



Portland City Auditor

Hearings Office

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DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File Number: LU 16-159330 LDS EN (Hearings Office 4160024)

Applicant: Vic Remmers
Everett Custom Homes Inc.
735 SW 158th Avenue, Suite 180
Beaverton, OR 97006

Owner: Thomas E. Rollman and Corrie H. Jackson
5920 SW 48th Avenue
Portland, OR 97221-2832

Hearings Officer: Joe Turner

Bureau of Development Services (BDS) Staff Representatives: Stephanie Beckman and Stacey Castleberry

Site Address: 5920 SW 48th Avenue

Legal Description: TL 7300 2.31 ACRES, SECTION 18 1S 1E

Tax Account No.: R991180420

State ID No.: 1S1E18DA 07300

Quarter Section: 3624

Neighborhood: Hayhurst

Business District: None

District Neighborhood Coalition: Southwest Neighborhoods Inc.

Zoning: R7c – Single Dwelling Residential 7,000 base zone, with Environmental Conservation 'c' overlay zoning

Other Designations: Potential Landslide Hazard Area

Land Use Review: Type III, LDS EN- Land Division Subdivision and Environmental Review

BDS Staff Recommendation to the Hearings Officer: Denial¹

Public Hearing: The hearing was opened at 1:34 p.m. on March 8, 2017, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and was and was closed at 4:43 p.m. The record was held open until 4:00 p.m. on March 22, 2017 to allow all parties an opportunity to submit additional written testimony and evidence, until 4:00 p.m. on April 5, 2017 to allow all parties an opportunity to respond to the new testimony and evidence, and until 4:00 p.m. on April 12, 2017 to allow the applicant an opportunity to submit a final written argument. The record was closed to all testimony and/or written submissions at 4:01 p.m. on April 12, 2017.

Neighbors objected to the applicant's request to hold the record open. However, PCC 33.730.100.B requires the hearings officer to hold the record open or continue the hearing based upon request of any party. State law, ORS 197.763(6)(a), imposes the same requirement. Therefore, the hearings officer was required to grant the applicant's request to hold the record open to allow an opportunity to respond to the new information from BES staff regarding potential springs on the site located outside of the Environmental zone.

Ian and Kelly Frantz submitted written testimony on April 11, 2017, Exhibit H.65. That submittal must be excluded from the record because it was received after the record was closed to the public. The record was closed to the public at 4:01 p.m. on April 5, 2017. The final open record period ending on April 12, 2017 was solely to allow the applicant to submit a final argument, as required by ORS 197.763(6)(e).

Testified at the Hearing:

Stephanie Beckman, BDS
Stacey Castleberry, BDS
Jocelyn Tunnard, BES
Fabio de Freitas, PBOT
Michael Robinson, applicant's attorney
Mike Peebles, applicant's engineer
Susan King, Hayhurst Neighborhood Association
Tim Van Wormer, landscape architect and area resident
Randi Sachs, area resident
Brynna Hurwitz, area resident
Aletha Foster, area resident
David King, area resident
Barbara Hanawalt, area resident

¹ Staff initially recommended approval of this application subject to conditions. See Exhibit H-4. At the hearing, Staff recommended denial of the application based on the presence of potential springs noted by BES staff outside of proposed Tract A on the site. See Exhibit H-8. Staff concluded, based on additional information from the applicant, that the features noted by BES staff are not springs or seeps. See Exhibit H-58. However, Staff did not expressly change their recommendation to approval.

Simone Goldfeder, area resident
Leslie Hammond, area resident
Sarah Silkie, area resident
Drew Bradbury, area resident

Proposal: The applicant proposes to divide the approximately 2.3-acre site to create 11 lots for single dwelling development, an environmental resource tract, and a public street extension. The proposed lots range in size from 4,200 to 6,402 square feet. The environmental resource tract (Tract A) is proposed to be 25,430 square feet in area and will contain the entire area within the Environmental overlay zone on the site (after street dedication). The proposed public street extension will connect the two segments of SW Pendleton Street that abut the site on its north and east boundaries. Public street dedication is also shown on SW 48th Avenue (7 feet) and SW Pendleton Street (17 feet). Public street improvements are proposed, consisting of street paving and sidewalk corridors, within the site and along the existing street frontages on SW Pendleton Street and SW 48th Avenue. Public sanitary sewer and water lines are also proposed in the new public street to serve the site and will connect with existing lines in SW Pendleton Street.

Flow through planters are proposed between the curb and sidewalk to manage stormwater from the public street improvements. A new storm sewer connecting to the existing storm sewer in SW Pendleton Street (to the north) is proposed to convey water from the new street extension. The applicant proposed to direct stormwater from SW Pendleton Street to the existing storm sewer in SW Pendleton Street and stormwater from SW 48th Avenue to an improved culvert at the stream crossing in SW 48th Avenue. Stormwater from the individual lots is proposed to be managed by flow through planters on each lot that discharge to new/existing storm sewers, with the exception of Lots 4 and 5 that are proposed to have individual outfalls within proposed Tract A (outside of the Environmental overlay zone).

Significant grading is proposed on the site and a retaining wall up to six feet high is proposed at the rear of Lots 6-8 and within Tract A. Tree preservation is proposed primarily within the southwestern corner of the site, within the Environmental Conservation overlay zone. Three additional non-nuisance species trees are proposed for preservation outside of the Environmental zone (two within Tract A and one on Lot 8). A number of trees are proposed to be retained along the southern and eastern boundary of the site; however, these trees are identified as nuisance species by the applicant's arborist and are therefore exempt from tree preservation regulations. The applicant will work with Urban Forestry staff and Public Works Project Managers to determine the feasibility of retaining an additional tree, a 42-inch diameter Western Red Cedar tree, located in the SW Pendleton Street right-of-way.

Because a portion of the site is within the Environmental Conservation overlay zone, the proposal must meet the development standards of Section 33.430.160, Standards for Land Divisions and Planned Developments, or be approved through Environmental Review. The proposed street improvements on SW 48th Avenue include right-of-way dedication with associated LIDA (Low Impact Development Approach) stormwater facility, and sidewalk improvements (including a portion of the planter strip along SW 48th Avenue) within wetland areas, and in the resource area of the

Environmental overlay zone, as well as new culvert construction in the resource area beyond the SW 48th Avenue right-of-way. Therefore, the standards of Section 33.430.160 are not met and an Environmental Review is required. The Environmental Review application originally included modifications to development standards on the proposed lots, but was revised to eliminate those requests.

This subdivision proposal is reviewed through a Type III procedure because: (1) the site is in a residential zone; (2) four or more dwelling units are proposed, not including accessory dwelling units; (3) the site is located within a Potential Landslide Hazard or Flood Hazard Area; and (4) a concurrent Environmental Review is required (see PCC 33.660.110).

For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year, according to ORS 92.010. ORS 92.010 defines "lot" as a single unit of land created by a subdivision of land. The applicant's proposal is to create 12 units of land (11 lots and 1 tract). Therefore, this land division is considered a subdivision.

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 Open Space and Residential Zones
- PCC 33.430.250.A, Approval Criteria for Environmental Review

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was filed, provided that the application is complete at the time of filing, or complete within 180 days. This application was filed on April 22, 2016, and determined to be complete on August 5, 2016.

II. ANALYSIS

Site and Vicinity: The site is approximately 2.3 acres in a relatively square configuration and contains a single family home and garage located in the northern portion of the site. The southwest corner of the site is within an Environmental Conservation overlay zone. Reports provided by the applicant identified 7,630 square feet of forested wetland area within the environmental zone, as well as a tributary to Pendleton Creek that flows across the southwest corner of the site. A culvert carries water under SW 48th Avenue, heading northwest from the site to SW Fairvale Court. The site is heavily vegetated with native and invasive trees and shrubs. Native Oregon ash trees dominate in the wetland areas. Many of the trees located outside of the environmental zone are nuisance species.

The site is adjacent to several dead-end streets in a predominantly residential area of Southwest Portland. Nearby development consists primarily of detached single-dwelling homes on relatively large lots—most existing lots in the area range from about 6,600 square feet to about 15,000 square feet, with several others ranging from about 30,000 to over 60,000 square feet. Hayhurst School and Pendleton Park are also within a quarter mile of the site.

Infrastructure:

- **Streets:** The project site is at the juncture of two existing legs of SW Pendleton Street, one which abuts and aligns with the site's northern boundary and the other that intersects at approximately the mid-point along the site's eastern boundary. Southwest Pendleton Street to the north has approximately 20 feet of paving width and a curb only (no sidewalk) within a 24-foot right-of-way. Southwest Pendleton Street on the east side of the site has about 30 feet of paving width and curb only (no sidewalk) within a 50-foot right-of-way. Southwest 48th Avenue, along the west end of the site, has a narrow gravel base within an otherwise unimproved 40-foot right-of-way. TriMet provides transit service on SW 45th via bus line #1 approximately 625 feet from the site.
- **Water:** There is an existing 6-inch water main in SW 48th Avenue, a 4-inch water main in SW Pendleton Street (north of the site) and a 2-inch main in the SW Pendleton Street (east of the site).
- **Sanitary:** There is an 8-inch sanitary sewer paralleling in SW Pendleton Street (north of the site) and an 8-inch sanitary sewer in SW 48th Avenue.
- **Stormwater Management:** There is a public 12-inch concrete storm sewer in SW Pendleton Street, which runs parallel with the northern property line of the site. No public storm sewer is available in SW 48th Avenue. There is a drainageway that runs across the southwest corner of the site and under SW 48th Avenue via a private storm pipe, as described above (see Site and Vicinity). Stormwater currently flows southwest across this site to the drainageway.

Zoning: The R7 zone designation is one of the City's single-dwelling zones, which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Environmental overlay zones ("c" or "p") protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant. The purpose of Environmental Review is to ensure compliance with the regulations of the environmental zones.

Environmental Resources: This land division site is located within Resource Site 126, Pendleton Tributary of Fanno Creek in the *Fanno Creek and Tributaries Conservation Plan* (1994). Identified resources within the larger resource site area include significant wetland habitat, significant riparian habitat, and upland forest habitat. Significant values include public safety, pollution control, fish and other wildlife habitat, scenery, education and recreation, and water supply.

Land Use History: City records indicate the following prior land use reviews:

- **CU 036-71:** In conjunction with site area to the northwest, a conditional use application to construct 39 single-dwelling units grouped in clusters, plus two existing houses, accessed via private roads. The development was not completed and the approval expired. The Flower Place subdivision to the northeast was later approved under S 007-75.
- **LUR 92-00570:** Two-lot partition, retaining the existing house on a large lot. Required a reserve area for future extension of SW Pendleton Street, to expire upon dedication of the street. This partition was not completed and expired.
- **LUR 97-00218 ZC:** A Zone Map Error Correction that resolved a discrepancy in mapping of environmental zoning for this property and lot to the south. Decision found that the Environmental Conservation zone line is intended to protect the open drainageway and any associated wetlands or riparian areas, and not an area that was legally piped and filled before the application of the environmental zone in 1994.

Agency Review: Several bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. The E exhibits contain the complete responses submitted prior to the hearing. Additional bureau comments were submitted as part of the hearing and open record process.

Neighborhood Review: A Request for Response was mailed on August 15, 2016, and notices were originally posted on the site on January 9, 2017. An updated notice was posted on February 2 and 6, 2017, and a notice of public hearing was mailed on February 16, 2017.

Six written responses received prior to issuance of the Staff Report are included as Exhibits F.1 – F.6. This includes a letter from the Hayhurst Neighborhood Association (F.1), as well as email correspondence from interested neighbors. While it was not clear that all of the email correspondence was intended to be included as comment letters in the record, staff erred on the side of including them as such. However, staff did not include all correspondence between interested parties and staff, such as requests for information only. In addition, correspondence that occurred with other bureau staff is not included. Numerous additional written comments were submitted by all parties at the hearing and during the open record period. ***A summary of comments and responses is provided below.***

Lot Size and Setback Modifications

Response: The Hayhurst Neighborhood Association (see Exhibit F.1) raised concerns about the proposed lot sizes relative to the average lot size in the area, and the original proposal to modify lot areas for two of the proposed lots, below the 4,200 square-foot minimum. Concerns were also raised about requested setback modifications. The applicant has since revised their proposal and is no longer requesting any modifications.

Tree Removal

Response: Extensive findings regarding tree preservation requirements and mitigation have been presented by the applicant, and are summarized below in findings for the applicable Land Division and

Environmental Review approval criteria. See findings re PCC 33.630.200 below. Neighbors focused their objections on the removal of trees from the upland portion of the site. However, because the site includes an Environmental zone, the Code requires consideration of tree preservation across the entire site. The applicant will preserve the majority of trees in the Environmental zone. In exchange, the applicant must concentrate the development on smaller lots in the upland portions of the site, which limits the ability to preserve additional trees. In addition, grading associated with the required street connection further limits the applicant's ability to preserve trees on this site. The applicant will remove 21 non-exempt trees from the site, including five trees within the Environmental zone to construct right-of-way improvements required by Portland's Bureau of Transportation (PBOT). The applicant proposes tree mitigation plantings within proposed Tract A—24 native trees will be planted within, and 31 trees will be planted outside of the Environmental zone. A payment into the Tree Preservation and Planting Fund for an additional 55.5 inches will be made.

Allegations that trees were illegally removed from this site are not relevant to the proposed development. If true, such activities would be a violation subject to enforcement. However, those activities are not proposed as part of this development.

Stormwater Management and Existing Flooding

Neighbors noted that under existing conditions stormwater flows from SW Pendleton Street onto SW 48th Avenue and then onto adjacent properties west of the site.

Response: The applicant will construct right-of-way improvements along SW 48th Avenue (currently a non-City-maintained street), which will improve existing drainage issues in SW 48th Avenue. The applicant will improve SW 48th Avenue abutting the site to include sloping the street east to direct stormwater runoff to a new public stormwater management facility (designed for treatment and detention) located along the east side of SW 48th Avenue. The applicant will install LIDA facilities within the SW 48th Avenue right-of-way for treatment and detention. The Bureau of Environmental Services (BES) recommended these facilities be unlined to allow some stormwater to infiltrate on the site.

Concerns were expressed that the larger culvert beneath SW 48th Avenue will cause flooding on downstream properties.

Response: The applicant is required to replace the existing 18-inch diameter culvert beneath SW 48th Avenue with a 36-inch culvert; under existing conditions the inlet of the culvert becomes submerged and surcharged during the 25-year design storm, which increases the velocity of water flowing through the culvert, potentially causing erosion and scouring near the outfall of the culvert. Neighbors expressed concern this larger culvert will cause flooding when water reaches the existing 18-inch culvert on the downstream property west of the site. The applicant's engineer demonstrated that the proposed development, with the new culvert, will reduce the volume of water flowing beneath SW 48th Avenue during the 25-year design storm. Attachment 3 of Exhibit H-58.² The applicant will collect

² Mr. Robinson attached additional documents to his letters, which he labeled "Exhibits." In order to avoid confusion, the Hearings Officer refers to these documents as "Attachments" to the relevant exhibit number of Mr. Robinson's letter.

stormwater from the site and areas of SW Pendleton Street that currently flow through the 48th Avenue culvert and direct it to storm sewers in SW Pendleton Street, thereby reducing the volume of stormwater flowing through the culvert during the design storm.

The larger culvert may allow higher rates of stormwater runoff during the 100-year storm, which may exceed the capacity of the downstream culverts and cause flooding. However, as BES noted in Exhibit H-59, the downstream culverts were installed without permits and are undersized for expected stormwater flows. The applicant is not required to remedy this existing condition.

PCC 17.38.035.C(1), cited by the neighbors, is not an applicable approval criterion for this application. However, this development is consistent with this application, which prohibits increased rates of flow leaving a site during design storms. As noted above, this development will reduce the volume and rate of stormwater leaving the site during the design storm.

Neighbors disputed the applicant's stormwater calculations, which showed stormwater backups at the existing 48th Avenue culvert flowing over SW 48th Avenue. They testified that stormwater has never been observed overtopping this street.

Response: The applicant's stormwater calculations create a very conservative analysis, based on theoretical full-buildout of the drainage basin. Attachment 2 of Exhibit H-61. City regulations require replacement of the existing culvert based on this conservative analysis.

The applicant's initial analysis determined the existing culvert in SW Pendleton Street did not have adequate capacity to accommodate stormwater runoff from this site and needed to be replaced.

Response: No modifications are required for the existing culvert in SW Pendleton Street. The original calculations for this culvert were based on incorrect elevations, which indicated a flatter gradient. The applicant revised the calculations using the actual culvert elevations, which demonstrated that this culvert can accommodate the expected stormwater flows. Attachment 3 of Exhibit H-48 and Exhibit H-51.

Presence of Seeps or Springs

Neighboring residents and BES staff asserted that there may be additional springs or seeps on the site that are located outside of proposed Tract A.

Response: As discussed in detail under Finding J, PCC 33.640 Streams, Springs and Seeps, the applicant provided documentation that no seeps or springs are located on the site outside of the environmental zone, which would warrant additional protection measures.

Environmental Impacts

Neighbors disputed the wetland delineation on the site, arguing that the applicant's Geotechnical analysis found hydric soils in all test pits on the site and the reports from the applicant's consultants fail to mention the presence of Reed Canary Grass, an obligate wetland species, on the site.

Response: The Geotechnical analysis did not identify hydric soils outside of the Environmental zone on the site. The Geotechnical analysis, Exhibit A.1.f, describes the site soils as:

Topsoil: In all test pits the ground surface was directly underlain by topsoil consisting of dark brown, moderately organic silt with fine roots throughout. Topsoil thickness in test pits was about 1 to 2 feet.

Silt Beneath the topsoil in all test pits we encountered very stiff, brown mottled with orange and gray, slightly moist, Silt. These soils are interpreted as belong to the Willamette Formation and extended to the termination of test pits TP-3 through TP-6.

Clay; Below the silt unit in test pits TP-1 and Tp-2 we encountered light brown, moist, clay; also interpreted as Willamette Formation materials. These soils extended to the termination of each test pit where encountered.

Although the silt and clay soils are described as moist, they are not hydric soils. The topsoil on the site is not hydric.

In addition, in order to qualify as a wetland, an area must contain hydric soils, a dominance of wetland vegetation and wetland hydrology. All three indicators must be found on the site for the area to be designated a wetland. There is no evidence that all three indicators are present on the site outside the delineated wetland boundaries. Staff from the Department of State Lands ("DSL") confirmed the applicant's wetland delineation on February 21, 2017. See Attachment 1 of Exhibit H-48a.

Wetland Setbacks

Response: The setback requirements of PCC 33.430.140.C(1) are inapplicable. PCC 33.430.140.C exempts "Land divisions subject to Section 33.430.160." Second bullet of PCC 33.430.140.C.

Additional Drainageways

Neighbors argue that the site contains additional drainageways that are not shown in the applicant's plans. Exhibit H-11.i and H-62.

