



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

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

CASE FILE: LU 16-159330 LDS EN, Everett Heights Subdivision
WHEN: June 22, 2017 at 2:00 PM
WHERE: COUNCIL CHAMBERS, 1221 SW FOURTH AVENUE

Date: May 25, 2017
To: Interested Person
From: Stephanie Beckman, Land Use Services, 503-823-6979
Stacey Castleberry, Land Use Services, 503-823-7586

The Review Body decision of **approval** has been appealed by **Hayhurst Neighborhood Association**.

A public hearing will be held to consider an appeal of the Hearings Officer's decision to approve an 11-lot subdivision at 5920 SE 48th Avenue. The Hearings Officer decision of approval with conditions has been appealed by the Hayhurst Neighborhood Association. At the hearing, City Council will consider the appeal. You are invited to testify at the hearing.

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

GENERAL INFORMATION

Appellant: Hayhurst Neighborhood Association
C/O SWNI
7688 SW Capitol Highway
Portland, OR 97219
503-823-4592; janetchawkins@msn.com

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

Representative: Li Alligood
Otak, Inc.
808 SW 3rd Ave., Suite 300
Portland, OR 97204
503-415-2384; li.alligood@otak.com

Owners: Thomas E Rollman and Corrie H Jackson
5920 SW 48th Ave
Portland, OR 97221-2832

Site Address: 5920 SW 48TH AVE

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, contact Janet Hawkins at 503-988-3707.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Sylvia Bogert at 503-823-4592.

Plan District: None
Other Designations: Potential Landslide Hazard Area

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

Case Type: LDS EN – Land Division (Subdivision) and Environmental Review
Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

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 (7 feet) and SW Pendleton (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 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.

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

Significant grading is proposed on the site and a retaining wall up to 6 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.

Because a portion of the site is within the Environmental Conservation overlay zones, 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 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 beyond the SW 48th Avenue right-of-way, and in the resource area. 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 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:

- 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones
- 33.430.250.A, Approval Criteria for Environmental Review

REVIEW BODY DECISION

HEARINGS OFFICER DECISION (April 28, 2017)

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 Ave, SW Pendleton 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 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.
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 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 BDS 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 (BES) 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 BES 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 BES prior to final plat approval.

5. The applicant must submit a revised site utility plan for review and approval by BES 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 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 tracts;
 - 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 applicants 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, and shall include erosion control fencing 1 foot construction-ward of the tree protection fence. 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 BDS, in substantial conformance with Exhibit C.12.
 - b. A total of 24 trees, 456 shrubs, and 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 required to be planted in Tract A outside of the Environmental zone (for mitigation required under 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 Plan 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 PBOT requirements for street frontage improvements to the satisfaction of the City Engineer, including the existing frontages of SW Pendleton and SW 48th Ave 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 land owner shall maintain the required plantings** for two years to ensure survival and replacement. The land owner 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 2 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.

APPEAL

The Hearings Officer decision of approval with conditions has been appealed by the Hayhurst Neighborhood Association. According to the appellants' statement, the appeal of the Hearings Officer decision is based on arguments that the following criteria are not met:

- 1. Tree Preservation, 33.630.200.A and C.4. There has been no analysis of alternative plans with fewer lots, a narrower street, or different building footprints that might preserve additional trees outside of the environmental overlay zone.
- 2. Landslide Hazard Area, 33.632.100. Reduced density was never considered as a way to manage landslide hazard risk.
- 3. Clearing and Grading, 33.635.100.A. Existing contours and drainage patterns at the site will be significantly altered due to extensive grading, creating potential adverse impacts to an onsite wetland.
- 4. Stream, Springs and Seeps, 33.640. The proposal does not protect springs identified outside of the environmental overlay zone.
- 5. Stormwater Management, 33.653.020.B. Downstream culverts on private property should be upsized to avoid flooding impacts.
- 6. Transportation Impacts, 33.641.020. The applicant's transportation plan did not consider factors such as pedestrian safety, bicycle safety, and the effect on neighborhood livability as well as the current Safe Route to school.
- 7. Connectivity and Location of Rights-of-Way, 33.654.110. The proposed connection will impact pedestrian safety on SW 48th (north of the site), which is the main pedestrian route to Hayhurst Elementary.
- 8. Design of Rights-of-Way, 33.654.120.B & C. The new street is wider than necessary to serve homeowners and neighborhood residents. On-street parking and sidewalks on both sides should be eliminated if it will save significant trees and reduce grading impacts.

Review of the case file: The Hearings Officer's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, Suite 5000, Portland, OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some of the information over the phone or via email. To review the file, please call 503-823-7617 to schedule an appointment.

