land Use Chair Ardenwald Johnson Creek Neighborhood Association and Co-founder, Friends of Tideman Johnson Park



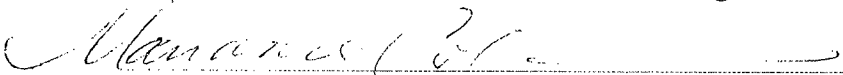
Rod Merrick, Land Use Chair Eastmoreland Neighborhood Association



Terry Griffiths, Land Use Chair Woodstock Neighborhood Association



Matt Rinker, Co-chair, Ardenwald Johnson Creek Neighborhood Association



Marianne Colgrove, Co-founder, Friends of Tideman Johnson Park

Encl: Neighborhood letter to Hearings Officer, July 27, 2012

Cc: Jennifer Yokum, Chief of Staff for Mayor Adams
Hannah Kuhn, Chief of Staff for Commissioner Fish
Tom Bizeau, Chief of Staff for Commissioner Fritz
Stu Oishi, Chief of Staff for Commissioner Leonard
Brendan Finn, Chief of Staff for Commissioner Saltzman
Bob Kellett, Southeast Uplift Land Use Program Manger
Matt Clark, Executive Director Johnson Creek Watershed Council

July 27, 2012

Subject: LU 11-153362 LDS_ENM Berkeley Way Subdivision

To: Hearings Officer, City of Portland

From: Land Use Chairs - Woodstock Neighborhood Association, Ardenwald Neighborhood Association, Eastmoreland Neighborhood Association, and Friends of Tideman-Johnson Park

As Land Use Chairs for three neighborhoods immediately affected by the proposal and representatives from Friends of Tideman-Johnson Park, along with the Co-Chair of the Ardenwald Neighborhood Association, we have reviewed the proposal and the staff report. While we appreciate the extra effort the developer is faced with in finding good use for this site, we find serious shortcomings in the level of detail submitted and the conclusions and conditions of approval in the staff report.

The project is located in an R-10 Environmental zone included in the Johnson Creek Basin Protection Plan area. The staff report seems inadequately researched on several key points to meet criteria in section 33.430.250 and other areas summarized below.

- ❖ There is no discussion of alternative designs to justify the conclusion that this is the best outcome. The conceptual site plan showing the proposed structures does not show enough detail to suggest that this is a practicable plan or likely to be implemented as shown. (33.430.240, B,a(2)) (33.430.250 A,1a,4.b and 4. c) (33.430.280)
- ❖ As a condition of approval allowing 200 watt incandescent equivalent lamps to blast into the protected area –not to mention neighboring properties demonstrates a dramatic insensitivity to the environment and energy concerns. The goal should be less than 2 foot candles of exterior illumination and less than 1 foot candle penetrating the protected area. (33.430.280)
- ❖ As a condition of approval the increased allowable height is not justified. The staff report does not cite a reason except that the comprehensive plan R2.5 zoning would allow such height. Zoning for this site is R 10 and a zone change is not part of the application. The additional height will have direct and deleterious impact on the scenic resources within the protected area below the site. (33.430.280)
- ❖ In terms of Resource Enhancement the report does not address the fact that the proposed development will cause
 - A loss of scenic resource from the park and canyon below the site. In this regard there will be significant detrimental impact on resources and functional values. (33.430.280)
 - No improvement of any functional value within the resource area is offered beyond designating that land already unbuildable is assigned to a tract where building is prohibited.
- ❖ Proposed planting does not include large trees, preserving large trees on site, or plantings to screen the development from the protected area as conditions in developing in an environmental site. The proposed planting in the 8,600 square foot Mitigation area shown in Exhibit C-7 does not include plantings that are placed in a way that sufficiently screens the development from the public park and the Springwater Trail below.

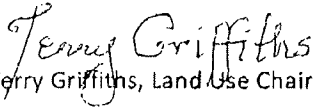
Because of these shortcomings, the neighborhood land use chairs agreed to recommend against approval until conditions of approval are modified and additional conditions are specified in the proposal and resubmitted.

The Conditions for Approval applying to all lots should include:

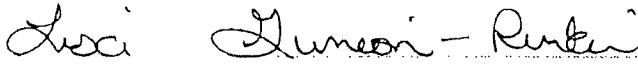
- A plan and building elevations to demonstrate minimum visual impact on the canyon and recreational trail. This should include site line study from the Springwater Trail and include proposed exterior color selection.
- A plan and building elevations for architectural compatibility with neighboring houses should be presented.
- The height of the structures should be less than 30 feet to assist in meeting the above conditions.
- Illumination levels should be limited (as discussed above) to less than 3 foot candles of exterior illumination using "dark sky" lighting and less than .5 foot candles penetrating the protected area.
- Large trees now on site and visible from the resource area should be preserved and landscape plantings designed either in the resource tract or on the site to screen the structures from view from the park in compliance with with 33.430.140 H and J. Plantings consistent with the planting restoration undertaken by Portland Parks and Recreation and the Bureau of Environmental Services should be specified.

Thank you for consideration.

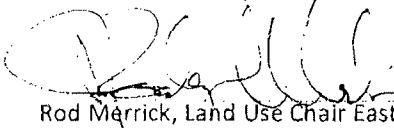
Respectfully,



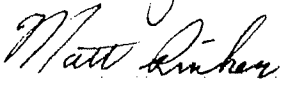
Terry Griffiths, Land Use Chair Woodstock Neighborhood Association



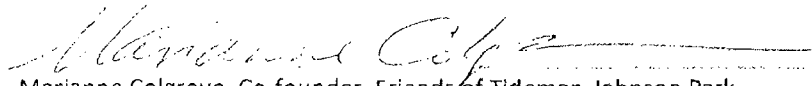
Lisa Gunion-Rinker, Land Use Chair Ardenwald Neighborhood Association and Co-founder, Friends of Tideman-Johnson Park



Rod Merrick, Land Use Chair Eastmoreland Neighborhood Association



Matt Rinker, Co-chair, Ardenwald Johnson Creek Neighborhood Association



Marianne Colgrove, Co-founder, Friends of Tideman-Johnson Park