Response: PCC 33.910.030 defines "drainageway" as "A constructed or natural channel or depression, which at any time collects and conveys water. It may be permanently or temporarily inundated." The applicant's consultants reviewed the site and did not note any additional drainageways. BES staff also visited the site on four separate occasions, including in response to the contacts, photos, and videos submitted by neighbors, and they did not note any additional drainageways. In addition, the locations of the alleged drainageways are inconsistent with the topographic maps of the site, as there is no evidence of topographic channels or depressions. Surface sheetflow of stormwater runoff outside of a channel or depression is not a drainageway. The Hearings Officer is persuaded by the expert testimony of BES staff and the applicant's consultants to find that there are no additional drainageways on the site.

Street Connectivity

The Hayhurst Neighborhood Association (HNA) has voiced concerns related to the connectivity approval criteria (PCC 33.654.110.B). The HNA suggests that “connectivity is unwarranted, unjustified and unsupported by all neighbors and the HNA.” The HNA further claims, “PBOT’s requirement to connect both segments of SW Pendleton Street violates the neighborhood’s established Safe Route to School” (SR2S) and “is in stark conflict to the Vision Zero program” (see Exhibit F.1).

Response: PBOT responded to the HNA comments as follows (see Exhibit E.1):

- “The stated goals for public through streets and pedestrian connections stem from the City’s Comprehensive Plan as well as the City’s Transportation System Plan. As a required approval criterion that must be met in order for the proposed subdivision to be approved, an evaluation of said connectivity goals is certainly warranted. As to the justification, in that said connectivity goals are not currently satisfied in the area of the proposed subdivision site, and that providing a public street connection (including the accompanying new sidewalks) through the subject site will further and enhance the area’s lack of connectivity, requiring the applicant to construct the street network as identified on the submitted plans, will enable the City to support the proposed land use request. Lastly, the above referenced approval criterion does not include that neighborhood support is necessary or required for the provision of a new connecting public street or sidewalk system through a new subdivision.
- The HNA is presumably referring to the Hayhurst Elementary SR2S map that can be found on PBOT’s website (<http://www.portlandoregon.gov/transportation/article/478734>). The comments that have been made by the HNA do not explain why the street connection requirement violates the “established” SR2S. As also identified on PBOT’s website (<http://www.portlandoregon.gov/transportation/article/536548>), the Safe Routes school maps highlight:
 - a) recommended walking and biking routes to a local school
 - b) neighborhood parks
 - c) safer low-traffic streets, off-street paths and bikes lanes
 - d) difficult intersections, high traffic streets and traffic signals
 - e) streets with sidewalks are denoted on the SW school maps

Further, “the City of Portland and authors of this map (“City”) provide this map “as is” for the user’s convenience and expressly disclaim any representations or warranties regarding map information and road conditions. There may be discrepancies between what is shown on the map and actual conditions so riders are reminded to remain vigilant for road hazards”. This is noted here in in relation to additional information that PBOT has gathered from the SR2S program staff. A formal engineering analysis has not been conducted to inform and help develop the SR2S program for Hayhurst Elementary. The referenced map therefore, should be considered as such – a reference for folks to utilize for the purposes stated above.

Notwithstanding the status of the referenced map, SR2S staff, including the section's engineering staff, have indicated that the required r.o.w. improvements would in no manner hinder the recommended walking and biking routes to the Hayhurst Elementary School. With new sidewalks and streets constructed to current City standards, pedestrian safety will be enhanced and greater opportunities for children walking to the school will be made available. The further development of the City's public transportation system does not inherently result in conflicts with the fundamental purposes of established SR2S programs.

Lastly, and perhaps most importantly, PBOT would like to emphasize that while there may be overlapping and comparable City-wide goals found between applicable land division-specific approval criteria, SR2S and Vision Zero goals, the burden of proof that must be satisfied by the applicant is explicitly identified in PZC Chapter 33.654.

- In as far as the HNA's assertions that the requirement for the new public street through the subdivision site is in stark conflict with the City's Vision Zero program, as identified on PBOT's web-site (<http://www.portlandoregon.gov/transportation/40390>), "through the Vision Zero program, the City of Portland and our partners are working to eliminate deaths and serious injuries on our streets by 2025". Further, "in designing streets, the City can eliminate deaths and serious injuries by:
 - a) setting speeds that are safe for all people using the street, including people driving, walking and biking. This is what Portland does through its Neighborhood Greenways program, which mixes people who are traveling in different ways at low speeds; and,
 - b) for streets with higher speeds, separating people who are traveling in different ways to provide buffers.

Accordingly, requiring the construction of a new public street consistent with City standards in relation to the proposed subdivision, will, aside from improving connectivity in the area (the relative approval criterion), also enhance the safety of people walking and biking with the inclusion of City approved sidewalks, which do not exist for the most part, in vicinity of the subject site. Parents will be able to safely walk with their children to and from Hayhurst Elementary School along newly constructed sidewalks through the subject site (and along the abutting segment of SW 48th Ave). The resulting safer passage for pedestrians is clearly in alignment with the goals of Vision Zero.

As with the previous response to the HNA's concerns, PBOT would like to emphasize that while there may be overlapping and comparable City-wide goals found between applicable land division-specific approval criteria, SR2S and Vision Zero goals, the burden of proof that must be satisfied by the applicant is explicitly identified in PZC Chapter 33.654."

On-site Posting Requirements

Response: As described above, the on-site posting was originally done on January 9, 2017. When the hearing was rescheduled, two updated notices were posted on February 2, 2017. The third sign was posted on February 6, 2017 (30 days before the March 8, 2017 hearing). There was some confusion about the proper location for one of the signs and another sign was temporarily moved (potentially by street work crews) resulting in several visits to the site by the applicant between February 2 and February 10, 2017. The applicant documented that all signs were in the correct location at the site as of February 10, 2017 (see Exhibit D.3).

PCC 33.730.080 requires the applicant post notice(s) on the site at least 30 days prior to the hearing and file a signed statement with BDS affirming that the posting was made. The applicant did those things in this case. See Exhibits D.3.a and D.3.b. At some point, the initial notice, posted on January 9, 2017, fell down or was removed. Therefore, the applicant posted a second notice on February 6, 2017. Nothing in the Code requires the applicant to ensure that the notice remains in place. There is no evidence that the short period when the notice was missing impacted any person's substantial rights. The March 8, 2017 hearing was well attended by neighborhood residents and the Hearings Officer held the record open for three weeks to allow for additional public comment.

Trees in Existing Right-of-Way

Concerns were expressed about a large Western Red cedar proposed to be removed within the existing SW Pendleton Street right-of-way, east of the site.

Response: The tree in question is in existing right-of-way and therefore regulated by Urban Forestry. The response from Forestry (Exhibit E.6) acknowledged the tree and indicated that it appeared that it needed to be removed due to the required street extension of SW Pendleton Street. Inquiries about the tree were forwarded to the Forestry staff person who is working with the PBOT public works engineer to investigate options for retaining the tree. The fate of this tree cannot be determined without additional street improvement designs and analysis. Therefore, the Hearings Officer cannot impose a condition of approval requiring preservation of this tree. The applicant agreed to a condition requiring the applicant work with Urban Forestry staff and Public Works Project Managers to determine the feasibility of preserving this significant tree. Condition of approval B.1 should be modified to that effect.

Violation in Environmental Zone

Concerns were expressed about drainage ditches being dug within the wetland area located in the Environmental overlay zone. A request is made for the delineation to be redone after hydrology is restored and damage mitigated.

Response: Concerns about a violation within the Environmental overlay zone should be submitted to BDS Code Compliance for investigation. Land Use Services staff is charged with reviewing the proposal against the relevant approval criteria. At this time, no violations have been cited. In addition, no

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Leslie Hammond, area resident
Sarah Silkie, area resident
Drew Bradbury, area resident

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Flow through planters are proposed between the curb and sidewalk to manage stormwater from the public street improvements. A new storm sewer connecting to the existing storm sewer in SW Pendleton Street (to the north) is proposed to convey water from the new street extension. The applicant proposed to direct stormwater from SW Pendleton Street to the existing storm sewer in SW Pendleton Street and stormwater from SW 48th Avenue to an improved culvert at the stream crossing in SW 48th Avenue. Stormwater from the individual lots is proposed to be managed by flow through planters on each lot that discharge to new/existing storm sewers, with the exception of Lots 4 and 5 that are proposed to have individual outfalls within proposed Tract A (outside of the Environmental overlay zone).

Significant grading is proposed on the site and a retaining wall up to six feet high is proposed at the rear of Lots 6-8 and within Tract A. Tree preservation is proposed primarily within the southwestern corner of the site, within the Environmental Conservation overlay zone. Three additional non-nuisance species trees are proposed for preservation outside of the Environmental zone (two within Tract A and one on Lot 8). A number of trees are proposed to be retained along the southern and eastern boundary of the site; however, these trees are identified as nuisance species by the applicant's arborist and are therefore exempt from tree preservation regulations. The applicant will work with Urban Forestry staff and Public Works Project Managers to determine the feasibility of retaining an additional tree, a 42-inch diameter Western Red Cedar tree, located in the SW Pendleton Street right-of-way.

Because a portion of the site is within the Environmental Conservation overlay zone, the proposal must meet the development standards of Section 33.430.160, Standards for Land Divisions and Planned Developments, or be approved through Environmental Review. The proposed street improvements on SW 48th Avenue include right-of-way dedication with associated LIDA (Low Impact Development Approach) stormwater facility, and sidewalk improvements (including a portion of the planter strip along SW 48th Avenue) within wetland areas, and in the resource area of the

evidence has been provided that the wetland delineation report (Exhibit A.2.g, prepared in July 2016) is incorrect. Staff from the Oregon DSL inspected the site on February 21, 2017, and determined that there were no violations of the state removal/fill laws. See Attachment 1 of Exhibit H-61.

Randi Sachs noted that the Portland Water Bureau installed a waterline in the area, which may have altered the conditions on the site. Exhibit H-47.

Response: BDS staff inspected the site and determined that no work occurred on the site. Therefore, the Water Bureau's activities are not relevant to this application.

Statewide Planning Goals, Comprehensive Plan Provisions, and Purpose Statements

Response: The statewide planning goals are not directly applicable to this development because the applicant is not requesting a comprehensive plan amendment or zone change and the City's code has been acknowledged by the state Land Conservation and Development Commission. The comprehensive plan is not an approval criterion for this application. The comprehensive plan is implemented through the zoning code. The purpose statements of the Code are implemented through compliance with the applicable approval criteria. Absent wording to the contrary, generally worded zoning district purpose statements are not mandatory approval criteria for permits or other site-specific land use decisions. *Mariposa Townhouses v. City of Medford*, 68 Or LUBA 479 (2013).

Paving on SW 48th Avenue

Response: Paving and other street improvements on SW 48th Avenue will end at the southern site boundary.

Professional Consultant

Neighbors argued that the City should hire professional consultants pursuant to PCC 33.430.270 to review the various technical reports and analyses for this development.

Response: PCC 33.430.270 only applies to analysis of activities in the Environmental zones. It does not authorize the hiring of professional consultants to review grading, geotechnical, stormwater, and other reports for development on the upland portions of the site. In addition, the Hearings Officer has no authority to require the City hire a professional consultant. This section gives the BDS Director exclusive authority to determine when a professional consultant is needed, based on exceptional circumstances presented by a particular case. Staff determined that the environmental resources on this site do not present any exceptional circumstances that exceed the professional abilities of BDS staff.

Proposed Conditions

Neighbors proposed several additional conditions of approval that they would like applied to this development.

Response: The Hearings Officer has no authority to impose the requested conditions because they do not relate to applicable approval criteria for this development or they exceed the roughly proportional impacts of the development.

Construction Impacts

Response: Construction on this site will temporarily cause increased noise, dust, traffic, potentially including temporary road closures, and other impacts on adjacent properties and area residents. However, this is only one of the many consequences of living in an urban area. The Hearings Officer finds that, while such impacts may occur, they are short term and not significant enough to require specific limitations on construction other than those imposed by State law and the City Code. The Hearings Officer encourages residents to contact the City if excessive impacts occur.

ZONING CODE APPROVAL CRITERIA

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

PCC 33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the criteria that are not applicable. Applicable criteria are addressed below the table.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The site is not within the special flood hazard area.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
L	33.654.110.B.2 - Dead end streets	No dead end streets are proposed.
	33.654.110.B.3 - Pedestrian connections in the I zones	The site is not located within an "I" zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.E - Pedestrian Connections	There are no separate pedestrian connections proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.
	33.654.130.C - Future extension of dead-end streets and pedestrian connections	No dead-end street or pedestrian connections are proposed or required.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. Based on the applicant's narrative, the site area is 100,356 square feet. The maximum density in the R7 zone is one unit per 7,000 square feet. Because the site is within the potential landslide hazard area, there is no minimum density.

A new street is proposed; therefore, the maximum density is based on 85 percent of the site area. The site has a maximum density of 12 units. The applicant is proposing 11 single dwelling lots. The density standards are therefore met.

The lot dimensions required and proposed are shown in the following table:

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
R7 Zone	4,200	12,000	40	55	30
Lot 1	5,211		55	94	58
Lot 2	4,832		50	96	50
Lot 3	5,051		53	96	51
Lot 4	4,266		50	85	50
Lot 5	4,427		45	77	31.5
Lot 6	6,402		40	131	30.8
Lot 7	6,102		50	122	50
Lot 8	6,084		50	121	50
Lot 9	4,200		44	90	43
Lot 10	4,200		46	90	46
Lot 11	4,558		48	90	47

* Width is measured by placing a rectangle along the minimum front building setback line specified for the zone. The rectangle must have a minimum depth of 40 feet, or extend to the rear of the property line, whichever is less.

Based on the findings above, the density and lot dimension standards are met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees. These regulations apply to trees located on the site (prior to any street dedication) and outside of the Environmental overlay zone. Trees within the Environmental zone are subject to the regulations of PCC 33.430 and are addressed in that section of this Final Order.

In order to identify which trees are subject to these requirements, the applicant provided the location of trees on the existing conditions plan and a tree table (Exhibits C.3 and C.4) and an arborist report (Exhibit A.5.b) that identifies each tree, its condition and suitability for preservation or its exempt status, and specifies tree protection measures for tree to be preserved.

Based on this information, there are 19 trees on the site that are subject to these regulations, which total 313 inches of tree diameter, and seven trees that are 20 or more inches in diameter. A number of trees included in the tree inventory are exempt from the regulations of PCC 33.630 because they

are off-site, within the Environmental zone, are nuisance species, or are identified as dead, diseased, or dying by the applicant's arborist.

The applicant proposes to preserve three non-exempt trees outside of the environmental zone: #20078, 11-inch Oregon ash (in Tract A, near Lot 4), #20165, 17-inch Leyland cypress at the rear of Lot 8, and #20174, 16-inch cottonwood in Tract A near 6. In order to ensure that future owners are aware of the tree preservation requirements, the applicant must record an Acknowledgement of Tree Preservation Land Use Conditions, at the time of final plat per PCC 33.630.600. The acknowledgement must identify that development on Lot 8 and within Tract A must be carried out in conformance with the Tree Preservation Plan (Exhibit C.11) and the Arborist Report (Exhibit A.5.b).

This site is not subject to the minimum tree preservation standards of PCC 33.630.100 because the proposal includes a concurrent Environmental Review. However, the approval criteria of PCC 33.630.200 apply and are addressed below.

PCC 33.630.200 Tree Preservation Approval Criteria

Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

A. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;

Findings: The site contains seven trees that are 20 or more inches in diameter located outside of the Environmental overlay zone, all of which are proposed for removal to allow for construction of streets and homes.³ These larger trees are scattered around the site and are not located in areas that allow for their preservation without major changes to the development plan. The Code requires that these trees be given the highest priority for preservation. In other words, if there is a choice between removing such large trees or smaller trees on the site, preference should be given for preserving the larger trees. This section does not require the sacrifice of other goals or elimination of lots for the preservation of large trees. No tree groves have been identified, although the grouping of native trees within the environmental zone would likely qualify as such. On this site, the applicant has prioritized preservation of trees within the environmental zone, which contains a number of native trees of varying sizes as well as a stream channel and wetland area. Only two non-nuisance trees are proposed to be removed in the environmental zone, due to street improvements on SW 48th Avenue. The

³ As discussed above, the applicant is required to work with Urban Forestry staff and Public Works Project Managers to determine the feasibility of retaining the 42-inch diameter Western Red cedar tree located in the SW Pendleton Street right-of-way. See Condition B.1.

remainder of the trees proposed for removal in the environmental zone are located in the existing SW 48th Avenue right-of-way or they are nuisance species.

The three trees proposed for preservation outside of the environmental zone are on the perimeter of the lots where they will help buffer the environmental zone and the adjacent site to the south.

This criterion is met.

B. Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;

Findings: The applicant indicates that the trees proposed for preservation are well-established and generally in good health. The arborist noted that the cottonwood has "trunk swoop," but did not identify any concerns about the long-term viability of the trees to be preserved. Two of the trees will have minor encroachments within the standard root protection zone in accordance with the allowances of Title 11. This criterion is met.

C. Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:

1. The specific development proposed;
2. The uses and intensity of development expected in the zone and the area in which the site is located;
3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;
4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and
5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.

Findings: The applicant is proposing a land division with 11 single-dwelling lots, a 25,430 square foot Environmental Resource tract, a new public street connection, as well as street dedication and improvements on existing street frontages. Many of the trees proposed for removal are located within or near the proposed street alignment. Other trees are located near the center of the proposed lots. Preservation of the environmental zone site concentrates development on smaller lots in the upland portion of the site, which reduces the applicant's ability to preserve trees in the upland areas. The site would allow a maximum density of 12 lots; therefore, the proposal is consistent with the use and intensity of development expected in the R7 zone. There is no minimum density on the site; therefore, it would be possible to develop the site with fewer lots. However, due to the location of non-exempt trees and the site grading needed to install the required street connection, it is not clear that proposing fewer lots would make a significant difference in terms of preservation of desirable trees. In

addition, nothing in the plain language of the Code requires applicants to eliminate lots to preserve trees outside of Environmental zones. The applicant will remove 17 non-exempt trees and preserve 92 trees on the site. As described under "B" above, impacts within the environmental zone are limited and will result in the removal of only two native trees in that area. Tree preservation is maximized to the extent practicable, while allowing for reasonable development of the site. With the condition that the tree preservation plan is implemented per Exhibit C.11 and the applicant's arborist report, this criterion is met.

D. Mitigation. Where the minimum tree preservation standards of PCC 33.630.100 can not be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.

Findings: This site is not subject to the tree preservation standards of PCC 33.630.100 because the proposal includes a concurrent Environmental Review. However, the tree preservation standards provide a basis to judge the tree preservation proposal and the amount of mitigation warranted.

The applicant proposes mitigation based on Option 3 of the tree preservation standards, which requires 50 percent of the trees 20 inches or more and 30 percent of the total tree diameter be preserved, which is commonly used by applicants. As described above, there are 19 trees on the site that are subject to these regulations, which total 313 inches of tree diameter, and seven trees that are 20 or more inches in diameter. The applicant is proposing to preserve three trees that amount to 44 inches (14 percent of total tree diameter) and no individual trees that are 20 or more inches in size. To meet Option 3, four of the seven large trees would be required to be preserved. Using the two largest and two smallest of these trees, a total of 102 inches of mitigation is required. This would also mitigate for the 50 inches the applicant is short in total tree diameter.