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

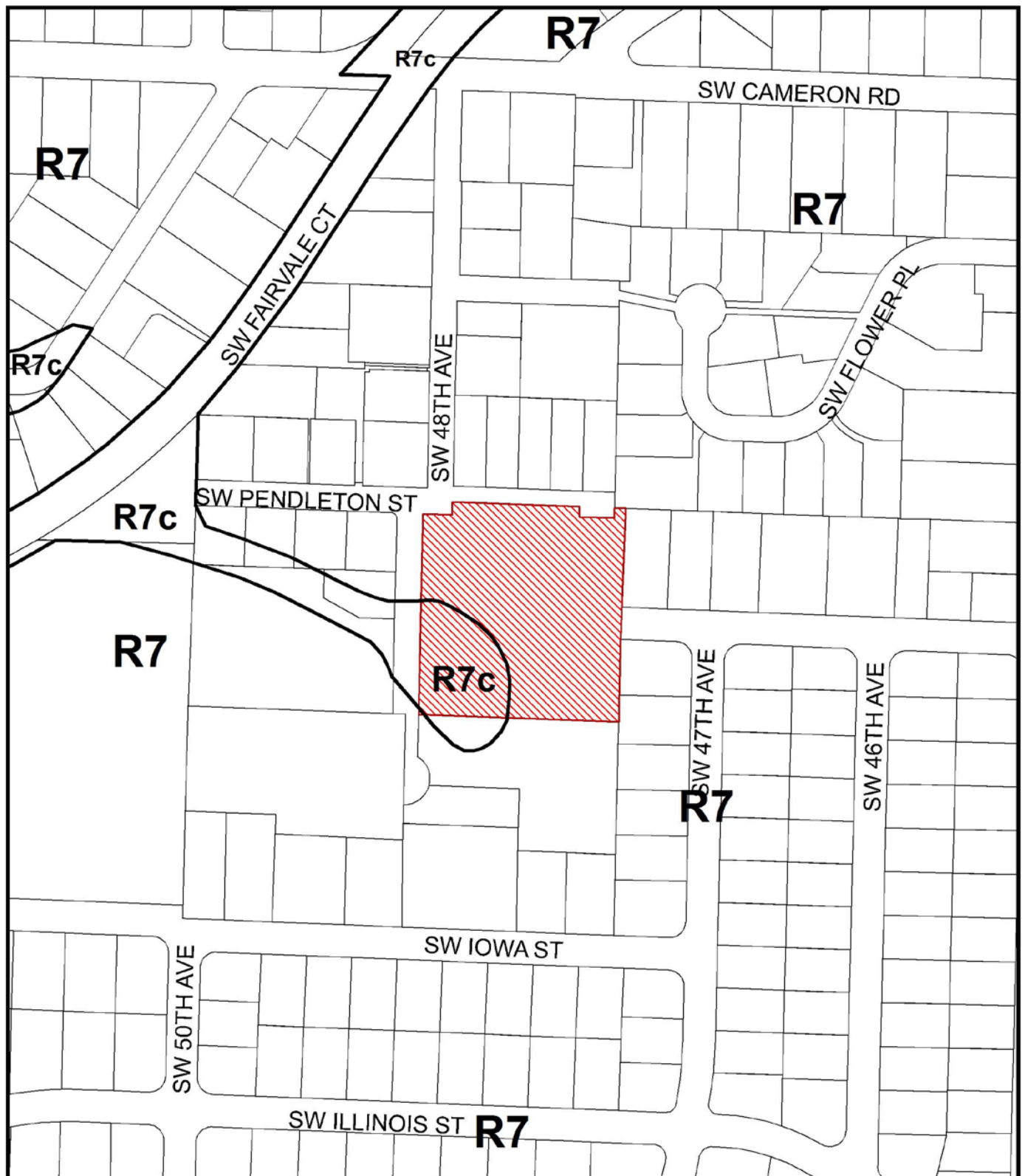
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk at karla.Moore-Love@portlandoregon.gov. Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must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