The applicant proposes to mitigate for the 102 inches with a combination of tree planting within Tract A outside of the environmental zone and a payment into the Tree Preservation and Planting Fund. This is in addition to tree planting that will be required within Tract A for mitigation of environmental zone impacts.

The planting plan (Exhibit C.12) shows 31 trees to be planted in Tract A outside of the environmental zone, which will provide for 46.5 inches (based on 1.5 caliper inches per tree). These trees include a variety of native species, which includes a mix of smaller and larger trees at maturity and deciduous and conifer trees. These trees will buffer the environmental zone from the adjacent development and help prevent erosion of sloped areas. The applicant will also be removing several nuisance tree species in the area of the mitigation tree planting, which will enhance the quality of the mitigation area and help reduce the spread of invasive species into the environmental zone and surrounding area.

It is anticipated that additional tree plantings will be provided on the individual lots at the time of development, however such plantings are required to meet the tree density standards of Title 11 (11.50), and therefore would not count toward mitigation.

A payment for 55.5 caliper inches is proposed to make up the balance of the mitigation requirement, for a total of 102 inches. The payment will provide for additional tree planting off the site, but within the same watershed, thereby contributing to the tree canopy and benefits of trees in the larger area.

The tree planting must be shown on the Site Development permit for the site and installed prior to final inspection approval of that permit. In addition, the payment must occur prior to final plat approval. With these conditions, the mitigation plan will replace the functions of trees removed from the site outside of the environmental zone and this criterion is met.

D. Potential Landslide Hazard Area. If any portion of the site is in a Potential Landslide Hazard Area, the approval criteria of Chapter 33.632, Sites in Potential Landslide Hazard Areas, must be met.

Findings: The site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

In order to evaluate the proposal against this criteria, the applicant submitted a Geotechnical Engineering Report and Landslide Hazard Area Report (Exhibit A.1.f), prepared by a Certified Engineering Geologist and a Geotechnical Engineer, and responses to staff and neighbor comments (Exhibits A.2.d and Attachment 4 of Exhibit H-61a) prepared by the engineers noted above.

Site Development, the division of BDS that makes determinations regarding soil stability, has evaluated the reports provided and found that they satisfy the submittal requirements and approval criteria (see Exhibits E.5 and H-60). The reports conclude that the site is stable and is suitable for development and that the proposed grading, including extensive fill, will not adversely impact the stability of the site, provided the recommendations in the Geotechnical Engineering Report are implemented during the design and construction of the proposed development. The applicant will strip the existing topsoil from the site and create benched areas to support placement of fill on the underlying soils. Although the subsurface soils on the site are clay, there is no evidence to support neighbors' assertions that clay soils are inherently unstable. The Hearings Officer finds that the clay soils on the site can support the proposed fill, based on the expert testimony of the engineers for the applicant and the City. Neighbor's assertions of "common knowledge" are not sufficient to counter this expert testimony.

The Neighborhood Association asserted that the applicant's analysis failed to include all of the information required by PCC 33.730.060.D(1)(f). (Exhibit H-43). However, this is a submittal requirement, not an approval criterion. The City accepted the application as complete without all of the listed information. The Hearings Officer has no authority to review the City's completeness

determination or to deny the application for failure to comply with the submittal requirements. As LUBA stated:

An applicant's failure to include information that a local ordinance requires to be submitted as part of a land use permit application does not necessarily constitute a basis for remand. That failure must result in an evidentiary shortcoming that prevents a required demonstration of compliance with one or more mandatory applicable approval criteria. *Frewing v. City of Tigard*, LUBA No. 2003-194 citing *McConnell v. City of West Linn*, 17 Or LUBA 502 (1989).

City staff reviewed the application and concluded that although the report could be more explicit, it is sufficient to demonstrate compliance with the applicable approval criteria. Exhibit H-60. The applicant will be required to submit additional, more detailed, analysis as part of the grading permit review process, including specific factors of safety and analysis of settling potential. See Attachment 4 of Exhibit H-61a and Exhibit H-60. The applicant is not required to provide detailed engineering designs at this stage of review. The purpose of this preliminary review is to determine whether it is feasible to comply with applicable criteria. The preliminary engineering plans are conceptual, and analysis of all technical details is not required. See *Meyer v. City of Portland*, 67 Or App 274, n 6, 678 P2d 741, rev den 297 Or 82 (1984). ("[C]onditions of approval may include conditions that specific technical solutions to identified development problems be submitted and reviewed and approved by the government's technical staff"). To require complete, detailed plans prior to preliminary approval would require re-working the entire design any time amendments or modifications of the project are required. This would be highly inefficient and is not necessary to protect the public interest. City staff's review of the final engineering plans provides adequate protection of the public interest. The law does not require an opportunity for public review of the final plans. However, the applicant's final engineering plans are public records that the public may review.

Neighbors noted a recent landslide on another property in the area. However, there is no evidence that that landslide was in an area of engineered fill as is proposed here.

The geotechnical reports also summarize the results of onsite infiltration tests and conclude that the rates are low. While the reports do not specifically recommend against onsite infiltration of stormwater, the applicant proposes to direct stormwater off-site due to the low infiltration rates observed, with the exception of Lots 4 and 5 that will outfall to the wetland area. The stormwater disposal approach is in conformance with the recommendations of the applicant's engineers. Based on these factors, this criterion is met.

If necessary based on the final grading plans, the applicant will install drains in the fill areas to prevent the accumulation of groundwater that could impact the stability of filled areas. The applicant will also install drains behind the proposed retaining wall to collect and direct groundwater around the wall. These drains will likely discharge overland to the on-site wetland, which will help maintain the existing wetland hydrology.

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

PCC 33.635.100 Clearing and Grading Approval Criteria

The Preliminary Clearing and Grading Plan must meet the following approval criteria:

A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;

Findings: The applicant submitted a Preliminary Grading Plan (Exhibit C.8) and a Construction Management Plan (Exhibit C.16) that shows the existing and proposed contours, as well as Preliminary Site Sections (Exhibit C.9) that show existing and finished ground elevations at various locations through the site. The existing topography of the site slopes from east to west and existing drainage follows the site topography, flowing to the existing wetland area and drainageway in the southwest corner of the site.

The proposed grading will significantly alter the existing contours of the site. Fills up to 17 feet are proposed, 2:1 slopes in some locations, and a 6-foot high retaining wall at the rear of Lot 6, 7, and 8 and along the southeastern edge of Tract A. Modest cuts up to four feet are proposed. Due to the proposed grading, street, and home construction, drainage patterns will also be significantly altered. Stormwater collected from most of the new impervious surfaces will be directed to storm sewers that carry water away from the site to the west. Stormwater from Lots 4 and 5 will be directed to the wetland, which mimics current drainage patterns. Stormwater from the SW 48th Avenue right-of-way improvements will be directed to the new culvert under SW 48th Avenue. In addition, the proposed lots will generally step down and/or slope down toward the environmental zone, so any stormwater that hits ground surfaces will flow in that direction as it does today.

Grading on this site is complicated by a number of factors including existing slopes (12-15 percent), the requirement for a street connection between the two dead-end segments of SW Pendleton Street that abut the site to meet the connectivity requirements of PCC 33.654, and the requirements to avoid impacts to the Environmental Conservation overlay zone, including a stream and wetland, in the southwest corner of the site. No clearing and grading activities are proposed within the environmental zone, with the exception of work related to the public street improvements on SW 48th Avenue, which are the subject of the concurrent Environmental Review, and removal of nuisance plant species. The applicant has provided an extensive narrative explaining why it was not practicable to leave the existing contours and drainage patterns intact (Exhibits A.3.a and A.4.b), which is summarized below.

PCC 33.910.030 defines "practicable" as "capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes." In this case, the overall project purposes include the connection of existing SW Pendleton Street through the site consistent with City plans, protection of the environmental zone, creating residential buildable residential lots at R7 densities, and directing stormwater runoff to appropriate collection points.

Providing street connectivity between the two existing streets with a street design that meets City of Portland Street Design standards creates a fill condition along the majority of the proposed street. The grade of this new street connection is restricted by the existing grades of the southern and northern portions of SW Pendleton Street, requiring up to 10 feet of fill before any lots or homes are constructed. In addition, constructing the new street connection within a 54-foot right-of-way width (street, planter strip, and sidewalk) that is perpendicular to the existing grade requires a balancing of fills on the downhill side and cuts on the uphill side.

In addition to grading necessary for street construction, the proposed grading plan includes work to prepare the lots for future construction. Because this site is a multi-lot development, there is an opportunity to reduce overall construction impacts. By anticipating planned future site development, and completing overall site grading required for development of the street and lots at one time, the applicant realizes efficiencies by having one contractor conduct the work, as well as allowing better control of earthwork, erosion control, and grading based on the specific product type to be placed on the lots. Neighbors argued that lot grading should be performed on a lot-by-lot basis as homes are constructed in order to preserve additional trees. However, given the location of existing trees on the site, the amount of grading required for the required street connection, and the relatively small size of the proposed lots, it is not practicable to preserve additional trees.

The lot layout accommodates the challenges of the existing topography as described below. Grading of the lots is designed to direct as much lot drainage as possible back toward the public streets and avoid directing drainage toward the garages, which would create drainage issues for the homeowners in the future. Creating usable yard space on the lots was also a goal. Lots 1-3 match the existing grade of SW Pendleton Street. The building pads will step down east to west between the new street connection and SW 48th Avenue. To minimize the amount of fill on the lots, Lots 4 and 5 are designed to have daylight basements with one story below the street grade. Drainage from these lots will be directed toward the existing wetland in the southwest corner. Lots 6 through 8 are designed with a stepped grading plan that includes a four-foot stem wall with deck at the rear of each house and six-foot retaining wall toward the rear of the lots. Stairs will provide access to the lower level of these lots. Daylight basements were considered for these three lots; however, that would have increased drainage toward the back of these lots adjacent to other property owners to the south, potentially increasing runoff onto adjacent properties. Lots 9-11, which are above the adjacent street grade, will be developed with "garage under" homes, with the garage at the level of the driveway and living area above the garage. The 10-foot garage floor to first floor dimension allows the house to fit the rise in grade from front of lot to back of lot.

Based on the information provided (as summarized above), the applicant has demonstrated that it is not practicable to leave existing contours and drainage patterns intact and develop the site as proposed. Neighbors argued that the applicant could reduce the grading required on this site by reducing the number of lots, altering the design of the street connection, and changing the type of homes proposed on the site. However, the required street grading creates the need for the majority of grading on this site. As discussed below, it is not feasible to modify the required street connection in compliance with applicable criteria. The applicant did modify the design of the homes on the lots to accommodate existing slopes and reduce grading; using tuck under garages and daylight basements

where appropriate. It is not practicable to significantly alter the proposed grading to increase retention of the existing contours on this site sloped site with a required through street connection.

The proposed grading will alter the existing drainage patterns, but it will not adversely impact adjacent properties by significantly increasing the volume of runoff or potential for erosion. Given the existing topography of the site, the majority of stormwater falling on the site currently flows downhill to the on-site stream and into the culvert under SW 48th Avenue. Some runoff may flow onto adjacent properties to the south, but no more than occurs under existing conditions. As described above, with the proposed development, most of the stormwater from the site will be collected and directed to the storm sewer in SW Pendleton Street and carried away from the site, which will reduce the amount of stormwater runoff flowing onto adjacent properties from this site. This development will reduce the volume of runoff flowing to the SW 48th Avenue culvert and across downstream properties culvert by 30 percent during the 25-year design storm. Exhibit H-51. Required street improvements along the SW 48th Avenue Street frontage will replace the existing ditch with pavement, curb, and gutter, and stormwater runoff from the street will be routed through a stormwater planter and then conveyed to the new culvert at the location of the existing culvert in 48th Avenue. This will eliminate existing runoff flowing from this street onto abutting properties to the east. It is anticipated that these improvements will reduce current runoff and flooding issues in this location.

The applicant indicates that during site development, and prior to home construction, there is a portion of Lot 8 that will slope to the east to match existing grades. The small drainage ditch this creates will be temporary. The home footprint will ultimately extend to the bottom of this embankment along the side yard reducing the exposed landscape area and embankment slope adjacent to the eastern property. In both the temporary and final condition, drainage from this area will overland flow to the south and west, similar to the existing condition.

The grading plan shows a slope below the retaining wall on Lots 6, 7, and 8, which could result in water from this area flowing toward the neighboring property to the south. The volume of water is expected to be small because only the yard area will drain to the rear. Most of the area of these lots will be covered by roofs and driveways that collect water and direct it to the storm sewer. The fill slope described will hit natural contours 15 to 20 feet from the property line. The natural contours direct drainage to the southwest and therefore should carry runoff in that direction, toward the stream. In addition, the applicant is proposing to retain trees along the rear property line of these lots and protect off-site trees along the property line, which will help absorb any additional runoff in this location. The proposed development will not significantly increase the volume of runoff flowing onto adjacent properties in this area.

No concerns have been identified regarding erosion impacts to adjacent properties. As discussed above, the applicant is not required to remedy potential off-site flooding and erosion caused by the undersized culvert west of the site that may occur during larger storm events. The grading plans will be reviewed in more detail for adequate erosion control measures during review of the of the Site Development permit for mass grading of the site. The applicant indicates that initial erosion and sediment control measures include sediment barriers placed downhill of embankment slopes as shown on the construction management plan (Exhibit C.16) and inlet protection for existing and

proposed inlets. Once the lot grading activities are relatively complete, secondary sediment barriers will be placed along steep slopes to control erosion. Seeding may also be required along these slopes to provide stabilization. A concrete truck washout area will be provided to clean concrete trucks and dispose of excess concrete after concrete placement.

The applicant has demonstrated that the alteration to existing drainage patterns will not adversely impact adjacent properties by significantly increasing volume of runoff or erosion.

This criterion is met.

B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;

C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;

Findings: The proposed clearing and grading shown on the Preliminary Grading Plan is intended to be sufficient for construction of the public street, installation of utilities, and preparation of the lots for future construction of dwellings.

The existing site has relatively steep topography and the proposed grading is dictated by existing elevations/grades of adjacent streets to be connected through the site. The new street is located such that it allows for a through-street connection while keeping outside the environmental overlay zone. The proposed streets are designed to City standards for vertical and horizontal alignments and provide public street frontage for the proposed lots.

The proposed lot grading provides for clearing and grading within the proposed building footprints and attempts to minimize disturbance at the rear of the lots to protect trees along the eastern and southern perimeter of the site and minimize impacts to adjacent lot drainage. The extent of grading provides for home construction of the specific types and models proposed by the applicant as the "developer/builder." This will provide more efficient construction by minimizing additional grading required with each building permit, allowing grading across internal lot lines and reducing temporary cut/fill slopes required if grading was completed on a lot-by-lot basis.

The applicant proposes a retaining wall spanning portions of Tract A, Lot 6, Lot 7, and Lot 8 in order to accomplish the site grading. The retaining wall is necessary to support the proposed slopes while preserving trees on the site and without extending grading into the environmental zone. The code does not prohibit use of retaining walls or regulate the aesthetics of retaining wall design. PCC 33.110.010 cited by neighbors (Exhibit H-50) is a purpose statement, not an applicable approval criterion. The maintenance of the retaining wall should be shared in common between the owners of Tract A, Lot 6, Lot 7, and Lot 8. Access to the wall will need to be provided to perform maintenance; therefore, the final plat must show an easement to allow for maintenance of the retaining wall. The dimensions of the easement or tract will be determined based on the retaining wall design as shown

on the approved permit drawings. A supplemental plan showing the location of the retaining wall, easement, and lots must be provided with the final plat as documentation.

The proposed grades and retaining wall will limit access between the upper and lower portions of some lots. As noted above, the applicant proposed to install stairways to facilitate access in these areas. If desired, future residents can plant the slopes and lower areas of these lots with low maintenance landscaping to avoid the need to move lawnmowers and other equipment up and down the slopes. The Zoning Code does not require fencing on top of retaining walls or steep slopes. However, the applicant and/or future residents may need to install such fencing to avoid potential hazards created by these features.

The Site Development Section of BDS requires that the applicant submit a Site Development Permit for clearing, mass grading, including rough grading for the public street extension, and retaining wall construction, prior to final plat approval. A condition is required to ensure that the clearing and grading shown at the time of permit substantially conforms to the current proposal.

With the conditions described above, these criteria are met.

D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete;

E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable; and

Findings: The applicant indicates that topsoil from stripping will be preserved for reuse as fill on the lots for yard landscaping and within Tract A outside the Environmental Conservation zone. The Construction Management Plan (Exhibit C.16) shows a soil stockpile area on proposed Lots 2 and 3, within the disturbance limits and away from the Environmental zone. This criterion is met.

F. The limits of disturbance and tree protection measures shown on the preliminary Clearing and Grading Plan must be adequate to protect trees to be retained on the tree preservation plan.

Findings: The Preliminary Grading Plan (Exhibit C.8) and Construction Management Plan (Exhibit C.16) indicate a limit of disturbance and tree protection fencing that is consistent with that shown on the Preliminary Tree Plan (Exhibit C.11). This criterion is met.

PCC 33.635.200 Land Suitability Approval Criterion

Where geologic conditions or historic uses of the site indicate that a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

Findings: No geologic hazards have been identified by the applicant's geotechnical evaluation or by the Site Development Section of BDS, other than the potential landslide hazard mapping discussed above. The site is currently in residential use and there is no record of any other use in the past. The applicant has proposed to remove the existing house and garage and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of all structures on the site, sewer capping, and decommissioning of the old septic system on the site prior to final plat approval.

With this condition, the new lots can be considered suitable for development, and this criterion is met.

The applicant will be required to comply with all applicable building demolition regulations in effect when a demolition permit application is submitted for removal of the existing structures. The Hearings Officer has no authority to impose any additional demolition limitations or conditions as conditions of this development approval.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

Findings: An Environmental Resource tract is required. The tract shall be labeled "Tract A: Open Space (Environmental Resource Area and Drainage Reserve)" on the final plat. Ownership of the tract must meet the requirements of PCC 33.430.160.E. This can include common ownership by all lots in the land division site, a Homeowner's Association, or other options.

The following easements are proposed and/or required for this land division:

- Private Sanitary Sewer Easements across Tract A, for sanitary sewer lateral connections to the sewer in SW 48th Avenue that will serve Lots 4 and 5.
- Private Storm Sewer Easement within Tract A for stormwater facilities (pipes and outfalls) serving Lots 4 and 5.
- Private Access Easement for maintenance of the proposed retaining wall shall be shown and labeled over the relevant portions of Lots 6, 7, and 8 and Tract A.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts and easements described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreements with a recording block for each agreement, substantially similar to the following example:

"A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records."

With the conditions of approval discussed above, this criterion is met.

I. Solar access. If single-dwelling detached development is proposed for the site, the approval criteria of Chapter 33.639, Solar Access, must be met.

Findings: The solar access regulations encourage variation in the width of lots to maximize solar access for single-dwelling detached development and minimize shade on adjacent properties.

The western and eastern portions of SW Pendleton Street are within 30 degrees of a true east-west axis. Lot 2 is the only interior lot within the land division site fronting on the western segment of Pendleton. It is slightly narrower than the corner lot (Lot 3). Lots 6, 7, and 8 are interior lots fronting on the newly extended eastern segment of Pendleton. These lots are narrower than the existing corner outside of the land division site. The east-west lots are consistent with Figure 639-2.

On the new north-south segment of SW Pendleton Street, Lots 4 and 10 are interior lots. Lot 4 is wider than Lot 5 to the south, consistent with Figure 639-2. Lot 10 is effectively the same size and width as the corner lot (Lot 10). These lots are 4,200 square feet, which is the minimum lot size in the R7 zone. There are limited opportunities to modify these lots because of the required street connection. Therefore, the solar access requirements are superseded by the requirements of PCC 33.610 for Lot 10. This criterion is met.

J. Streams, springs, and seeps. The approval criteria of Chapter 33.640, Streams, Springs, and Seeps, must be met;

Findings: Questions were raised about the presence of streams, springs, or seeps outside of the Environmental overlay zone by both City staff and neighbors. The applicant has provided information responding to these questions. The Landslide Hazard Study prepared by Hardman Geotechnical Services (Exhibit A.1.f) indicates that no seeps or springs were observed on the site. The applicant's environmental consultant, Anchor QEA, conducted a wetland delineation on the site (Exhibit A.2.g), responded to questions raised by staff (Exhibit A.3.a) and provided follow-up memos responding to neighbor concerns (Exhibits A.4.c, H-10, and Attachment 1 of Exhibit H-48a). In summary, the information from Anchor QEA states that environmental professionals have evaluated the entire site for the presence of streams, springs, and seeps, as defined by PCC 33.910, outside of the environmental zone and identified no such features. Additionally, no other wetlands were identified other than that identified in the wetland delineation report.

BES staff noted one or more potential springs that may be located outside the boundaries of proposed Tract A. Exhibits H-8 and H-59. The neighborhood association and other area residents argued that there are additional springs and seeps throughout the site. However, these features are not "seeps or springs" as defined by the Code.

PCC 33.910.010 provides, "Words used in the zoning code have their normal dictionary meaning unless they are listed in 33.910.030 below. Words listed in 33.910.030 have the specific meaning stated, unless the context clearly indicates another meaning." The version of PCC 33.910 in effect when this application was filed defines "Seep or Spring" as, "The point where an aquifer intersects with the ground surface and discharges water into a stream channel that flows into a wetland or other

water body." The Code does not define the term "aquifer." Therefore, pursuant to PCC 33.910.010, the Hearings Officer must rely on the dictionary definition of that term. The dictionary defines "aquifer" as "a water-bearing stratum of permeable rock, sand, or gravel." Aquifer. (n.d.). In Merriam Webster Online, Retrieved April 26, 2017, from <https://www.merriam-webster.com/dictionary/aquifer>.

As discussed in Exhibit H-10 and Attachments 1 and 2 of Exhibit H-48a, the water discharges noted by BES staff and neighbors are not associated with an aquifer. The water is perched groundwater flowing through the topsoil on the site, not from "a water-bearing stratum of permeable rock, sand, or gravel." Therefore, the source of the water noted by BES staff is not from an aquifer intersecting with the ground surface. In addition, the water from these discharges does not flow into a stream channel. Water from these sources sheet flows overland to the on-site wetlands. Therefore, because these features do not meet the Code definition of "seep or spring," they are not regulated by PCC 33.640 and the requirement of PCC 33.640.220.A requiring streams, springs, and seeps outside of an Environmental overlay zone be located in a tract are not applicable to the subject site.

BES argued that if the noted water discharges do not constitute "springs or seeps" as defined by the Code, they should still be located in the tract in order to avoid potential impacts to the natural surface and subsurface flow of water that occurs across this site. Exhibit H-59. However, BES failed to identify any Code requirement that would support such a condition. The noted discharges are not "drainageways" as defined by PCC 33.910.010, which provides, "Drainageway. A constructed or natural channel or depression, which at any time collects and conveys water. It may be permanently or temporarily inundated." As discussed in Exhibit H-10 and Attachments 1 and 2 of Exhibit H-48a, water from these discharges surface flows to the wetland. There are no identifiable channels or depressions to convey this water.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met;

Findings: The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes. Mitigation may be necessary to reduce impacts.

The applicant provided a Transportation Impact Study prepared by Kittelson and Associates (Exhibit A.2.e) evaluating the transportation impacts of the proposed subdivision. The Development Review Section of PBOT has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

"Street capacity and level-of-service

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

Using the evaluation factors listed in this code section, the applicant should provide a narrative and all necessary plans and documentation to demonstrate that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The applicant included a professionally prepared Traffic Impact Study (TIS) to adequately address the above referenced approval criterion. The following discussion is based on PBOT's assessment of the submitted TIS and transportation impacts for this proposal.

The applicant proposes to divide the approximately 2.3 acre site to create 11 lots for single dwelling development, an environmental resource tract, and a public street extension. PBOT identified the following intersections within the site vicinity to be analyzed for the purposes of assessing the impacts of the subdivision in relation to the current and expected future operations of said intersections.

All level-of-service (capacity) analyses conducted at the study intersections were performed in accordance with the procedures stated in the *2000 Highway Capacity Manual* (HCM, Reference 2). To ensure that the analyses were based on a reasonable worst-case scenario, the peak 15-minute flow rates were used in the evaluation of all intersection levels of service (LOS). Manual turning movement counts at the study intersections were conducted in March 2016 on a typical weekday when classes were in session at the nearby Hayhurst School. The counts were conducted during weekday morning (7:00 to 9:00 AM) and evening (4:00 to 6:00 PM) time periods [standard peak periods of travel].

<u>Intersection</u>	<u>Existing LOS AM Peak/PM Peak</u>	<u>Projected LOS AM Peak/PM Peak</u>
SW Cameron Rd/SW Shattuck Rd	B/B	B/B
SW Cameron Rd/SW 48th Avenue	A/A	A/A
SW Pendleton St/SW 48th Avenue (west)	A/A	A/A
SW Pendleton St/SW 48th Avenue (east)	A/A	A/A
SW Pendleton St/SW 47 th Avenue	A/A	A/A
SW Pendleton St/SW 45 th Avenue	B/B	B/B
SW Vermont St/SW 45 th Avenue	B/B	C/B

The Institute of Transportation Engineers (ITE) *Trip Generation Manual* [9th Edition] was used to estimate the number of new trips generated by the 11 new homes associated with the proposed subdivision. ITE Code #210 (single-family detached homes) was referred to in calculating the expected trip generation, which include 8 AM peak hour trips, 11 PM peak hour trips and a total daily number of 104 vehicle trips. Projecting trip distribution from the new vehicle trips expected to be generated by the proposed development into the transportation system and including anticipated background trips through the subdivision's buildout year of 2017 then allowed the applicant's traffic consultant to calculate the resulting LOS at the study intersections noted above. As identified, the operations of the study intersections will mostly remain unchanged in terms of levels of service – the only minor change will be during the AM peak hour at the intersection of SW Vermont St/SW 45th Ave, which will continue to satisfy the City's performance measure.

The applicant's traffic consultant should be commended for providing the following additional analysis that further demonstrates that the proposed subdivision will satisfy this subject evaluation factor. To address overall connectivity goals, the applicant will be required to connect the eastern and western termini of SW Pendleton via a new north-south public street. This new street system will provide pedestrians, bicyclists and motorists another connection between SW 45th Avenue and SW Cameron Rd.

To account for potential traffic diversion associated with the additional connectivity, the TIS provides a reasonable assumption that a portion of the existing weekday AM traffic on SW 45th Avenue that currently turns onto SW Pendleton and uses SW 47th Avenue to access the school would divert to the new route between SW Cameron Rd and SW 45th Avenue. During the weekday AM peak hour, a conservative assumption was made that approximately 75% of the south-bound right-turns and east-bound left-turns at SW Pendleton/SW 45th would divert to this new route. This would result in 28 vehicles southbound on SW 48th Avenue to access SW 47th Avenue south of Pendleton and 11 vehicles northbound on the same route. The modified weekday AM peak hour total traffic volumes with the school traffic diversion results in a change in intersection operations at only one of the study intersections - SW Pendleton/SW 47th shifts from LOS A to LOS B. As shown, even with the potential diversion, each of the study intersections is forecast to continue operating acceptably.

Using industry accepted methodologies, practices, conservative assumptions and accurate calculations, the submitted TIS confirms that this evaluation factor is met.

Vehicle access and loading

The subject property is located somewhat centralized between a number of arterial roadways (SW Cameron to the north, SW 45th Avenue to the east, SW Vermont to the south and SW Shattuck to the west). Currently, direct access to [the] site is via the two

unconnected segments of SW Pendleton – as described herein and demonstrated on the submitted plans, the proposed subdivision will connect these two segments of SW Pendleton via a new north/south public street. Vehicle access to the site will be facilitated by the new connection.

Loading activities associated with residential land uses are typically light and infrequent, and there is ample space for these activities to occur on-site on the proposed driveways as well as along the abutting existing and proposed public rights-of-ways.

The subject site provides adequate access for motor vehicles as well as other modes. Vehicle access and loading space at this location are sufficient to accommodate the existing uses as well as the proposed project. This evaluation factor is satisfied.

On-street parking impacts

To estimate the potential impacts on the availability of on-street parking in the vicinity of the proposed subdivision, the applicant conducted parking observations of existing on-street parking demand on an hourly basis through the course of a typical weekday (6:00 AM to 7:00 PM) in March 2016 while school was in-session. Again, PBOT wants to acknowledge that this data collection is well above and beyond the time frames during which on-street parking demand is typically considered in relation to residential development. This data was measured on the following streets:

- SW Pendleton Street east of SW 48th Avenue (3 on-street spaces provided);
- SW 48th Avenue south of SW Pendleton Street (no existing on-street supply provided); and,
- SW 47th Avenue south of SW Pendleton St, both sides between SW Pendleton & SW Iowa (25 on-street spaces measured).

The data included in the applicant's TIS shows that the existing parking demand in the study area is minimal today with the peak hour for parking demand occurring at 6:00 AM. During this period 3 vehicles were measured along SW 47th Avenue south of SW Pendleton Street. There are approx 28 on-street parking spaces currently provided today adjacent to the subdivision - the 3 vehicles parked equate to 11% of the overall parking supply being utilized.

The Institute of Transportation Engineers *Parking Generation*, (4th Edition) was used by the applicant's traffic consultant to estimate the parking demand expected to be generated by the 11 new homes. The proposed subdivision is estimated to generate the need for 20 parking spaces. As part of the proposed development, on-site parking will be provided for each home via a single car garage (some may have a double car garage) and a driveway that accommodates a minimum of one vehicle. Conservatively assuming that each home only provides one space within the lot, 9 additional on-street spaces would be needed. Per the results of the parking demand study, there are 25 unused spaces today adjacent to the site. With 9 of these utilized by the new homes, there will still be ample parking supply (i.e., 16 unused spaces) on the surrounding streets. This

does not take into consideration the number of approx on-street parking spaces that will be created in relation to the new street construction within the proposed subdivision site. With respect to the current layout of the streets within the subdivision site, including current driveway locations, there will be approx 10 additional on-street parking opportunities (PBOT recognizes that the number of on-street parking space *may* change based on the ultimate design of the various public stormwater management facilities associated with the project). Utilization of these spaces by future residents/visitors of the proposed subdivision will further minimize on-street parking impacts throughout the broader area. Accordingly, no on-street parking impacts are anticipated; this evaluation factor is satisfied.

Availability of transit service and facilities and connections to transit

Tri-Met provides transit service in the area via bus route 1 (Vermont). Nearby bus stops are located at SW Cameron Rd/SW Fairvale Ct (approximately 800-ft and north from the site) and at SW 45th Ave/SW Pendleton Street (approximately 600-ft and east from the site). No changes to the transit service are proposed or needed to serve the proposed subdivision. New sidewalks that will be included in relation to the new public street construction through the subject site will facilitate connection to these bus stops. Existing transit service is available; this evaluation factor is satisfied.

Impacts on the immediate/adjacent neighborhoods

As analyzed above, the impact of the proposed project's vehicle trip generation on area intersections and streets will be negligible and the operations of the transportation system will continue to be acceptable. Currently, there is sufficient on-street parking to serve the demand of the existing uses in the area. As demonstrated above, adequate on-street parking opportunities will remain after the construction of the proposed subdivision. From a transportation perspective, these noted items (intersection operations and parking impacts) are impacts that can adversely affect neighborhoods. These issues are not expected to negatively impact the immediate or adjacent neighborhoods. This evaluation factor is satisfied.

Safety for all modes

Crash records were examined by the applicant's traffic consultant for the most recent reporting time frame available (2010-2014). No crashes were reported for 5 of the 7 study intersections (previously identified). The 8 total crashes reported for the remaining 2 study intersections result in crash rates of 0.09 CMEV and 0.04 CMEV (crashes per million entering vehicles). Crash rates greater than 1.0 CMEV are generally indicative of a need for further investigation and possible mitigation. Crash rates and patterns were below a level indicative of potential safety concerns, and there were no apparent safety deficiencies noted during site visits. Based on the detailed crash data and the calculated crash rates, there are no apparent existing safety deficiencies at the study intersections where data was available.

Regarding active modes, the streets in the nearby vicinity of the site are low-speed, low-volume residential roads that can safely be shared between bicycles and motor vehicles. With regard to bicyclists, there are identified bike facilities (Portland Bike/Walk Map) in the area, including “shared roadways” along SE Cameron (north of the site), SW 45th Avenue (east of the site) and SW Illinois (south of the site).

Sidewalks are not available throughout the area for safer pedestrian passage. Pedestrians walk along the shoulders of the neighborhood streets. The lack of sidewalks in the area is largely a reflection of the street standards in-place at the time south-west Portland neighborhoods were constructed, and mostly, as a result of the challenging topography and stormwater management limitations of this area of the city. New sidewalks will be included in relation to the street construction along the site’s public rights-of-ways. These sidewalks will facilitate pedestrian travel through and around the subdivision site. Pedestrian travel and safety will be enhanced by the proposed subdivision.

This evaluation factor has been questioned by the area’s Hayhurst Neighborhood Association (HNA) – a letter from the HNA has been submitted into the record voicing safety concerns throughout the area that will be aggravated as a result of the proposed subdivision. These concerns include (verbatim):

- The unimproved section of SW 48th Avenue from SW Flower Ct to SW Cameron Rd must be improved to city standards, and is not included in the current plan;
- Parts of this section of SW 48th Avenue are only 9-ft wide;
- The intersection of SW 48th Ave/SW Cameron Rd is also unimproved, and has dangerously limited visibility. Without street improvements, increased traffic turning onto SW Cameron Road, and vice versa, will create an additional safety hazard for pedestrians and drivers, alike;
- There is a bus stop at the corner of SW Cameron Rd/SW 48th Avenue that would subject riders to increased vehicular traffic resulting from through street drivers turning onto SW Cameron Rd.

In response, PBOT only has the authority, through Title 17, to require r.o.w. improvements associated with the proposed subdivision to be constructed along the site’s frontages. The section of SW 48th Avenue identified above by the HNA is not along the subject site. The applicant will be required to construct the proportionate share of standard improvements along the site’s SW 48th Avenue frontage which will include a 20-ft wide pavement section and sidewalk. The stop-controlled intersection of SW Cameron/SW 48th Avenue is improved with pavement but lacks sidewalks, similar to the broader area. The alleged limited visibility is likely the result of private development including fencing on properties on the east and west sides of SW 48th Avenue (near SW Cameron). With respect to the asserted additional safety hazard, the crash history report previously referenced in this response, identified that there were no reported crashes at intersection of SW Cameron/SW 48th Avenue. Lastly, according to available records, the nearest Tri-Met bus stop is not located at the corner of SW

Cameron/SW 48th Ave, but instead, is located along SW Cameron west of SW Fairvale Ct.

Related to the above referenced modes of travel, none will be adversely affected by the proposed land division and subsequent construction of 11 new single-family homes. This evaluation factor is satisfied.

In summary, as analyzed above and as evidenced in the submitted TIS, with acceptable analyses, methodologies and conclusions, all of which PBOT staff supports, the applicant has clearly demonstrated that *'the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area.'*

PBOT has reviewed and concurs with the information supplied the methodology, assumptions and conclusions made by the applicant's traffic consultant. As discussed in more detail under PCC 33.654 below, the applicant will be required to construct a public street connection through the site and improve the site's existing frontages along SW 48th Avenue and SW Pendleton Street. These criteria are met."

Neighbor's argued that this development and the proposed street connection will cause a "significant" increase in traffic that will create a hazard for pedestrians and cyclists using the roads in the area. However, the Code does not use or define the subjective term "significant" in relation to traffic. The Hearings Officer must review the traffic impacts of this development based on the objective standards in the Code. Based on the conservative cut-through traffic assumptions in the applicant's traffic study, traffic generated from this development and the connection of SW Pendleton Street through the site will increase traffic on the section of SW 48th Avenue north of Pendleton Street by 72 trips in the a.m. peak hour and 71 trips during the p.m. peak hour. This development and street connection will add 70 trips at the 47th Avenue/Pendleton Street intersection during the p.m. peak hour and 69 trips during the a.m. peak hour. This additional traffic will be perceptible to area residents. However, as PBOT noted above, it will not exceed the capacity of area streets or create a hazard. In addition, as discussed in Exhibit H-54, the traffic study likely overestimates the amount of cut-through traffic created by this street connection. The proposed street connection will not provide a faster connection for the majority of vehicle trips, because drivers would need to turn off the higher speed arterial roads (Cameron and 48th Avenue) to travel on less improved local streets with lower speed limits and stop controlled intersections.

For people who have lived along what have heretofore been dead-end streets, the change created by the extension of SW Pendleton Street through the site will be more significant. They have enjoyed a lower level of traffic given their location in an otherwise urbanized area. However, this street extension was foreseeable and is in the broader public's interest; this street connection is shown on the City's Master Street Plan and it will enhance emergency access in the area and allow vehicles to disperse on multiple streets. The additional traffic generated by this subdivision may pose an increased risk for drivers, cyclists and pedestrians in the area; higher vehicular traffic volume creates a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling, or walking in the neighborhood. However, those risks are

consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers.

Neighbors' assertions that the intersection of SW Cameron Road and 48th Avenue is hazardous due to limited sight distance and the steeper grade on 48th Avenue are not supported by the crash history. No accidents have been reported for this intersection during the past five years. (See Table 3 of the applicant's traffic study, Exhibit A.1.g).