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

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

Attachments

1. Zoning Map
2. Site plans (C.5, C.7, C.11 and C.12 and C.16)
3. Appeal Statement
4. City Council Appeal Process

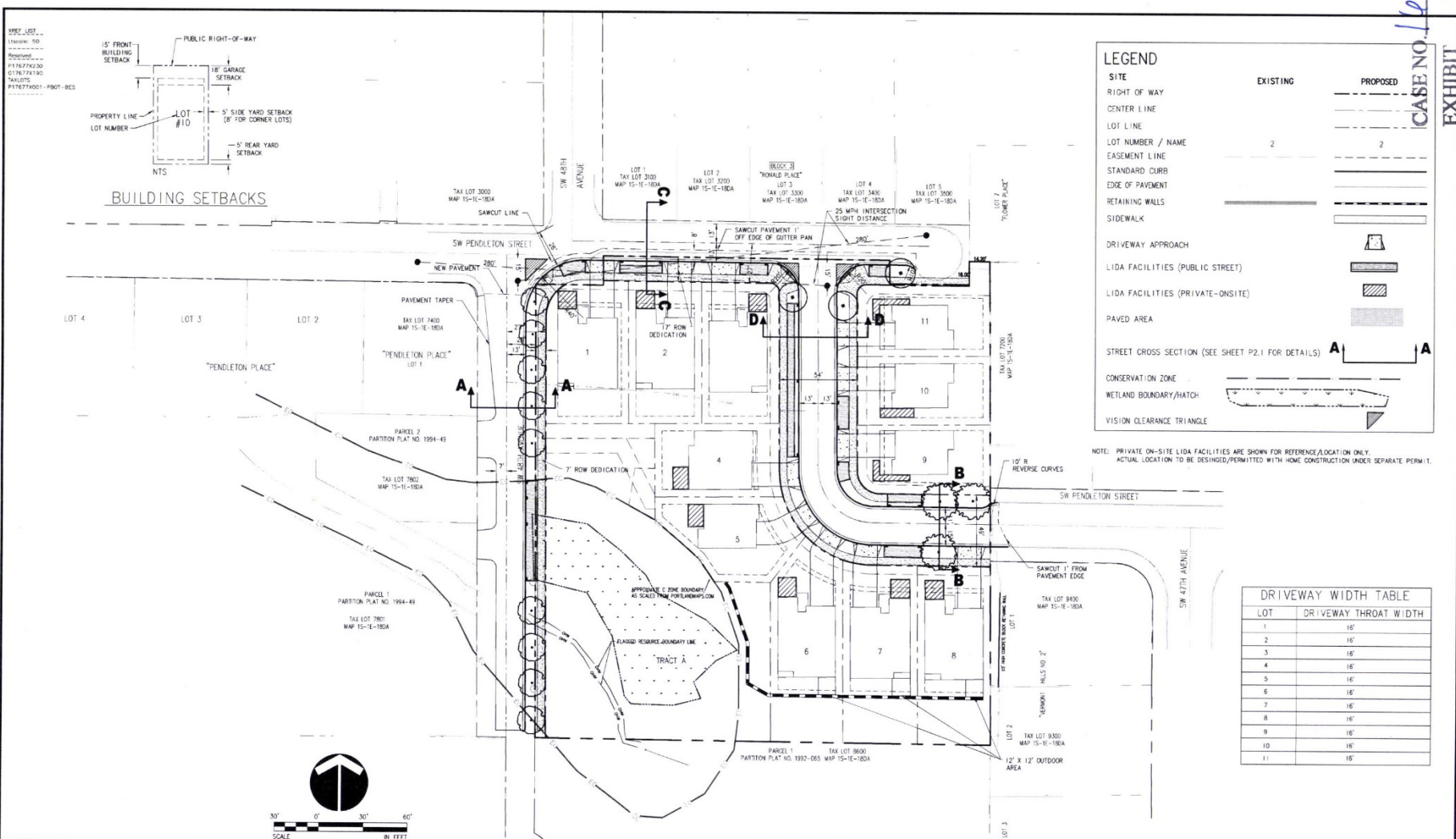


ZONING



File No. LU 16-159330 LDS EN M
 1/4 Section 3624
 Scale 1 inch = 200 feet
 State_Id 1S1E18DA 7300
 Exhibit B (May 5, 2016)