The applicant will construct sidewalks and other street improvements on roads within and abutting the site, which will improve safety for pedestrians using these road sections. Those sidewalks will not connect to other sidewalks in the area. Many streets in this area are not improved to current standards; sidewalks are lacking and pedestrians must walk on the shoulder. However, similar conditions exist on streets throughout this area. The applicant cannot be required to improve all existing and perceived deficiencies in the area, because such a requirement would be disproportionate to the impacts of the proposed development. This development will only generate 104 new vehicle trips per day; eight trips during the a.m. peak hour and 11 during the p.m. peak hour. The remainder of the potential cut-through traffic currently travels on streets in this area.

The City's Safe Routes To Schools and Vision Zero plans are not applicable approval criteria for this application.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities, and rights of way. The criteria and standards are met as shown in the following table:

PCC 33.651 Water Service standard – See Exhibit E.3 and E.4 for detailed bureau comments.

The Water Bureau has indicated that water system improvements will be required to serve the site. The applicant must upsize the existing water main in the eastern segment of SW Pendleton Street and make arrangements to extend the water main in the newly dedicated street to serve the proposed development. In addition, the existing water main in SW 48th Avenue is located under proposed curb/gutter, street trees, and/or swales on SW 48th Avenue. The water main must be relocated to allow a minimum of 2 feet of clearance from the curb/gutter.

The required water system improvements must include fire hydrants that meet the spacing standards and fire flow requirements of the Fire Bureau.

In order to meet the standards of PCC 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to meet Water Bureau and Fire Bureau requirements prior to final plat approval. With this condition, the water service standards of

PCC 33.651 have been verified.

PCC 33.652 Sanitary Sewer Disposal Service standards – See Exhibit E.1 for detailed comments.

Proposed lots with frontage on SW Pendleton Street and SW 48th Avenue may be served by the existing sanitary sewer mains in those streets. The applicant proposes to serve Lots 4 and 5 from SW 48th Avenue via an easement over Tract A from SW 48th Avenue. BES has indicated this route of service is acceptable. The easement must be shown on the final plat. In order to provide individual service connections for Lots 6-8, the applicant must extend the public sewer in the newly created right-of-way that will connect the two segments of SW Pendleton Street. The public works permit for the sewer extension has been initiated and BES has provided a conceptual approval of Concept Development plans (i.e. 30 percent design) thereby demonstrating that the proposed design is feasible. However, BES staff noted issues with the site utility plan provided and requests a plan be provided that shows feasible locations of storm and sanitary connections for each lot that does not conflict with proposed public stormwater facilities, street trees, and/or other utilities. BES has determined that it is possible for storm and sanitary connections to be relocated to meet BES requirements; therefore, this requirement can be met prior to final plat approval.

Prior to final plat approval, the applicant must meet BES requirements to provide an easement on the plat benefiting Lots 4 and 5, the updated site utility plan described above, and approved public works plans, a financial guarantee, receipt of all outstanding fees, and a signed permit document for the required sewer extension. With these conditions, the sanitary sewer service standards of PCC 33.652 have been verified.

PCC 33.653.020 & .030 Stormwater Management criteria and standards – See Exhibit E.1.

PCC 33.653.020, Stormwater management must meet the following approval criteria:

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

PCC 33.653.030, Stormwater management facilities must meet the following standards.

- A. The Bureau of Environmental Services has preliminarily approved the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The approval is based on the Sewer Design Manual and the Stormwater Management Manual;
- B. The Bureau of Development Services has preliminarily approved the capacity, type, location, feasibility, and land area required of any proposed private on-site stormwater disposal facilities; and
- C. Ownership and maintenance. *(omitted - not applicable)*

Findings: A stormwater tract is not proposed or required; therefore, criterion PCC 33.653.020.A does not apply.

The applicant has proposed the following stormwater management methods, shown on the site utility plan (Exhibit C.10) and in the applicant's stormwater report (Exhibit A.4.d)

Public Street Improvements: Stormwater from the street improvements, including improvements on the existing frontages and the new public street extension will be directed into flow-through planters located in the public right-of-way that detain the water, remove pollutants and suspended solids, and discharge into the public storm sewer network. Stormwater from the street improvements along the existing frontage on SW Pendleton Street will be directed to the existing storm sewer in SW Pendleton Street that conveys water to the west. A new storm sewer will be required in the new public street, which also connects to the existing storm sewer in SW Pendleton Street and travels to the west. Stormwater from the street improvements in SW 48th Avenue are proposed to be directed to the culvert at the stream crossing in SW 48th Avenue. The culvert will be increased in size to address capacity issues. The applicant has initiated the public works permit for the public stormwater improvements and BES has provided conceptual approval of their Concept Development plans (i.e. 30 percent design), thereby demonstrating that the proposed design is feasible and has capacity for the expected amount of stormwater generated by the proposed development. To ensure the public improvements are completed, the applicant must meet BES requirements for public works permit completion prior to final plat approval.

Lots: Stormwater from the individual lots is proposed to be managed by flow through planters on each lot that is discharged to new/existing storm sewers (described above), with the exception of Lots 4 and 5 that are proposed to have individual outfalls within Tract A (outside of the Environmental overlay zone) for disposal to the wetland area. An easement over Tract A is proposed for the stormwater outfalls. The applicant's utility plan shows the location and size of the proposed planters along with conceptual building footprints to demonstrate that there is adequate room on the lot to meet stormwater requirements. BES, which reviews on-site stormwater on the behalf of BDS, has indicated that the treated water can be directed to the existing and proposed storm sewers and to the on-site wetland as proposed. However, BES staff noted issues with the site utility plan provided and requests a plan be provided that shows feasible locations of storm and sanitary connections for each lot that does not conflict with proposed public stormwater facilities, street trees, and/or other utilities. BES has determined that it is feasible for storm and sanitary connections to be relocated to meet BES requirements; therefore, this requirement can be met prior to final plat approval.

As described above, the applicant has demonstrated that the proposed stormwater system is adequate for the expected amount of stormwater from the proposed development. BES has preliminarily approved the capacity, type, location, feasibility and land area required for the stormwater proposal, including the connection to off-site facilities. With the conditions described above, these standards and criteria are met.

PCC 33.654.110.B.1 Through streets and pedestrian connections

PCC 33.654.130.B Extension of existing public dead-end streets and pedestrian connections

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Through streets and pedestrian connections should generally be at least 200 feet apart. Existing public dead-end streets and pedestrian connections adjacent to the site must be extended onto the site as needed to serve the site.

The block on which the subject property is located does not meet the noted spacing requirements. This condition is not atypical of the broader southwest Portland area of the city due to topographic, geologic, and environmental sensitivities (zoning) found throughout the area. In this case, there are two nearby large land uses (Hayhurst Elementary and Pendleton Park) that also have historically prevented the realization of the above referenced spacing goals. The site is located within the Southwest District Master Street Plan, Map 11.11.6, which indicates a connection to continue from the portion of SW Pendleton Street that currently dead ends at the east side of the site. A specific alignment is not indicated.

The project site is at the juncture of two existing legs of SW Pendleton Street, one which abuts and aligns with the site's northern boundary and the other that intersects at approximately the mid-point along the site's eastern boundary. Accordingly, the proposed subdivision offers an excellent and plausible opportunity to improve upon the lack of connectivity for motorists, bicyclists and pedestrians alike. The connection of the two existing dead-end streets with a new north-south public street (including sidewalks), as well as the requirements to improve the existing SW Pendleton street segments and the site's SW 48th Avenue frontage to City standards, will facilitate passage of all modes of travel in the area. Further, an improvement to emergency vehicle access may also result in relation to the street connection and improvements. The construction of a through connection and street improvements will allow for a greater variety of vehicle trip distribution throughout the neighborhood (and thereby relieve some roadways of current vehicle trip patterns), provide for additional bicycling routes, and allow for pedestrians to walk throughout the area in a more direct manner.

Neighbors noted that the Transportation Planning Rule allows variation from the 530-foot street connection standard when topography prevents such connections. Exhibit H-43. However, topography will not prevent this connection; the applicant's grading and engineering plans demonstrate the feasibility of constructing the proposed connection. See Exhibit H-54. Construction of the proposed street connection will require extensive grading due to the topography in the area. However, grading will not impact the environmental zone on the site. Any street connection in this area, where the City's Master Street Plan calls for a connection, is likely to require similar grading.

Neighbors argued that this street connection ignores "[a] City of Portland decree that 48th Avenue would remain closed to through traffic." Exhibit H-52. However, neighbors failed to cite to such a decree or provide any other support for this statement.

Other street connections were considered and determined not to be desirable, including an east-west connection to SW 48th Avenue due to Environmental overlay zone impacts and a

connection to the south because of the limited development potential of the adjacent site. With the required north-south street connection and improvements to all abutting streets, the spacing goals for public through streets and public pedestrian connections will be furthered and the requirement to extend existing public dead-end streets is being met. These criteria are met.

PCC 33.654.120.B and C Width & elements of the right-of-way – See Exhibit E.2 for bureau comment.

At this location, SW Pendleton Street and SW 48th Avenue are classified as Local Service streets for all transportation modes in the City's Transportation System Plan. The new public street connection will also be a local service street, therefore the approval criteria and standards of PCC 33.654.120.C apply.

SW Pendleton Street abutting the site's northern property line is improved with a 20-foot wide paved roadway and a curb only (no sidewalk or planting strip) within an approximately 24-foot wide right-of-way. Southwest Pendleton Street east of the subject site is improved with a 30-foot wide paved roadway and curbs (no sidewalks or planting strip) within a 50-foot wide right-of-way. The street terminates with a guardrail abutting the site's eastern property line. Southwest 48th Avenue abutting the site is comprised of a gravel base but is an otherwise unimproved 40-foot wide right-of-way.

For Local Service classified streets abutting R7-zoned lots, the City's public right-of-way standards require a 54-foot right-of-way width to accommodate a 26-foot wide roadway (which would allow parking along both sides) and two 14-foot wide sidewalk corridors (0.5-foot curb, 8-foot wide stormwater management facility, 5-foot wide sidewalk, and 0.5-foot frontage zone). For existing streets, improvement and dedication are required on the site frontage only. Any remaining dedication and improvements to achieve full build-out of the street would be made with new development on the other side of the street. This is the case on the existing frontages on SW Pendleton Street and SW 48th Avenue.

The applicant has submitted land use review plans showing public street improvements along all of the existing street frontages and for extension of the new public street through the site (Exhibits C.5 and C.6). In addition, the applicant has initiated the public works permit process for the required improvements. These plans include a paved roadway, curb, planting strip/stormwater facility, and sidewalk on all existing street frontages and on both sides of the new public street, which meet the public street standards for the site with minor modifications to address site specific conditions (see Exhibit E.2 for a detailed description of the street improvements). It should be noted that the applicant made a request through the Public Works Alternative Review process and was approved to construct a curb-tight sidewalk for a portion of the SW 48th Avenue frontage to reduce impacts to the Environmental Conservation overlay zone. However, through the review process it was determined that a separated sidewalk was needed due to the necessary location of the stormwater facility for that street.

In order to accommodate the street improvements, street dedications are required including seven feet on SW 48th Avenue, 17 feet on SW Pendleton Street (north of the site), and 49 to

54 feet for the new public street. The right-of-way width of the new public street is narrower where it connects to the eastern segment of SW Pendleton Street, which has a 50-foot right-of-way.

With the dedications noted, the width of the streets serving the development will be sufficient to accommodate the expected users, which includes future residents of the development and their visitors, nearby residents traveling through the area, and other common service providers within residential neighborhoods (deliveries, trash pick-up, and emergency vehicles). PBOT has provided conceptual approval of the proposed elements within the right-of-way and any outstanding details will be addressed during the public works permit review.

The applicant must provide plans and financial assurances for the construction of the street improvements prior to final plat approval. In addition, the right-of-way dedication necessary to accommodate the improvements must be shown on the final plat. With these conditions, this criterion is met.

PCC 33.654.120.H Standard for Street Trees – See Exhibit E.6 for bureau comments.

The applicant submitted information showing existing street trees within adjacent rights-of-way to be retained and removed and a street tree planting proposal for the improved streets (Exhibits C.11 and C.12). Urban Forestry staff reviewed the proposal and indicated that trees within the right-of-way may be removed as indicated to allow for required street improvements. Mitigation through either planting or a payment in lieu of planting will be obtained as part of the public works permit for the street improvements. A neighbor expressed concerns about removal of an existing 42-inch diameter Western Red cedar (tree #20201) in the existing SW Pendleton Street right-of-way east of the site. As discussed above, the applicant is required to work with Urban Forestry staff and Public Works Project Managers to determine if it is possible to retain that tree. That determination will be made during the next phase of the public works permit.

Street tree planting within the new planting strips will be required to the extent feasible as part of the public works permit. Generally, one street tree is required for every 25 feet of frontage per Title 11 planting standards. The applicant's proposal does not meet this requirement on the new public street or on SW Pendleton Street (north of the site) due to stormwater facilities and driveways. Forestry has reviewed these plans through the public works permit process and has raised no objections. It is anticipated that a payment into the tree fund will be required as part of the public works permit. In addition, Forestry has indicated that prior to the land division there would be 12 street trees required along the site's frontage on SW 48th Avenue. After the land division, there will be 11 trees required based on the separate frontages of Lot 1 and Tract A. Therefore, a fee in lieu of planting is required for the permanent loss of a planting space which must be paid prior to final plat approval. With this condition, the standard for street trees is met.

PCC 33.654.130.A - Utilities (defined as telephone, cable, natural gas, electric, etc.)

The preliminary plat shows a 6-foot wide public utility easement along all frontages of the lots adjacent to the right-of-way, with the exception of the Lot 1 frontage on SW 48th Avenue. No easement is shown on the frontage of Tract A on SW 48th Avenue, which would conflict with the Environmental overlay zone. The proposed easements should be sufficient to provide space for private utilities that cannot be accommodated within the adjacent rights-of-way. No conflicts have been identified between the utility easement and trees to be preserved. This criterion is met.

APPROVAL CRITERIA FOR ENVIRONMENTAL REVIEW OF LAND DIVISIONS

PCC 33.430.250 Approval Criteria for Environmental Review

An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

Findings: A portion of the right-of-way dedication along SW 48th Avenue will occur within the resource area of the Environmental Conservation overlay zone and within the delineated wetland area; the proposed SW 48th Avenue sidewalk improvements and LIDA stormwater facility will be constructed within the delineated wetland and within the resource area of the environmental zone; and the replacement culvert will extend into the resource area beyond the SW 48th Avenue right-of-way and within 50 feet of the wetland. Therefore, the right-of-way dedication, the sidewalk improvements (and planter strip), and the replacement culvert must be approved through Environmental Review.

The approval criteria applicable to the proposed land division include those found Section 33.430.250.A. The applicant has provided findings for these approval criteria and BDS Land Use Services staff has appended these findings or added conditions where necessary to meet the approval criteria.

The Fanno Creek Plan is not an approval criterion for this development and the code does not require preservation of upland forest habitat on this site. Clearing and development on this site will eliminate habitat for wildlife in the upland areas of the site. The Code does not prohibit such an effect. On the contrary, it is an inevitable consequence of concentrating new development in the urban area. None of the animals observed on this site is listed as endangered or threatened. They are commonly observed in the urban area. Vegetation retained and enhanced within Tract A will retain some wildlife habitat on the site and provide connections to other habitat areas in the area.

A.1. General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments;

A1.a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and

significantly different alternatives including alternatives outside the resource area of the environmental zone;

Findings: This criterion requires the applicant to demonstrate that alternatives to proposed impacts to the resource area were considered during the design process and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values. In order to meet this approval criterion, the applicant must consider alternative locations, designs, and construction methods for those elements of the proposal that do not meet the environmental development standards: the 7-foot-wide SW 48th Avenue right-of-way dedication within the Environmental overlay zone, a portion of the 8-foot by 67-foot LIDA stormwater facility, the proposed 170-foot by 5-foot sidewalk and planter strip proposed within the Environmental zone, and the extension of the new, 36-inch diameter culvert beneath SW 48th Avenue a total of 12 feet into the resource area (seven feet within right-of-way proposed to be dedicated, and five feet within proposed Tract A). The applicant is not required to consider alternatives for those portions of the development that will not impact the environmental resource area (upland grading, street connection and alignment, development density, etc.). In addition, the applicant is only required to consider alternatives that will reduce impacts to the resource area of the environmental zone on the site.

The applicant provided an alternatives analysis that can be found in the application case file in Appendix G, Environmental Review Report (Exhibit A.3.e). The alternatives analysis is presented on pages 15 through 18 of that report.

The existing 48th Avenue right-of-way is located adjacent to the site and partially within the environmental zone. The temporary and permanent impacts to the area related to installation of sidewalks and a new culvert are proposed as part of meeting stormwater management needs and required right-of-way dedication and improvements to offset transportation impacts.

The applicant assessed five alternative layouts for the proposed Everett Heights development project. Alternative 1 consists of an 11-lot subdivision, with lot sizes averaging 7,453 square feet and no through street connecting the two segments of SW Pendleton Street. Street and sidewalk improvements are included along SW 48th Avenue and cover approximately 1,400 square feet of the environmental zone. This alternative includes lots entirely within the environmental resource areas and would result in complete removal of the existing wetland.

Alternatives 2 and 3 depict most of the lots outside of the environmental zone altogether with the exception of a 334 square-foot portion of Lot 5 in the transition area. The average lot size for these alternatives is 4,335 square feet and 4,894 square feet, respectively. Street and sidewalk improvements are included along SW 48th Avenue, but these alternative plans do not depict right-of-way dedication or street improvements within the wetland area or within the environmental zone. The improvements are necked down in both of these alternatives to avoid construction within the environmental zone.

Alternative 4 includes an additional 191 square feet of encroachment into the environmental transition area by Lot 5, and the same amount of encroachment for the SW 48th Avenue street improvements as Alternatives 2 and 3--these alternatives are not significantly different.

Alternative 5 is the preferred alternative. This alternative is similar to Alternatives 3 and 4, except that all of the private lots are entirely outside of the Environmental overlay zone. The applicant's alternatives analysis depicts this layout with no permanent development within the resource area of the environmental zone or wetland area associated with SW 48th Avenue improvements. Current plans proposed by the applicant, however (Exhibits C.11, C.15, and C.16), depict a 7-foot-wide by 170-foot-long right-of-way dedication through the transition area and resource area of the Environmental overlay zone, and through the delineated wetland, to accommodate standard sidewalk improvements and a planter strip throughout this area, with the LIDA stormwater facility partially within the wetland and resource area.

The applicant's alternative analysis does not address this revision to the original proposal. However, in a February 15, 2017 e-mail exchange, the applicant explained the following.

At the September 23, 2016 Public Works Concept review meeting, the applicant reviewed the 48th Avenue design with City staff. The initial design had a curb-tight sidewalk and pushed the LIDA facilities outside the environmental zone. This discussion centered around the complex design considerations for 48th Avenue, including stormwater treatment requirements (and the required elevation of stormwater facilities), vertical alignment of curb line, transition of grade to existing roadway surface and properties/driveways to the west, drainage concerns from neighbors, pedestrian connectivity to school, pipe cover requirements for replacing the existing culvert under 48th Avenue, and waterline relocation. While discussing all these parameters, it was decided that moving back to a standard sidewalk section, and pushing the LIDA facilities closer to the low point of the street (within the wetland/resource area) would be necessary.

It was determined to be not "practicable" to align the sidewalk curb-tight along the resource area, as originally proposed, and the City's Public Works' review resulted in the LIDA facility being moved into the resource area, and into the wetland area, between the street and sidewalk. This, subsequently, placed the sidewalk further into the resource area, along its entire alignment, as currently proposed. Although the proposed work would eliminate most of the existing vegetation on the upland portion of the project site, much of the existing vegetation is non-native and listed as nuisance species on the Portland Plant List. Nearly all of the existing native vegetation will remain within the environmental zoned portion of the site, and will continue to provide many of the existing functional values provided by the site. The majority of the environmental zone, including the unnamed tributary to Pendleton Creek and associated forested wetland, will be preserved in proposed Tract A. Following completion of the development, the mitigation area and all remaining environmental zoned areas on the site will be incorporated into an Environmental Resource Tract A that will be owned by a homeowner's association. The homeowner's association will be responsible for on-going maintenance of the open space tract. The City can ensure compliance with maintenance requirements through its Code Enforcement process.

Given the significant limitations placed on the location, design, and potential construction techniques for these street, stormwater, and sidewalk improvements, there are no practicable alternatives to the proposal currently set forward by the applicant.

This criterion is met.

A.1.b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;

Findings: This approval criterion requires the protection of resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation beyond the approved limits of disturbance, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion off the site. The applicant provided a detailed description of the proposed stormwater management plan and the construction management plan in the application case file (Exhibits A.3.e, and A.4.d), in addition to a graphic construction management site plan (Exhibit C.16).

The stormwater plan submitted with this application proposes to collect storm runoff and treat it within flow-through planters on the individual lots (Exhibit C.10), with two of the planters using outfalls onto the slopes uphill of the wetland. Because the outfalls will be located within Tract A, but outside of the environmental zone, the prohibition of more than one outfall in PCC 33.430.180.H is inapplicable. Stormwater from SW 48th Avenue is proposed to be collected in the LIDA facility (roughly 540 square feet in area) along the east edge of the street.

Construction management techniques have been proposed by the applicant, as described below, to minimize impacts to identified resources and functional values designated to be left undisturbed.

Construction access to the project site will be from SW Pendleton Street (north) at the new street intersection near the existing residence. Construction traffic will be utilizing SW 48th Avenue north of the site for this access. Stockpiles and storage areas for construction will be located along the northern property line near the access.

Frontage improvements for SW 48th Avenue will require some grading activity and disturbance within the environmental zone. These improvements will include new curb, sidewalk, and pavement over the existing gravel surface as well as culvert improvements, construction of the new LIDA stormwater facility, and standard planter strip to the south of the facility. Temporary disturbance areas along SW 48th Avenue are depicted to allow the contractor room for constructing these improvements. No other site construction activities are planned near the environmental zone aside from mitigation plantings. The applicant's construction management plan includes:

- Construction access limited to the north end of the site near the existing residence, with construction traffic using SW 48th Avenue north of SW Pendleton Street rather than the narrow southern portion that passes through the environmental zone.
- Erosion and sediment control measures including barriers placed downhill of embankment slopes.

- Inlet protection for existing and proposed inlets.
- Secondary sediment barriers along long, steep slopes after initial grading activities.
- Seeding temporary disturbance areas following construction.
- Concrete truck washout area.

All of the environmental zone on the site, outside of the final alignment of the SW 48th Avenue right-of-way, will be protected in proposed Tract A. Following completion of the development, the mitigation area and all remaining environmental zone on the site will be incorporated into an Environmental Resource Tract A that will be owned by a homeowner's association, cleared of invasive vegetation, planted with native vegetation, and protected in a natural state. Concerns were expressed that the proposed mitigation plantings will impact the wetland. Exhibit H-43. The proposed mitigation plantings are intended to replicate the natural condition in this area to the extent feasible, with wetland areas planted with native wetland species and upland areas planted with upland species. The tree mitigation plantings on the site will be in the upland area of Tract A, outside the wetland.

The proposed 36-inch replacement culvert under SW 48th Avenue will not dewater the wetland. As discussed in Attachment 2 of Exhibit H-61, the conceptual stormwater report states that a grade control structure should be constructed upstream of the culvert to prevent upstream erosion. The grade control structure will maintain the drainageway at its existing grade and prevent potential dewatering of the wetland.

Concerns were expressed that the proposed development will alter the wetland hydrology on this site. As discussed in Exhibit H-49, there are three potential existing hydrology sources for the wetland on this site: runoff from the section of SW Pendleton Street east of the site, backwater from the undersized culvert beneath 48th Avenue, and seepage from shallow perched groundwater. The proposed development will eliminate runoff from SW Pendleton Street and backwater from the culvert. Groundwater will continue to flow to the wetland because the topography after grading on the site will not alter the elevation of the wetland in relation to the groundwater table. Groundwater from the entire uphill catchment area will continue to feed into the wetland. In addition, stormwater runoff from proposed Lots 4 and 5 will flow to the wetland from the uphill outfalls and perched groundwater that may be collected by the retaining wall and fill drains, if any, will also be discharged to the wetland. Staff considered options to maintain additional sources of hydrology, such as directing stormwater from the street improvements to the wetland. However, staff determined that the alternatives are not practicable due to the unknown capacity of the wetland to retain and absorb this volume of water and potential downstream capacity constraints.

In addition, the applicant provided a preliminary Tree Plan (Exhibit C.11), and an associated arborists report, which highlights the conditions of existing trees and whether or not they will be removed. The Tree Plan shows a tree protection fence meeting the requirements of Title 11 along the east edge of construction disturbance for the SW 48th Avenue sidewalk improvements. In general, this fencing will provide adequate protection for the native trees to remain in the environmental zone. However, there are three Oregon ash trees (12 inches, 18 inches, and 24 inches in diameter) located along SW 48th Avenue and in the southwest corner of the site which are within six feet to 12 feet of the tree fence.

This does not meet the tree protection requirements of Title 11. Therefore, a supplemental tree protection plan will be required for Trees 20005, 20068, and 20069.

Therefore, with conditions for a supplemental tree protection plan, this criterion can be met by the proposal.

A.1.c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;

Findings: This criterion requires the applicant to assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace lost resource functions and values. The proposed mitigation plan is described in the applicant's Environmental Report (Exhibit A.3.e).

The applicant described the impacts to the resource in Exhibit A.3.e, and in subsequent e-mail messages, as follows:

The impacts in the environmental zone will result from the proposed right-of-way improvements along SW 48th Avenue, including the expansion of right-of-way, replacement of the existing culvert, construction of a LIDA planter for stormwater treatment, and construction of sidewalks, and include both temporary and permanent impacts. Temporary impacts would occur during construction and would include disturbances related to vehicle and equipment access required to construct the proposed improvements. A total 1,300 square feet (0.03 acre) of proposed temporary environmental zone impacts will result. Permanent impacts would include vegetation removal, grading, and replacement of natural areas with various structures (e.g., roadway, LIDA stormwater planter, sidewalk, culvert). Proposed permanent impacts total 3,093 square feet (0.071 acre) in the environmental zone. On January 30, 2017, the applicant indicated an additional 190 square feet of disturbance area for the SW 48th Avenue culvert replacement. Lastly, four trees are proposed to be removed from the environmental zone on the site.

Proposed mitigation for unavoidable temporary and permanent project impacts to the on-site Environmental transition and resource zones associated with the required improvement of SW 48th Avenue is depicted in Exhibits 5 and 6. As indicated, mitigation actions will include a combination of temporary impact restoration, tree replacement, native vegetation plantings, and the removal of non-native, invasive woody vegetation from the environmental transition zone. In addition, downed trees and woody debris will be placed in the environmental zone for additional habitat. The mitigation plan will also include any additional mitigation measures required under the future US Army Corps of Engineers and Oregon DSL permits for the culvert replacement work in the jurisdictional wetland.

Proposed mitigation activities will provide enhanced wildlife habitat value for urban wildlife in both the developed and undeveloped portions of the project site by providing additional food sources, increased native cover, improved foraging areas, and additional nesting and denning sites for a variety of wildlife. In addition, mitigation actions will enhance and increase other natural resource functions

and values on the site including water quality improvement, erosion control, streambank stabilization, pollution control, and aesthetics.

The applicant proposes to replace the four trees to be removed from the environmental zones by planting 24 native trees within that area; which well exceeds the 17 replacement trees that are required by standard. In addition, over 450 native shrubs will be planted around the perimeter of the mitigation area in order to both offset temporary and permanent construction impacts and to provide a dense planted buffer between the resource area to be protected and developed areas both in the subdivision and along SW 48th Avenue. Further, the applicant proposes to remove all non-native trees and shrubs from the environmental zones on the site. The removal of invasive species will be conducted using hand held equipment and dead standing trees will be left as wildlife snags when possible given safety considerations. Mitigation is proposed to be conducted prior to, or concurrent with, the construction of the project.

Removal of trees from the environmental zone will result in a loss of organic input, a loss of some wildlife habitat functions, and of forest structure. To offset these impacts, the applicant proposes to retain all sections of tree trunks on the site in order to replace some of these lost functions.

The proposed Mitigation Plan will be installed and maintained under the regulations outlined in Section 33.248.040.A-D (Landscaping and Screening). A two-year monitoring plan is described in the applicant's narrative and will ensure survival of all proposed mitigation plantings. To confirm maintenance of the required plantings for the initial establishment period, the applicant will be required to have the plantings inspected two years after plantings are installed.

With conditions to ensure that all cut trees with trunks greater than 12 inches in diameter are retained on site, and that plantings required for this Environmental Review are maintained and inspected, *this criterion can be met.*

A.1.d. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and

A.1.e. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

Findings: Mitigation for significant detrimental impacts will be conducted on the same site as the proposed use or development, and the applicant owns the proposed on-site mitigation area.
These criteria are met.

A.3. Rights-of-way, driveways, walkways, outfalls, and utilities;

A.3.a. The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;

Findings: There are no Environmental Protection overlay zones mapped on the project site or on adjacent properties. As such, the requirements of this subsection of the approval criteria are not applicable to the project.

A.3.b. There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and

Findings: Due to its relatively small size and the fact that downstream portions are piped, it is unlikely that the onsite tributary to Pendleton Creek supports migration, rearing, or spawning of fish. Although this tributary may contribute food sources (e.g., macroinvertebrates) to downstream waterbodies that do support fish, this function would not be adversely impacted by the proposed project. The on-site portion of the tributary, its associated riparian area, and the adjacent forested wetland will remain on the project site and will not be disturbed by the proposed development, ensuring that the conditions that provide this function remain intact. Although the improvement work along SW 48th Avenue will require replacement of the existing culvert, all instream work will be performed during the dry season when there is minimal to no water present in the drainage. As such, no significant detrimental impacts to downstream fish use in Pendleton Creek or other streams would be expected to occur. *This criterion is also met.*

A.3.c. Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.

Findings: The proposed project does not include any new water body crossings; however, it would include the replacement and extension of the existing culvert under SW 48th Avenue in order to bring it up to current design standards for stormwater capacity and conveyance. Due to the existing location of SW 48th Avenue, City requirements for standard street improvements, and its proximity to the environmental zone in this area, there are no practicable alternatives with fewer significant detrimental impacts and *this criterion is met.*

DEVELOPMENT STANDARDS

Development standards that are not relevant to the land division review have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The applicant is proposing to remove all of the existing structures on the site so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 zone. Therefore, this land division proposal can meet the requirements of PCC 33.700.015.

Environmental standards that apply to the land division. In this case, there are several Zoning Code standards that apply to the proposed land division. The standards of Section 33.430.160 Standards for Land Divisions and Planned Developments apply to the proposal. Conditions have been included for requirements that apply at the time of final plat and at the time of development.

- Resource areas outside designated disturbance areas must be placed entirely within environmental resource tracts. The tracts must be owned in common by all of the owners of the land division site, by a homeowners' association, by a public agency, or by a non-profit organization (PCC 33.430.160.E).—*This is proposed by the applicant.*
- All vegetation planted in a resource area is native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited (PCC 33.430.140.M).
- The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero (PCC 33.430.140.N). —*Does not apply as all lots are entirely outside the environmental zone.*
- Maximum front or street setbacks are as follows:
 1. The front building or street setback of the base zone is the maximum building setback for primary structures.
 2. On a lot with more than one street lot line the maximum setback standard applies to the street lot line that is farthest from the resource area.
 3. In zones with no minimum front or street setback, the maximum setback is 10 feet (PCC 33.430.140.O).—*Does not apply as all lots are entirely outside the environmental zone.*
- Fences are allowed only within the disturbance area (lots) (PCC 33.430.140.P).
- Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas (PCC 33.430.140.R).

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority and Topic
Development Services/503-823-7300 www.portlandonline.com/bds	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740 www.portlandonline.com/bes	Title 17 – Sewer Improvements 2008 Stormwater Management Manual
Fire Bureau/503-823-3700 www.portlandonline.com/fire	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 www.portlandonline.com/transportation	Title 17 – Public Right-of-Way Improvements Transportation System Plan

Bureau	Code Authority and Topic
Urban Forestry (Parks)/503-823-4489 www.portlandonline.com/parks	Title 11 –Trees
Water Bureau/503-823-7404 www.portlandonline.com/water	Title 21 – Water availability

As authorized in Section 33.800.070 of the Zoning Code, conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regards to installing new hydrants to meet spacing standards and ensuring adequate hydrant flow from new and existing hydrants serving the proposed development (also see discussion under Water Service, PCC 33.651); aerial fire access; and addressing. These requirements are based on the technical standards of Title 31 and Fire Bureau Policy B-1 (see Exhibit E.4)

III. CONCLUSIONS

The applicant requests approval of a land division and environmental review for an 11-lot subdivision for single-dwelling development, an environmental resource tract, and new public street extension. The primary land division issues identified by staff include tree removal outside of the environmental zone, the extent of site grading, and potential stormwater impacts. The applicant proposes mitigation for removal in the form of tree planting and a payment into the tree fund to replace the function of trees on the site. A detailed description of the site constraints and development goals that resulted in the grading plan was provided to support the grading proposal. Additionally, BES has accepted the applicant's stormwater proposal.

The proposal includes the dedication of right-of-way along the existing segment of SW 48th Avenue on the west side of the project site, and in the environmental zone, with partial street improvements (e.g., road widening, curb and sidewalk installation), stormwater facility construction, and culvert replacement to occur in that new right-of-way. The applicant has minimized these construction impacts and mitigated substantially for them, within the environmental zone. The applicant further proposes ongoing protection of the undeveloped environmental zone in 25,430 square foot Tract A, to be owned in common by a homeowner's association.

With conditions of approval, this proposal can be approved.

IV. DECISION

Approval of a Preliminary Plan for an 11-lot subdivision, that will result in 11 standard lots, an environmental resource tract, and a new public street; and

Approval of an Environmental Review for proposed right-of-way dedication and construction of street improvements on SW 48th Avenue, associated LIDA stormwater facility, sidewalk improvements, and new culvert construction in the Environmental Conservation overlay zone;

As illustrated with Exhibits C.3-C.16, subject to the following conditions:

A. The final plat must show the following:

1. The applicant shall meet the street dedication requirements of the City Engineer for SW 48th Avenue, SW Pendleton Street, and the new public street connection. The required right-of-way dedication must be shown on the final plat.
2. The environmental resource tract shall be noted on the plat as "Tract A: Open Space (Environmental Resource and Drainage Reserve)." A note must also be provided on the plat indicating that the tract will be commonly owned and maintained by the owners of Lots 1 through 11, or be consistent with the ownership requirements of PCC 33.430.160.E.
3. A private sanitary sewer easement, for the benefit of Lots 4 and 5, shall be shown and labeled over the relevant portions of Tract A.
4. A private storm sewer easement, for the benefit of Lots 4 and 5, shall be shown and labeled over the relevant portions of Tract A.
5. A private access easement for maintenance of the proposed retaining wall shall be shown and labeled over the relevant portions of Lots 6, 7, and 8 and Tract A. The dimensions of the easement must be established from the retaining wall design as shown on the approved permit drawings.
6. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Conditions B.9 – B.12 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A (name of document) has been recorded as document no. _____, Multnomah County Deed Records."

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

Streets and Site Preparation

1. The applicant shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontages and the new public street connection. The applicant shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation and the Bureau of Environmental Services for required street frontage improvements. In addition, the applicant shall work with Urban Forestry staff and Public Works Project Managers to determine if it is possible to retain the existing 42-inch diameter Western Red cedar (Tree #20201) located in the SW Pendleton Street right-of-way and revise the plans accordingly.
2. The applicant shall submit a Site Development Permit for mass grading of the site and construction of the retaining wall that crosses Lots 6, 7, and 8 and Tract A. The permit plans must substantially

conform to the preliminary grading plan (Exhibit C.8), tree preservation plan (Exhibit C.11), and construction management plan (Exhibit C.16), with the following additions:

- It must show root protection zones of the trees to be preserved on the Tree Plan (Exhibit C.11);
 - The applicant shall provide a Supplemental Tree Plan demonstrating how Trees #20005, 20068, and 20069 will specifically be protected according to the requirements of Title 11 during construction of road, planter, and sidewalk improvements in SW 48th Avenue;
 - It must include mitigation plantings indicated on Exhibit C.12 and as required in Condition D.2.
3. A supplemental plan using the final plat survey as a base map shall be provided for review and approval by the Bureau of Development Services Land Use Services and Site Development review and approval showing the location of the retaining wall spanning Tract A and Lots 6, 7, and 8 and the maintenance access easement. The location of the retaining wall on this supplemental plan shall match that shown on plans for the Site Development Permit required in Condition B.2.

Utilities

4. The applicant shall meet the requirements of the Bureau of Environmental Services for extending public sanitary and storm sewer mains in the new public road. The public sewer extensions require a Public Works Permit, which must be at a stage acceptable to the Bureau of Environmental Services prior to final plat approval. As part of the Public Works Permit, the applicant must provide engineered designs and performance guarantees for the sewer extensions to the Bureau of Environmental Services prior to final plat approval.
5. The applicant must submit a revised site utility plan for review and approval by the Bureau of Environmental Services that shows feasible locations of storm and sanitary connections for each lot that do not conflict with proposed public stormwater facilities, street trees, and/or other utilities.
6. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for water system improvements to serve the proposed development. These plans must include fire hydrants to meet Fire Bureau requirements as indicated in Condition B.7.
7. The applicant shall meet the requirements of the Fire Bureau for installing new fire hydrants as part of the water system improvements and documenting that new and existing hydrants serving the development meet fire flow requirements. Documentation must be provided to the Fire Bureau prior to final plat approval.

Existing Development

8. Finalized permits must be obtained for demolition of the existing residence and all accessory structures on the site, capping the existing sanitary sewer connection, and decommissioning the old septic system. Note that Title 24 requires a 35-day demolition delay period for most residential structures. All demolition work must be in conformance with the Tree Preservation Plan (Exhibit C.11) and the applicant's arborist report (Exhibit A.5.b).