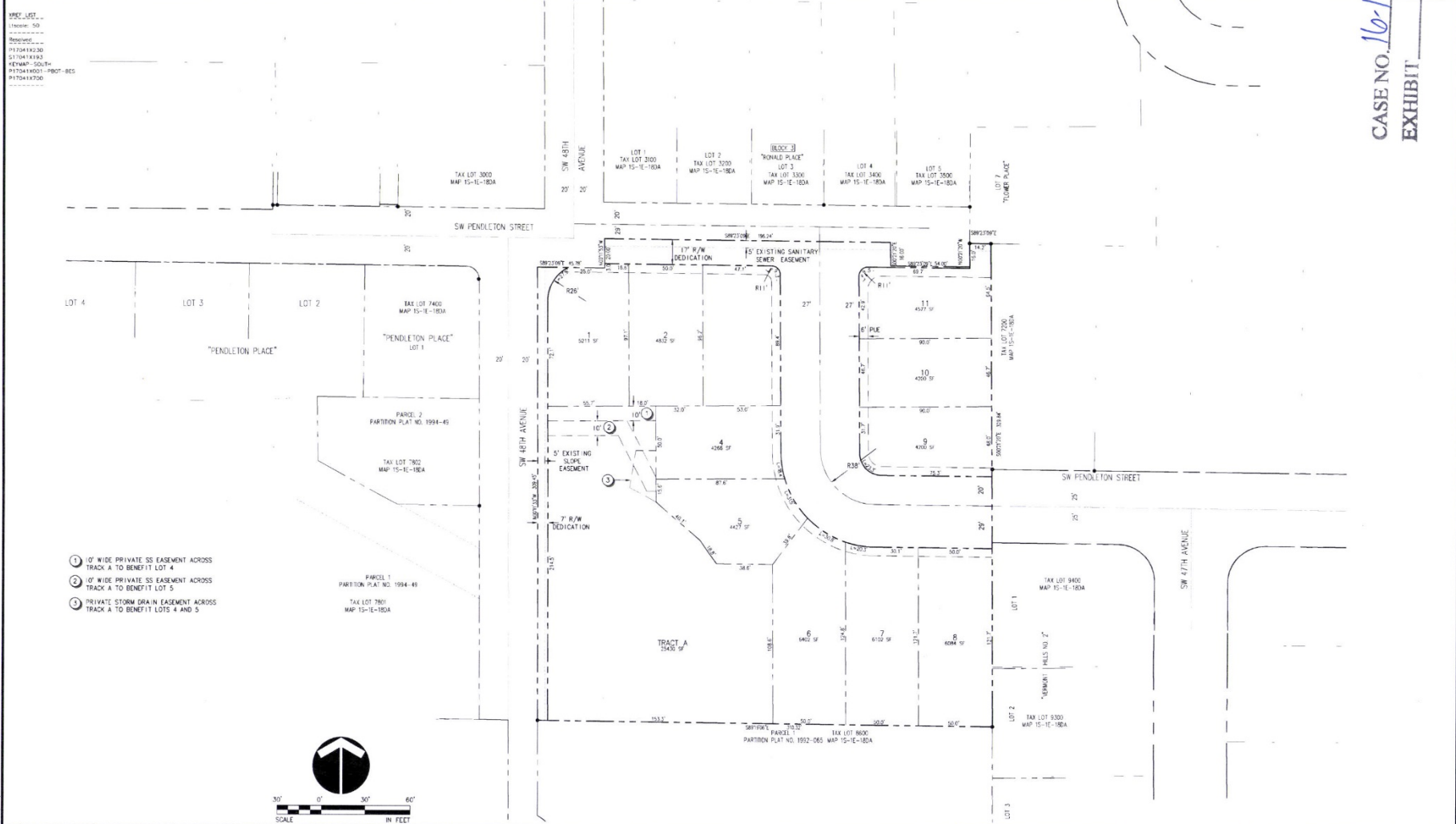
CASE NO. 16-159330
C.5
EXHIBIT



DESIGNED BY: _____ DATE APPROVED: _____ PROJECT COMPLETED: _____ MAP CORRECTED BY: _____ CHECKED BY: _____ NO. DATE DESCRIPTION APPD. FINAL MAP DATA		APPROVALS: RES. CHIEF ENGINEER: _____ REG. PROF. ENGR. 163510P PRINCIPAL ENGINEER: _____ REG. PROF. ENGR. 51704PE PRINCIPAL CITY ENGINEER: _____ REG. PROF. ENGR. 51538PE		BUREAU OF ENVIRONMENTAL SERVICES NICK FISH, COMMISSIONER WILLIAM F. RYAN, P.E., CHIEF ENGINEER		BUREAU OF TRANSPORTATION STEVE NOVICK, COMMISSIONER STEVE TOWNSEN, P.E., CITY ENGINEER		otak <small>HammerGlobal Partner</small> 808 SW 3rd Ave., Ste. 300 Portland, OR 97204 Phone: (503) 597-4623 Fax: (503) 415-2304 www.otak.com OTAK PROJECT NUMBER: 17677		EVERETT HEIGHTS SUBDIVISION PORTLAND, OREGON PRELIMINARY SITE PLAN BCS JOB NO. EP3010 PROJECT NO. T80049 SHEET NO. P2.0 5 of 21	
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CASE NO. 16-59530
EXHIBIT C.7

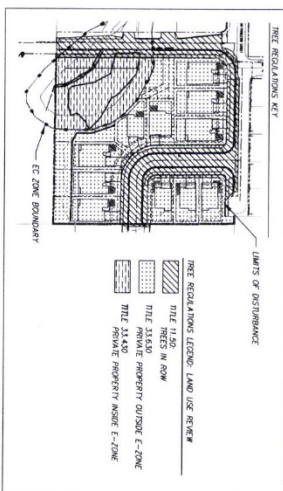


- ① 10' WIDE PRIVATE SE EASEMENT ACROSS TRACT A TO BENEFIT LOT 4
- ② 10' WIDE PRIVATE SE EASEMENT ACROSS TRACT A TO BENEFIT LOT 5
- ③ PRIVATE STORM DRAIN EASEMENT ACROSS TRACT A TO BENEFIT LOTS 4 AND 5



DESIGNED BY: [] PROJECT COMPLETED: [] MAP CORRECTED BY: [] CHECKED BY: []		DATE APPROVED: [] SECTION ENGR: [] RES REVIEWER: [] PROJECT REVIEWER: []		APPROVALS: RES CHIEF ENGINEER: REG. PROF. ENGR. 14301PC PRINCIPAL ENGINEER: REG. PROF. ENGR. 51704PE CITY ENGINEER: REG. PROF. ENGR. 51558PE		BUREAU OF ENVIRONMENTAL SERVICES NICK FISH, COMMISSIONER WILLIAM F. RYAN, P.E., CHIEF ENGINEER		BUREAU OF TRANSPORTATION STEVE NOVICK, COMMISSIONER STEVE TOWNSEN, P.E., CITY ENGINEER		 OTAK PROJECT NUMBER 17977		 EXPIRES: 12/31/2018		EVERETT HEIGHTS SUBDIVISION PORTLAND, OREGON PRELIMINARY SUBDIVISION PLAT		RES JOB NO. EP301 PROJ JOB NO. T30049 SHEET NO. P3.0 7 of 21	
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1. ALL PUBLIC LSA FACILITIES AND STREET SIDEWAYS PLANTED AREAS SHALL BE MAINTAINED BY A FULLY AUTOMATIC UNDERGROUND IRRIGATION SYSTEM
2. RESTORATION AREA SHALL INCLUDE ESTABLISHMENT IRRIGATION
3. PRIVATE ON-SITE LSA FACILITIES ARE SHOWN FOR REFERENCE/LOCATION ONLY. ACTUAL LOCATION TO BE DETERMINED BY THE CONTRACTOR AND CONSTRUCTION UNDER SUPERVISOR
4. SEE PLANNING NOTES AND DETAILS SHEET 11.1
5. SEE LSA FACILITY TRINCH PLANNING PLANS SHEET 11.2
6. SEE PLANNING LEGEND SHEET 11.2
7. SEE TREE PLAN FOR TREE VALUES
8. SEE PLANNING PLAN SHEET 11.2