Required Legal Documents

9. A Maintenance Agreement shall be executed for Tract A, the Environmental Resource tract described in Condition A.2 above. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval. The agreement must also include:
 - a. assign common, undivided ownership of the tract to the owners of all lots, a homeowner's association, or meet the requirements of PCC 33.430.160.E;
 - b. include provisions for assigning maintenance responsibilities for the tract;
 - c. provisions assigning maintenance responsibilities for mitigation plantings located within the tract;
 - d. include a description of allowed/prohibited activities consistent with Chapter 33.430;
 - e. acknowledge easements within the tract and related facilities; and
 - f. include conditions of this land use approval that apply to the tract.
10. A Maintenance Agreement shall be executed for the Private Sanitary and Storm Sewer Easements described in Conditions A.3 and A.4 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and the proposed facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
11. A Maintenance Agreement shall be executed for the shared retaining wall on Tract A, Lot 6, Lot 7, and Lot 8 to be located within a Private Access Easement, as described in Condition A.5. The agreement shall include provisions assigning maintenance responsibilities for the easement area, the retaining wall, and any other facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
12. The applicant shall execute an Acknowledgement of Tree Preservation Land Use Conditions that notes tree preservation requirements that apply to Lot 8 and Tract A. A copy of the approved Tree Preservation Plan must be included as an Exhibit to the Acknowledgement. The acknowledgment shall be referenced on, and recorded with, the final plat.

Other requirements

13. The applicant must pay into the City Tree Preservation and Planting Fund the amount equivalent to 55.5 inches of trees. Payment must be made to the Bureau of Development Services, who administers the fund for the Parks Bureau.
14. The applicant must meet the Urban Forestry requirement to pay a fee in lieu of planting one street tree (1.5 inch equivalent) for the permanent loss of planting space on the site's SW 48th Avenue frontage.

C. The following is required as part of the Site Development permit for grading:

1. Tree protection fencing shall be provided according to Title 11 Tree Code, Chapter 11.60, Tree Protection Measures, except as otherwise specified below. Title 11 tree protection fencing shall be placed as shown on Exhibit C.11 Preliminary Tree Plan, as recommended in the applicant's Supplemental Tree Plan required in Condition B.2 above, or as required by inspection staff during the plan review and/or inspection stages.
 - a. All construction plans, grading plans, and any other plans depicting construction fencing and/or tree protection fencing shall be updated to match Exhibit C.11. Plans shall include erosion control fencing between the tree protection fence and construction areas. Erosion control fencing shall be located one foot from the tree protection fencing. All such plans shall also depict erosion control fencing and tree protection fencing around the SW 48th Avenue culvert replacement in conformance with that area shown on Exhibit C.16.
 - b. Nuisance species trees shown as being retained on the site outside of the Environmental Overlay zone are optional and may be removed.
 - c. No mechanized construction vehicles are permitted beyond the approved "Limits of Construction Disturbance" delineated by the construction fence. All planting work, invasive vegetation removal, and other work to be done beyond the Limits of Construction Disturbance shall be conducted using hand held equipment.
2. Mitigation Plantings shall be planted in Tract A, in substantial conformance (location and species) with Exhibit C.12, Preliminary Planting Plan, as follows:
 - a. At the time of permit review for grading at the site, the approved Planting Plan shall be submitted to the Bureau of Development Services, in substantial conformance with Exhibit C.12.
 - b. A total of 24 trees, 456 shrubs, 1,682 ground covers, and native seed mix are required to be planted in Tract A in the environmental zone.
 - c. A total of 31 trees are required to be planted in Tract A outside of the environmental zone (for mitigation required under PCC 33.630).
 - d. Any disturbance areas in the environmental zones not planted as required above must be seeded with a native seed mix with species contained in the Portland Plant List.
 - e. All portions of trees to be removed, that are 12 inches or greater in diameter, shall be placed within the environmental zone in Tract A.
 - f. All mitigation shrubs and trees shall be marked in the field by a tag attached to the top of the plant for easy identification by the City Inspector/Landscape Professional. All tape shall be a contrasting color that is easily seen and identified.
 - g. Plantings shall be installed between October 1 and March 31 (the planting season). Any changes or substitutions to approved planting plans shall first receive written approval from Bureau of Development Services Land Use Review staff.
 - h. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
3. **An inspection of Permanent Erosion Control Measures shall be required** to document installation of the required mitigation plantings.
 - a. The **Permanent Erosion Control Measures** inspection (IVR 210) shall not be approved until the required mitigation plantings have been installed (as described in Condition C.2 above);

-OR-

- b. If the **Permanent Erosion Control Measures** inspection (IVR 210) occurs outside the planting season (as described in Condition E.2 above), then the Permanent Erosion Control Measures inspection may be approved prior to installation of the required mitigation plantings – if the applicant obtains a separate **Zoning Permit** for the purpose of ensuring an inspection of the required mitigation plantings by March 31 of the following year.

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

1. Development on Lot 8 and within Tract A shall be in conformance with the Tree Preservation Plan (Exhibit C.11) and the applicant's arborist report (Exhibit A.5.b) for preservation of trees outside of the environmental zone. Specifically, trees numbered, #20078 (11-inch Oregon ash), #20165 (17-inch Leyland cypress), and #20174 (16-inch cottonwood) are required to be preserved, with the root protection zones indicated on Exhibit C.11. Nuisance species trees shown as being retained on the site outside of the Environmental overlay zone are optional and may be removed.

Tree protection fencing is required along the root protection zone of each tree to be preserved. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Encroachment into the specified root protection zones may only occur if it meets the Prescriptive Path allowances of 11.60.030 or is under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones beyond the allowances of 11.60.030 is subject to receipt of a report from an arborist explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his/her supervision.

2. The applicant must meet the Fire Bureau requirements for addressing and aerial fire department access. Aerial access applies to buildings that exceed 30 feet in height from the fire access as measured to the bottom of the eave of the structure or the top of the parapet for a flat roof.
3. Prior to issuance of building permits for the site, the applicant must meet the Portland Bureau of Transportation requirements for street frontage improvements to the satisfaction of the City Engineer, including the existing frontages of SW Pendleton Street and SW 48th Avenue and the new public street extension through the site.
4. Development on lots shall be in conformance with the following:
 - a. Prior to starting home construction on Lots 1, 2, 4, 5, and 6, the applicant shall install 4-foot high temporary construction fencing along any lot line that abuts an open space tract. The fence must be shown on building permit plans. The fence shall remain in place until the final erosion control inspection is completed.
 - b. Fences are allowed only within lots (not within any of the tracts).
 - c. Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed

so they do not shine directly into resource areas. This condition applies to lots that abut any environmental zoning on the site.

5. The following apply to environmental zones:

- a. All vegetation planted in a resource area of environmental zones is native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited.
- b. Fences are not allowed within a resource area of environmental zones.

E. **The landowner shall maintain the required plantings** for two years to ensure survival and replacement. The landowner is responsible for ongoing survival of required plantings during and beyond the designated two-year monitoring period. The landowner shall:

1. Obtain a Zoning Permit for a final inspection at the end of the 2-year maintenance and monitoring period. The permit must be finalized no later than two years from the final inspection for the installation of mitigation planting, for the purpose of ensuring that the required plantings remain. Any required plantings that have not survived must be replaced.

F. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and/or enforcement of these conditions in any manner authorized by law.



Joe Turner, Hearings Officer

7.28.2017

Date

Application Determined Complete: August 5, 2016

Report to Hearings Officer: February 24, 2017

Decision Mailed: April 28, 2017

Last Date to Appeal: 4:30 p.m., May 12, 2017

Effective Date (if no appeal): May 15, 2017

Decision may be recorded on this date.

Conditions of Approval. This project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$5,000.00 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chairperson or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

A. Applicant's Statement:

1. Original submittal (4/22/16)
 - a. Cover sheet and narrative
 - b. Pre-application conference notes
 - c. Neighborhood Contact Documentation
 - d. Arborist report and tree table
 - e. Stormwater report
 - f. Geotechnical report and landslide hazard area report
 - g. Transportation Impact Study
 - h. Environmental Review report
 - i. Plan set (19 sheets)
2. Additional submittal (8/5/16)
 - a. Cover sheet and revised narrative, dated 8/5/16
 - b. Revised arborist report and tree table, dated 6/22/16
 - c. Revised stormwater report, dated 7/27/16
 - d. Response memo from Hardman Geotechnical Services, dated 7/6/16
 - e. Revised Transportation Impact Study, dated 6/6/16
 - f. Revised Environmental Review report, dated August 2016
 - g. Wetland delineation report, dated July 2016
 - h. Response to Fire Bureau comments
 - i. Revised plan set (19 sheets)
3. Additional submittal (11/21/16)
 - a. Cover sheet and response memo
 - b. Revised narrative, dated 11/18/16
 - c. Revised tree table, dated 11/11/16
 - d. Revised stormwater report, dated 11/4/16
 - e. Revised Environmental Review report, dated 11/21/16
 - f. Revised plan set (22 sheets)
4. Additional submittal (1/31/17)
 - a. Cover sheet and response memo
 - b. Revised narrative, dated 1/31/17
 - c. Anchor QEA memo, dated 1/20/17
 - d. Revised stormwater report, dated 1/13/17
 - e. Revised plan set (21 sheets)
5. Additional submittal (2/17/17)
 - a. Response memo
 - b. Revised arborist report and tree table, dated 2/17/17
 - c. Revised plan sheets 11, 12 and 13
6. Information regarding release of easements (10/5/16 email)
7. 120-day waiver

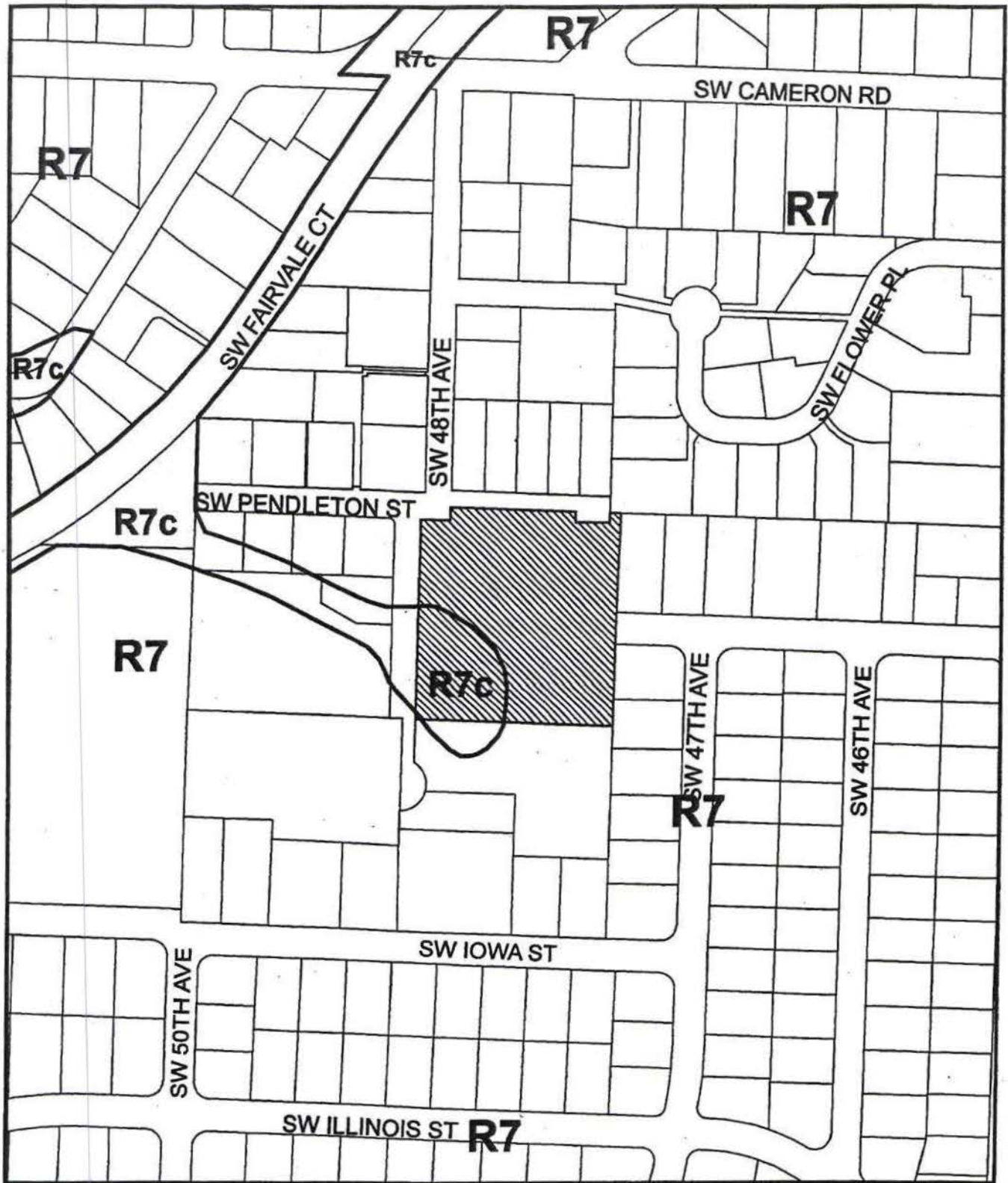
8. Hearing reschedule requests
- B. Zoning Map **(attached)**
- C. Plans & Drawings:
 1. Cover sheet
 2. Aerial photo
 3. Existing conditions
 4. Tree table
 5. Preliminary Site Plan **(attached)**
 6. Street cross sections
 7. Preliminary Subdivision Plat **(attached)**
 8. Preliminary Grading Plan
 9. Preliminary Site Sections
 10. Composite Utility Plan
 11. Preliminary Tree Plan **(attached)**
 12. Preliminary Planting Plan **(attached)**
 13. Preliminary Planting Notes
 14. Environmental Review Existing Conditions
 15. Environmental Review Site Development Plan
 16. Environmental Review Construction Management Plan **(attached)**
 17. Additional public works plan sheets (5 pages, sheets 17 – 22)
 18. Existing Conditions Survey
- D. Notification information:
 1. Request for response
 2. Posting letter sent to applicant with notice to be posted (a & b)
 3. Applicant's statement certifying posting (a & b)
 5. Hearing notice Mailing list
 6. Mailed hearing notice
- E. Agency Responses:
 1. Bureau of Environmental Services (a-c)
 2. Bureau of Transportation Engineering and Development Review
 3. Water Bureau
 4. Fire Bureau
 5. Site Development Review Section of Bureau of Development Services
 6. Bureau of Parks, Forestry Division
 7. Life Safety Section of BDS
- F. Letters:
 1. Hayhurst Neighborhood Association (9/9/16)
 2. Randi Sachs and Drew Bradbury (7/6/16, 1/18/17)
 3. Randi Sachs (2/9/17)
 4. Leslie Hammond (2/13/17)
 5. Tim Van Wormer (2/21/17)
 6. Ed and Sharon Castro (2/22/17)
- G. Other:
 1. Original LUR Application

2. Incomplete letter
3. DSL Wetland Land Use Notification Response
- H. Received in the Hearings Office
 1. Request to reschedule - Beckman, Stephanie
 2. Request to reschedule - Beckman, Stephanie
 3. Hearing Notice - Beckman, Stephanie
 4. Staff Report - Beckman, Stephanie
 5. 3/1/17 letter - Bernards, Laura
 6. 3/6/17 letter - Hammond, Leslie
 7. Email from Laura Bernards to Stephanie Beckman dated 3/1/17 - Beckman, Stephanie
 8. Revised Staff Recommendation to Denial - Beckman, Stephanie
 - a. Email from Jennifer Antak to Tunnard and Beckman dated 3/7/17 - Beckman, Stephanie
 - b. Color Map - Beckman, Stephanie
 9. PowerPoint presentation printout - Beckman, Stephanie
 10. 3/8/17 Memo from Matt Kuziinsky, Anchor QEA, LLC - Robinson, Michael
 - a. Figure 1 - Robinson, Michael
 - b. 3/7/17 Memo from Stephanie Beckman - Robinson, Michael
 - c. Wetland Determination Data Form - Robinson, Michael
 - d. Photo - Robinson, Michael
 11. Hayhurst NA Testimony (notebook) - King, Susan
 - a. 3/7/17 letter, Janet Hawkins/Hayhurst NA to Stephanie Beckman - King, Susan
 - b. 3/8/17 Memo (38 pages) - King, Susan
 - c. Preliminary Tree Plan - Site Clearance & Disturbance - King, Susan
 - d. Preliminary Tree Plan (4 pages) - King, Susan
 - e. Drainage patterns - King, Susan
 - f. Intersections - King, Susan
 - g. SW 48th Sight Distance (2 pages) - King, Susan
 - h. Street conditions (3 pages) - King, Susan
 - i. Diagram (3 pages) - King, Susan
 - j. Photos (2 pages) - King, Susan
 - k. LED Street Conversion in Portland: Good News or Bad? (2 pages) - King, Susan
 - l. Aerial view - King, Susan
 - m. 12/22/16 Memo, Rodney Krauter to Joshua Owens - King, Susan
 - n. 2/5/15 Memo from Commissioner Amanda Fritz (4 pages) - King, Susan
 - o. Diagram (6 pages) - King, Susan
 - p. Photos - King, Susan
 12. Due process note - Van Wormer, Tim
 - a. Land Use Review Application - LU 16-159330 LDS EN - Van Wormer, Tim
 - b. Incomplete letter - LU 16-159330 LDS EN M - Van Wormer, Tim
 - c. 5/20/16 Memo, Response to BDS from PBOT - Van Wormer, Tim
 - d. 5/12/16 Memo from Jocelyn Tunnard/BES to Stephanie Beckman/BDS - Van Wormer, Tim
 - e. 5/18/16 Review for Completeness Response Memo from BDS - Van Wormer, Tim
 - f. 5/20/16 letter from BDS to Li Alligood - Van Wormer, Tim