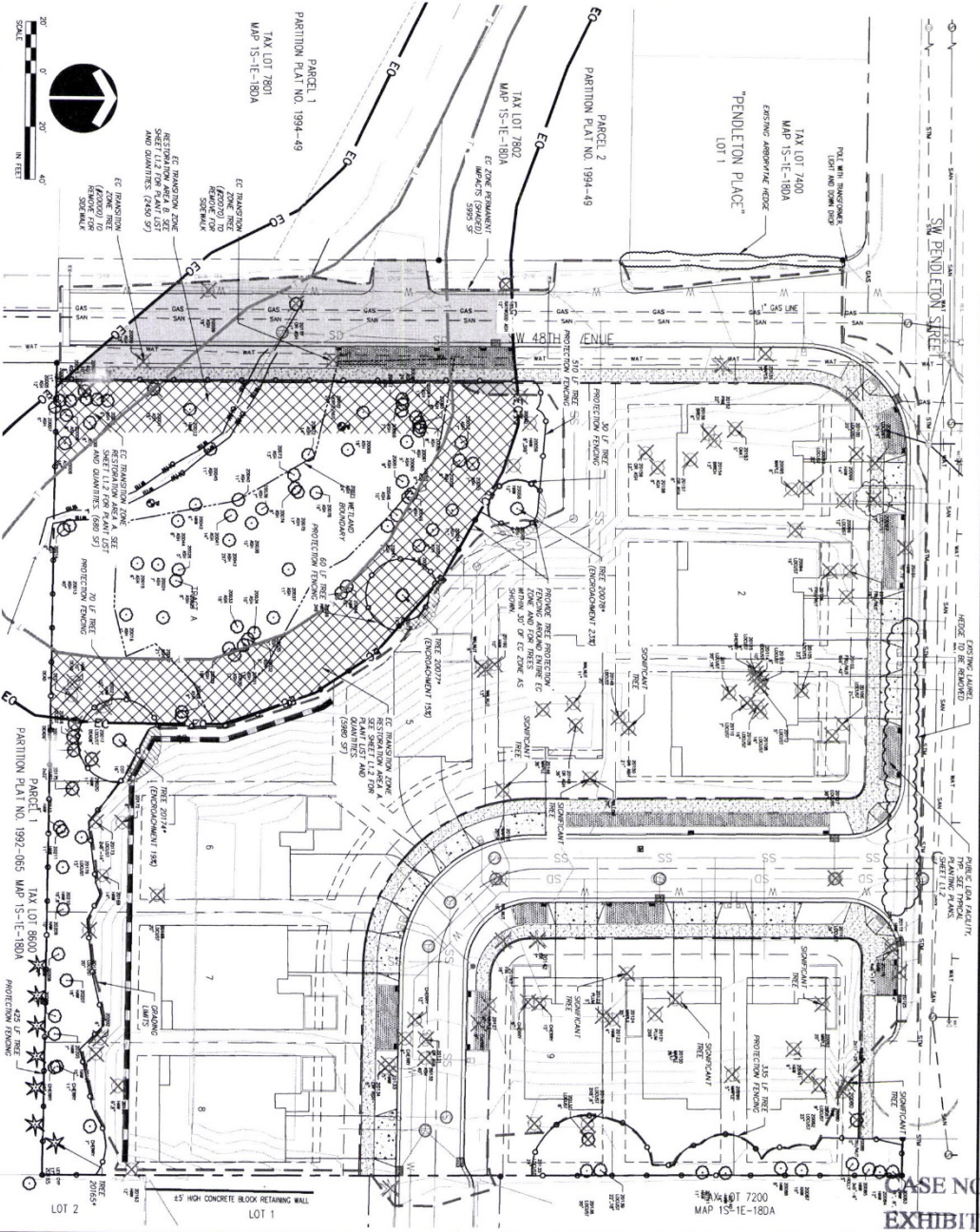
ALL TREE PROTECTION FENCING SHALL COMPLY WITH THE REQUIREMENTS OF CITY OF PORTLAND CODE 11.60.030.C.

INSTALL TREE PROTECTION FENCING AROUND ENTIRE EC ZONE AFTER TREE REMOVAL.

TREE PROTECTION FENCING SHALL CONSIST OF A MINIMUM 6-F.T. HEIGHT CHAIN LINK FENCING WITH B-BEAM POSTS. IT SHALL BE MAINTAINED BY THE CONTRACTOR. THE FENCING SHALL APPLY TO ALL EXISTING AND PROPOSED CONTACT INFORMATION FOR THE PROJECT.


















SYMBOL	DESCRIPTION
	EXISTING PRESS TO REMOVE
1.228 LF	
	TREE PROTECTION FENCING
	PER TITLE 11.60.030.C.2
	GRADING LIMITS
	TRANSITION ZONE
EC	EC ZONE BOUNDARY
	EASEMENT / WAIVER SPACES
	REMOVAL

CE INDEX: IMPACT MITIGATION SUMMARY
TOTAL CE INDEX: $5000 \times 0.0001 = 0.5005$
TOTAL MITIGATION AREA: $A + B = 910$ sq ft

[illegible]

16-159330
C. 11

[illegible][illegible][illegible]

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SHADES

SYMBOL	DESCRIPTION	AREA (SQ. FT.)
1	SHADE	1,100,000
2	SHADE	1,100,000
3	SHADE	1,100,000
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99	SHADE	1,100,000
100	SHADE	1,100,000

SYMBOLS

SYMBOL	DESCRIPTION
1	

SHADES

SYMBOL	DESCRIPTION	AREA (SQ. FT.)
1	SHADE	1,100,000
2	SHADE	1,100,000
3	SHADE	1,100,000
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5	SHADE	1,100,000
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100	SHADE	1,100,000

SYMBOLS

SYMBOL	DESCRIPTION
1	

SHADES

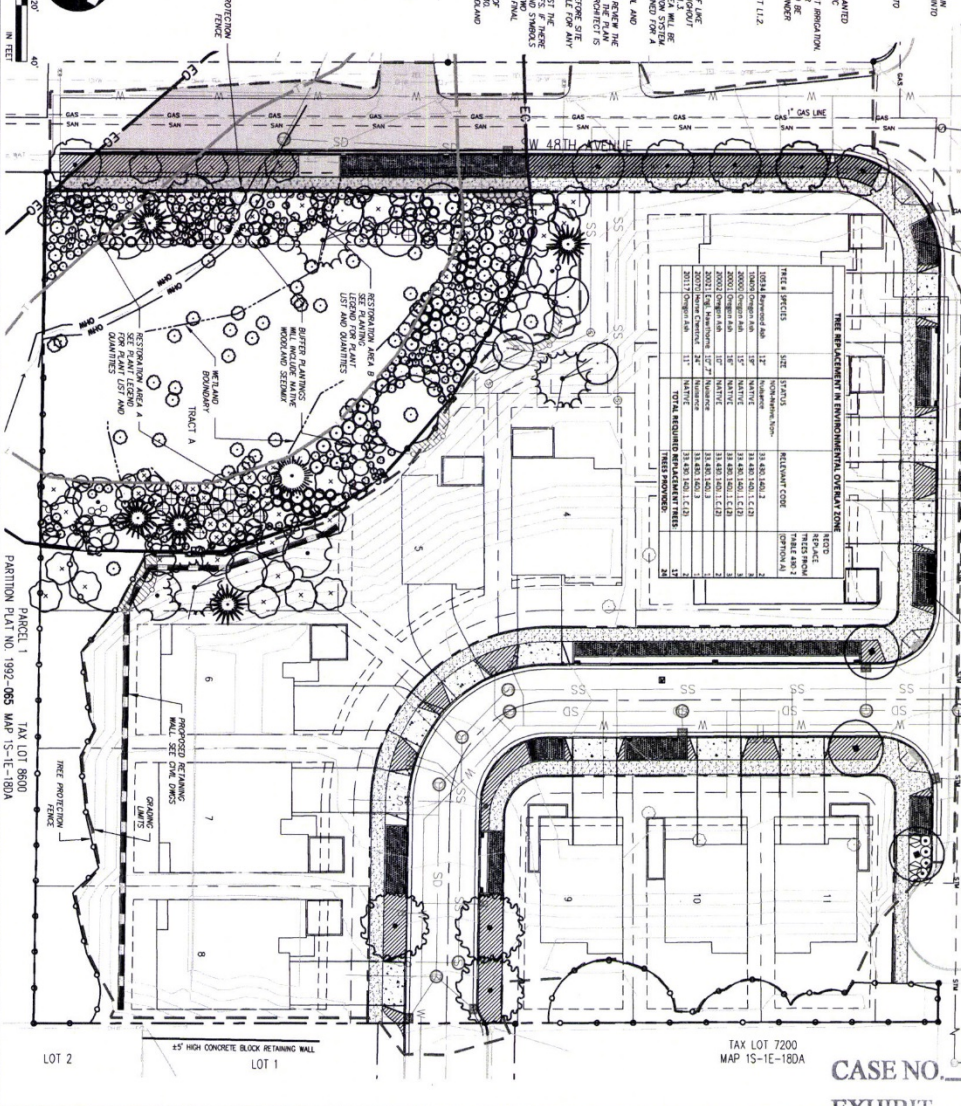
SYMBOL	DESCRIPTION	AREA (SQ. FT.)
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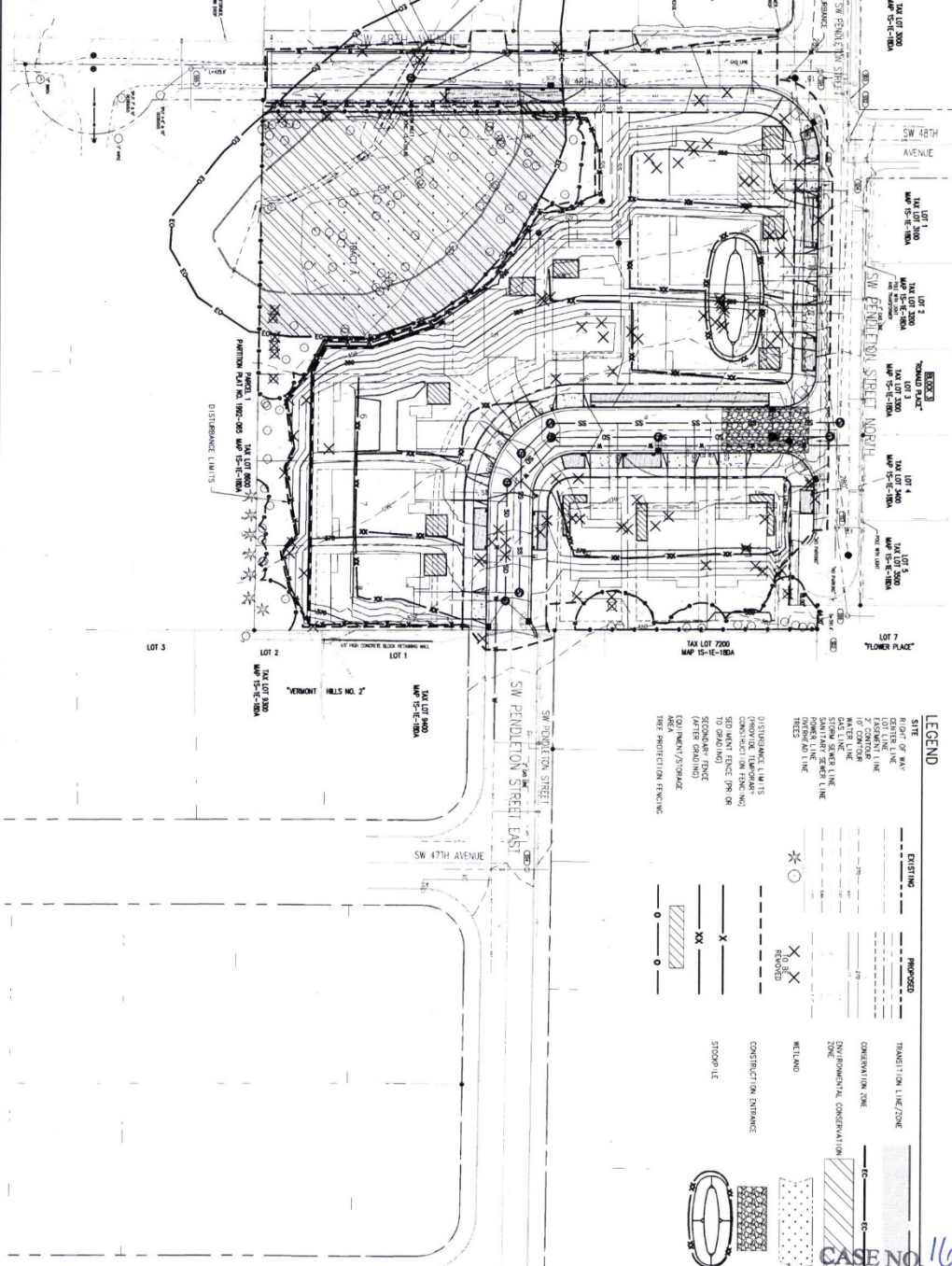
SYMBOLS