- g. 1/20/17 Memo from Greg Summers/Matt Kuziensky, Anchor QEA to Vic Remmers - Van Wormer, Tim
- h. Figure 1 - Wetlands and Environmental Overlays - Van Wormer, Tim
- 13. Written testimony (3 pages) - Van Wormer, Tim
 - a. Photos (5 pages) - Van Wormer, Tim
 - b. Stormwater Starts at Home! PowerPoint printout (2 pages) - Van Wormer, Tim
 - c. Written testimony - Van Wormer, Tim
 - d. Existing Conditions Map - Van Wormer, Tim
 - e. Aerial view/diagram - Van Wormer, Tim
- 14. 3/30/16 Landslide Hazard Study - Van Wormer, Tim
- 15. cd - Sachs, Randi
- 16. cd - Sachs, Randi
- 17. 3/8/17 letter - Sachs, Randi
- 18. Neighborhood Petition - Sachs, Randi
- 19. 3/6/17 letter from Margaret McSorley - Sachs, Randi
- 20. 3/7/17 letter from Wendy Morgan - Sachs, Randi
- 21. 3/8/17 letter from Frank and Jan Crow - Sachs, Randi
- 22. Letter from Sally Anne Giedrys and Michael Carroll - Sachs, Randi
- 23. 3/6/17 letter from Nathan, Bethany, and Larken Hale - Sachs, Randi
- 24. Letter from Jill and Jeff Martini - Sachs, Randi
- 25. Letter from Rob, Carol, and Luke Malnati - Sachs, Randi
- 26. Letter from Sarah Watson - Sachs, Randi
- 27. Dangerous, Unimproved Road - Hurwitz, Brynna
 - a. Google Map printout - Hurwitz, Brynna
- 28. Safe Route to School - Hurwitz, Brynna
 - a. Photo - Hurwitz, Brynna
- 29. Watershed Issues - Hurwitz, Brynna
- 30. Code Compliance Issues - Hurwitz, Brynna
 - a. 4/7/16 Email - Hurwitz, Brynna
 - b. 3/1/17 Email - Hurwitz, Brynna
 - c. Feb. 2017 Emails - Hurwitz, Brynna
 - d. 1/20/17 Memo from Anchor QEA - Hurwitz, Brynna
 - e. Photos (3 pages) - Hurwitz, Brynna
- 31. Figure 1 - Wetlands and Environmental Overlays - Hurwitz, Brynna
 - a. March 2017 BES info. - Hurwitz, Brynna
- 32. 3/6/17 letter - Foster, Aletha
- 33. Written testimony - King, David
- 34. Written testimony - Hanawalt, Barbara
- 35. Letter from Steven and Marie Gouz - Hanawalt, Barbara
- 36. 3/7/17 letter from Christopher Silkie - Silkie, Sarah
- 37. Sewer Assets - Peebles, Mike
 - a. Figure 3: Drainage Basins for Flood Hazard Area and Downstream Capacity Analyses - Peebles, Mike
 - b. Existing Drainage - Peebles, Mike

- c. Photos - Peebles, Mike
- d. Proposed Drainage - Peebles, Mike
- 38. Record Closing Information - Hearings Office
- 39. E-mail from Mary Ann Schwab - Beckman, Stephanie
- 40. Photos from 3/1/17 site visit - Beckman, Stephanie
- 41. Stormwater Management Comments - Iverson, Al
- 42. Faxed letter from Tom Rollman - Robinson, Michael
- 43. Memo (12 pages) - Hayhurst Neighborhood Association
 - a. Portland Transportation System Plan (Page 11-27 & 11-28) - Hayhurst Neighborhood Association
- 44. 3/1/17 letter from Kelly Carnevale - Sachs, Randi
- 45. 3/1/17 letter from Paul Carnevale - Sachs, Randi
- 46. 3/21/17 letter from Albert & Sandra Marron - Sachs, Randi
- 47. 3/15/17 E-mail from Randi Sachs - Beckman, Stephanie
 - a. Photos - Beckman, Stephanie
- 48. Cover Sheet letter dated 3/22/17 - Robinson, Michael
 - a. Perkins Coie Letter dated 3/22/17 to the Hearings Officer - Robinson, Michael
- 49. Memo dated 3/22/17 to Hearings Officer - Beckman, Stephanie
- 50. Report - Van Wormer, Tim
- 51. Memorandum dated 3/22/17 to Hearings Officer - Tunnard, Jocelyn
- 52. Letter dated 3/21/17 - Hale, Nathan
 - a. Photographs and Map - Hale, Nathan
 - b. Map "Pedestrian Walk Path/Flow - Hale, Nathan
 - c. Map "Bike Stroller Flow" - Hale, Nathan
- 53. Portland Bureau of Transportation website Printout " Letter from the Commissioner" - Hale, Nathan
 - a. Portland Bureau of Transportation website Printout "Why Vision Zero?" (5 pages) - Hale, Nathan
- 54. Memo dated 3/22/17 from de Freitas to Hearings Officer - de Freitas, Fabio
- 55. 4/5/17 written comments - Iverson, Al
- 56. Rebuttal letter dated 4/5/17 (16 pages) - Hayhurst Neighborhood Association
 - a. Exhibit "A" Email dated 9/6/16 from Beckman to Peebles and Castleberry - Hayhurst Neighborhood Association
 - b. Exhibit "B" Fanno Creek Plan dated 1/19/1994 - Hayhurst Neighborhood Association
 - c. Exhibit "C" Metromap - Hayhurst Neighborhood Association
 - d. Exhibit "D" Natural Resources Inventory Map - Hayhurst Neighborhood Association
 - e. Exhibit "E" Natural Resources Inventory Map Layer List - Hayhurst Neighborhood Association
 - f. Exhibit "F" Natural Resources Inventory Map Layer List - Hayhurst Neighborhood Association
 - g. Exhibit "G" Oregon's Statewide Planning Goals & Guidelines - Hayhurst Neighborhood Association
 - h. Exhibit "H" Everett Heights Subdivision Map - Hayhurst Neighborhood Association
 - i. Exhibit "I" Hayhurst Neighborhood Map - Hayhurst Neighborhood Association

57. Letter dated 4/5/17 - Sachs, Randi
58. Memo dated 4/5/17 - Beckman, Stephanie
59. Memorandum dated 4/5/17 - Tunnard, Jocelyn
60. Memo from Jason Butler-Brown dated 4/5/17 - Beckman, Stephanie
61. Cover Letter from Michael Robinson dated 4/5/17 - Robinson, Michael
 - a. Letter dated 4/5/17 from Michael Robinson with attached exhibits - Robinson, Michael
62. Letter from Van Wormer dated 4/3/17 - Van Wormer, Tim
63. Letter from Brynna Hurwitz dated 3/31/17 - Van Wormer, Tim
64. Cover Letter (one page only) dated 4/12/17 - Robinson, Michael
 - a. Letter dated 4/12/17 (4 pages total) - Robinson, Michael
65. Letter - Franz, Ian and Kelly - **Submitted After Record Closed**



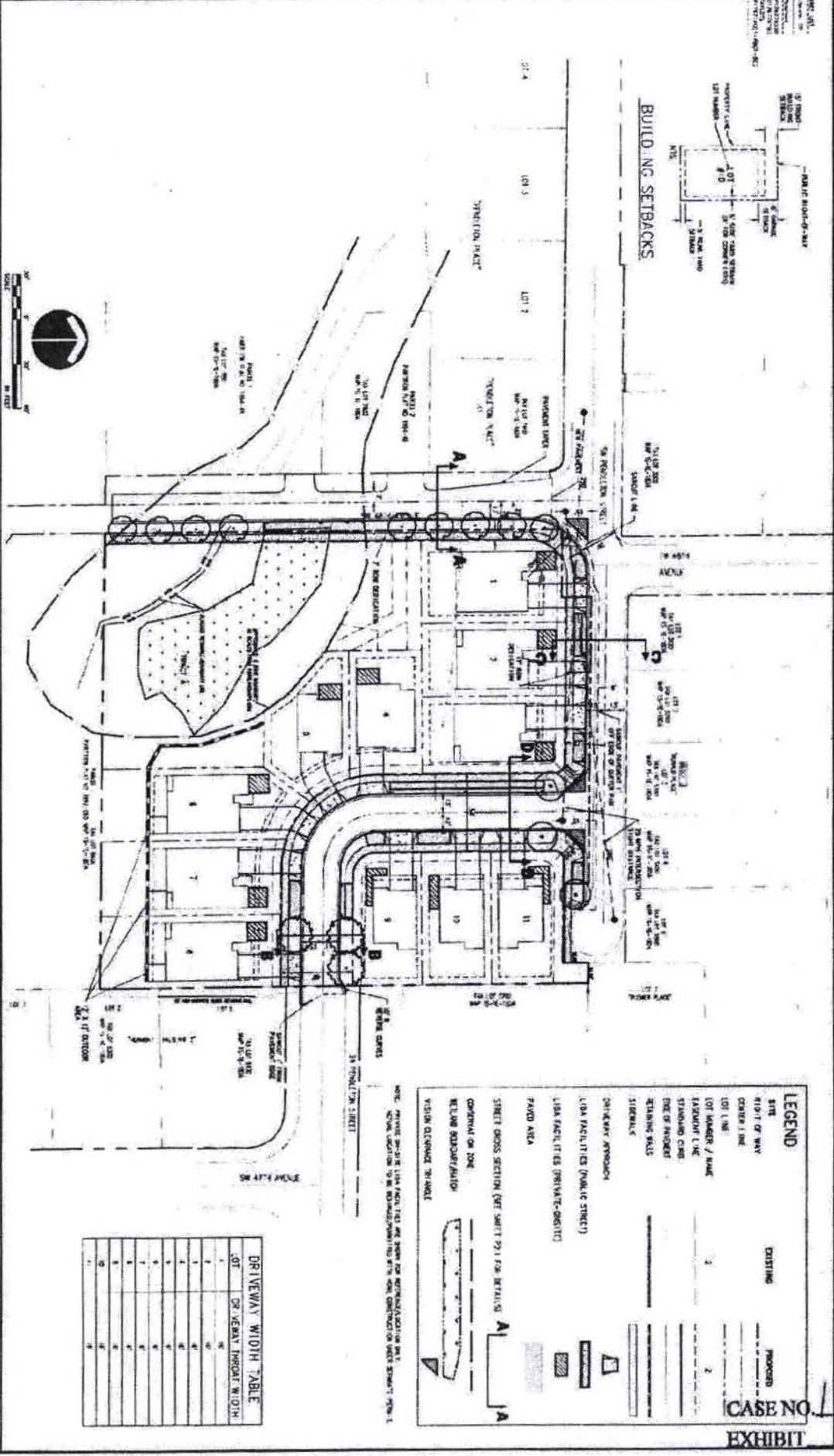
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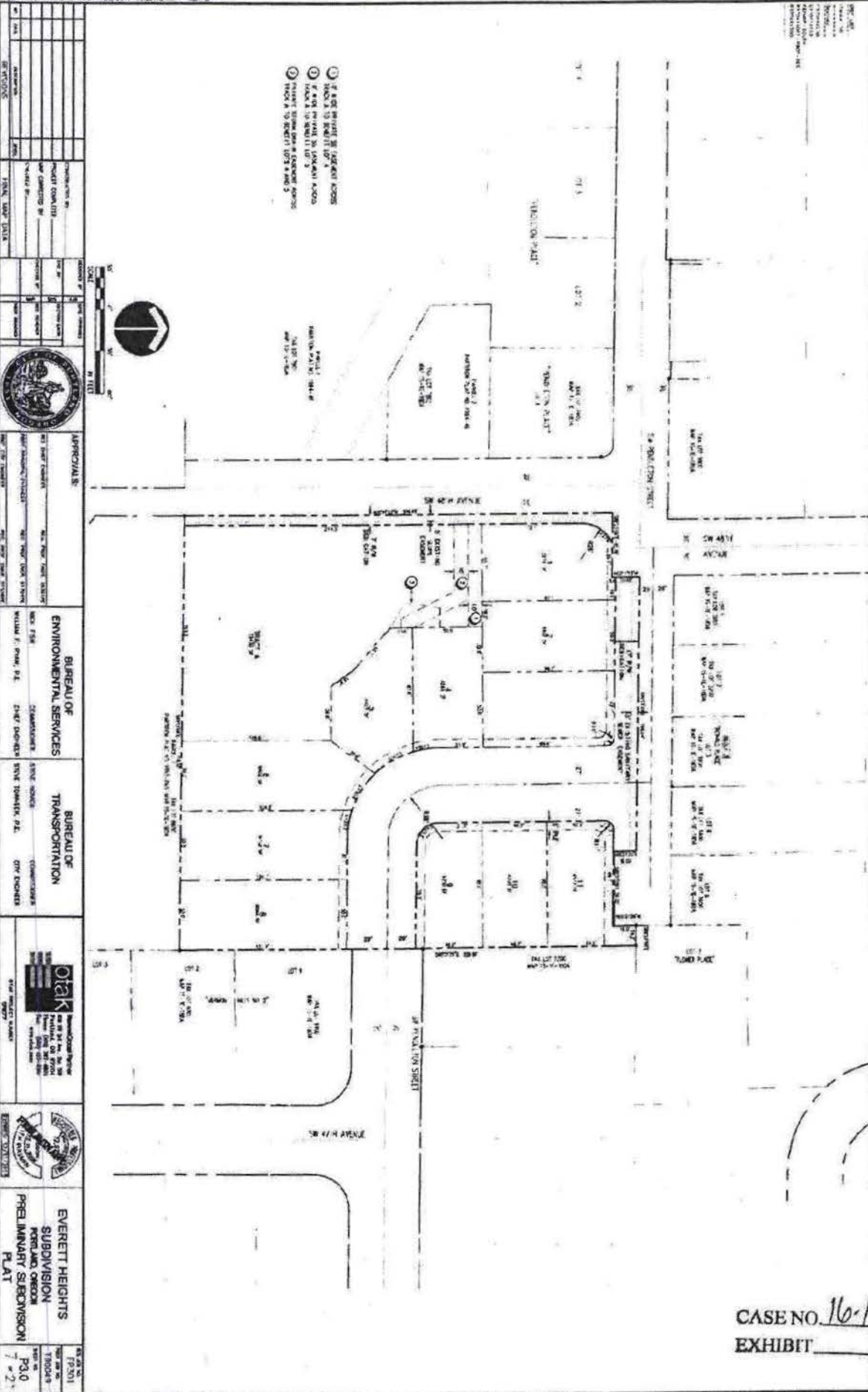
Site

File No. LU 16-159330 LDS EN
 1/4 Section 3624
 Scale 1 inch = 200 feet
 State_Id 1S1E18DA 7300
 Exhibit B (Feb. 23, 2017)

PROJECT INFORMATION		APPROVALS		BUREAU OF ENVIRONMENTAL SERVICES		BUREAU OF TRANSPORTATION		OTAK		EVERETT HEIGHTS SUBDIVISION	
PROJECT NO.	1717-220	DESIGNED BY	DAVID L. HARRIS	DESIGNED BY	DAVID L. HARRIS	DESIGNED BY	DAVID L. HARRIS	DESIGNED BY	DAVID L. HARRIS	DESIGNED BY	DAVID L. HARRIS
CLIENT	DAVID L. HARRIS	CHECKED BY	DAVID L. HARRIS	CHECKED BY	DAVID L. HARRIS	CHECKED BY	DAVID L. HARRIS	CHECKED BY	DAVID L. HARRIS	CHECKED BY	DAVID L. HARRIS
DATE	1/30/2011	DATE	1/30/2011	DATE	1/30/2011	DATE	1/30/2011	DATE	1/30/2011	DATE	1/30/2011
REVISIONS		REVISIONS		REVISIONS		REVISIONS		REVISIONS		REVISIONS	
NO.	DESCRIPTION	NO.	DESCRIPTION	NO.	DESCRIPTION	NO.	DESCRIPTION	NO.	DESCRIPTION	NO.	DESCRIPTION
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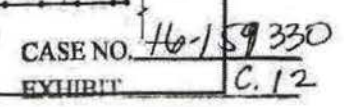


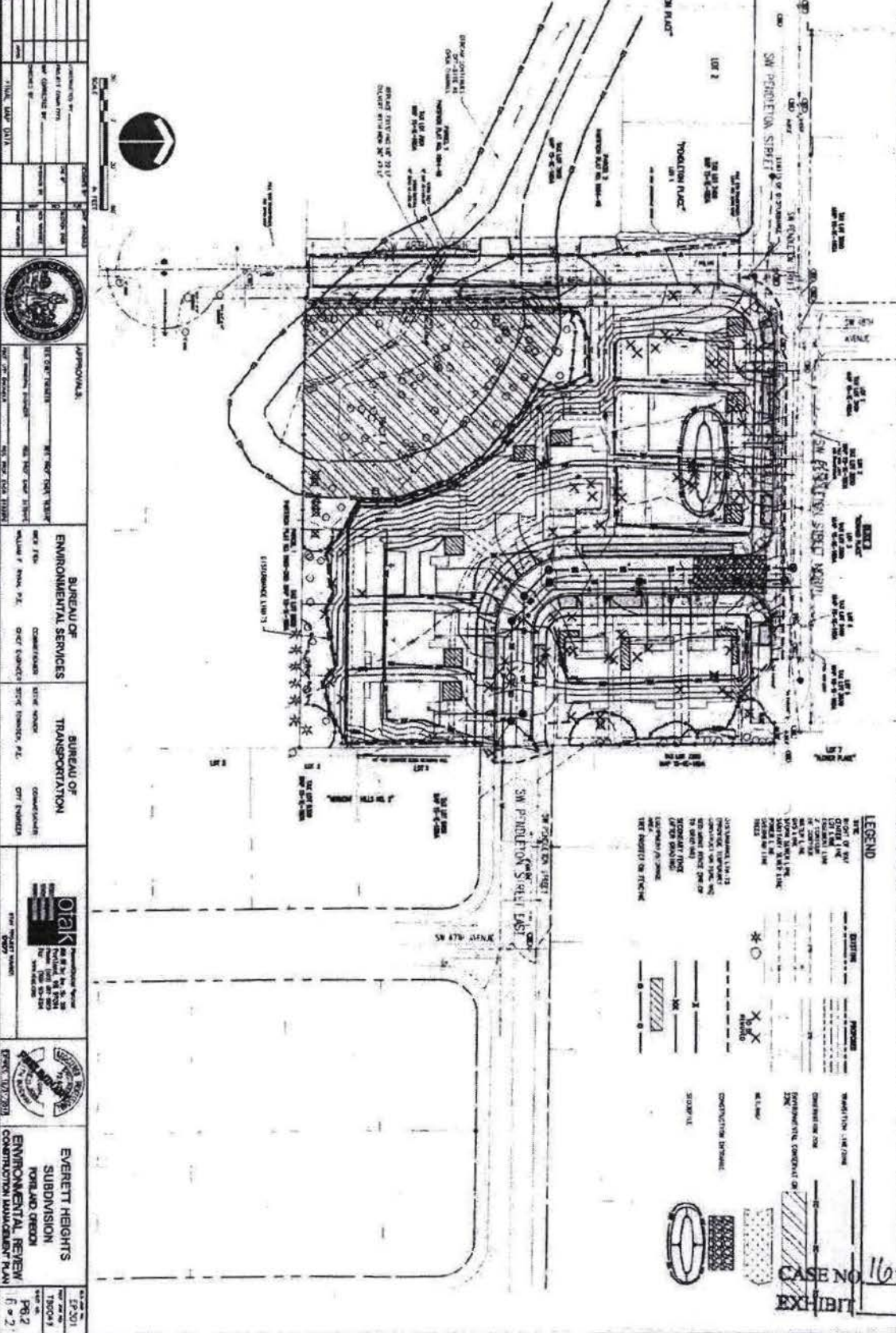
CASE NO. 12-159330
EXHIBIT C.5



CASE NO. 16-159530
 EXHIBIT C.7

<p>EVERETT HEIGHTS SUBDIVISION</p> <p>NORTHMO, CHICAGO</p> <p>PREGNANT PLANTING PLAN</p>	<p>EP 501</p> <p>180019</p> <p>12-21</p>
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CASE NO.	116-159330
EXHIBIT	C.16