SYMBOL	DESCRIPTION
1	

CASE NO.

EXHIBIT



[illegible]

CASE NO. 16-159330
EXHIBIT C.16

[illegible]



City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 | 503-823-7300 | www.portlandoregon.gov/bds



Type III Decision Appeal Form

LU Number 16-159330 - LDS EN

FOR INTAKE, STAFF USE ONLY

Date/Time Received 5/12/17 @ 11:53am

☒ Action Attached

Received By AP

Fee Amount \$5000.00

Appeal Deadline Date 5/12/17 @ 4:30pm

☒ [N] Fee Waived

☐ Entered in Appeal Log

Bill # 4122319

☐ Notice to Auditor

☒ [Y] Unincorporated MC

☐ Notice to Dev. Review

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS 5920 SW 48th Ave DEADLINE OF APPEAL 5/12/17

Name Hayhurst Neighborhood Association

Address 70 SW NE 7688 SW Capitol Hwy City Portland State/Zip Code OR 97219

Day Phone 503-823-4592 Email jarethhawkins@msn-com Fax N/A

Interest in proposal (applicant, neighbor, etc.) Neighborhood association

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. 630 . 200

Zoning Code Section 33. 641 . 020 33.640

Zoning Code Section 33. 635 . 100

Zoning Code Section 33. 653 . 020 33.632.100

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

* see attached *

33.430.250

33.654.110

33.654.120

Appellant's Signature

J. Hawkins, chair, Hayhurst N/A

FILE THE APPEAL - Submit the following:

☒ This completed appeal form

☒ A copy of the Type III Decision being appealed

☐ An appeal fee as follows:

☐ Appeal fee as stated in the Decision, payable to City of Portland

☒ Fee waiver for ONI Recognized Organizations approved (see instructions under Appeals Fees A on back)

☐ Fee waiver request letter for low income individual is signed and attached

☐ Fee waiver request letter for Unincorporated Multnomah County recognized organizations is signed and attached

CASE NO. LU 16-159330

EXHIBIT H-1

The City must receive the appeal by 4:30 pm on the deadline listed in the Decision in order for the appeal to be valid. To file the appeal, submit the completed appeal application and fee (or fee waiver request as applicable) at the Reception Desk on the 5th Floor of 1900 SW 4th Ave, Portland, Oregon, between 8:00 am and 4:30 pm Monday through Friday.

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

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

LU 16-159330 LDS EN

Hayhurst Neighborhood Association Appeal Statement

To: Portland City Council
1221 SW 4th Avenue
Portland, OR 97204

From: Hayhurst Neighborhood Association

Re: Case File LU 16-159330 LDS EN
Everett Custom Homes Land Division proposal for 5920 SW 48th Ave.

Note: This statement has been approved by the Hayhurst Neighborhood Association, and is being submitted as a supplement to the accompanying appeal form for LU 16-159330 LDS EN.

This is not a substitute for original testimony, but rather a separate standalone document, which is intended only to accompany the appeal form.

Members of City Council,

The following comments by the Hayhurst Neighborhood Association (HNA) are before you as part of a formal appeal to LU 16-159330 LDS EN.

The HNA maintains, as it has from the outset, that it is not opposed to development on the subject site; rather, it is opposed to the proposal being put forth by the Applicant.

The HNA feels that the proposal has been incorrectly rubber-stamped, and is appealing in the interest of forcing a proposal which adheres to the language and intent of the Portland City Code.

Furthermore, the Hearings Officer, whose evaluation is intended to be unbiased, has seemingly relied only on the testimony of the City and the Applicant in his decision, going so far as to copy entire sections of the Staff Report word-for-word as the basis for his decision, without offering anything but perfunctory comments regarding the HNA's and other interested parties' testimonies.

Many elements of the code, which will again be cited here in clear and unequivocal form, are being dismissed by the City, despite 73 cumulative pages of testimony by the HNA, and despite the concerns of neighbors that have been shared before, during, and after the hearing.

Additionally, the Hearings Officer incorrectly states that the Applicant has satisfied the alternatives analysis (33.430.250.A1.a), which the Hearings Officer does by simply copying the City's comments on the topic word-for-word. However, the HNA successfully demonstrates in previously submitted testimony that what the Applicant claims as alternatives are, in actuality, a combination of an unviable option from a prior developer and four proposals from the current Applicant which all have identical configurations and negligible-at-best differences. (Please refer to testimony and the accompanying exhibits on pages 12-15 of the *Hayhurst Neighborhood Association Response to LU 16-159330 LDS EN*, submitted March 8, 2017.)

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In contrast, the HNA has submitted:

- alternative plans drafted by its **own experts**, none of which has been recognized or considered
- proof of inconsistencies in the Applicant's experts' reports, yet those reports are still being used as the standards for the Hearings Officer's approval decision
- proof that the Applicant is not being held to the standards of the code
- an extensive list of requested conditions for approval, none of which has been recognized. (Please refer to page 34 of the *Hayhurst Neighborhood Association Response to LU 16-159330 LDS EN*, submitted March 8, 2017.)

There is no longer an elephant in the room: every party here knows full well that the order of the day is density and revenue; but, the questions we ask of you here are:

1. "Must those come without any limitations, whatsoever?"
2. "Have the City and the Applicant made a good faith - or any - effort:
 - a. to avoid eliminating almost every tree on the unprotected portion of the subject site
 - b. to minimize the topographical alteration of the entire developable subject site
 - c. to minimize alterations to the natural drainage of the entire developable subject site
 - d. to avoid the increased risks to the lives of children and other pedestrians who walk this Safe Route to School every day, and
 - e. to minimize other risks inherent in this proposal, which have the potential to cause
 - i. downstream flooding and stormwater problems
 - ii. the drying-up of a protected wetland"

And finally:

3. "Is there a way to develop this property which avoids this impact, and avoids these risks, yet which still satisfies the Applicant and the City?"

The HNA is certain that the answer to this last question is YES; yet, not one attempt to even ask this question has been made by either the City or the Applicant.

The HNA has submitted proposal alternatives that would mitigate the impact and risks, and the HNA is not asking that one of these alternatives be accepted per se; rather, that the City and Applicant be held to the standard of considering alternatives that attempt to address the known impact and risks to the subject site and neighborhood.

Members of City Council, something has gone wrong when every single element of formal and shared testimony and every pleading by neighbors and a recognized Neighborhood Association are being dismissed.

The purpose of the Portland City Code is to ensure that development occurs in a way that protects both the citizens of Portland and the natural elements of Portland, and language exists within the approval criteria, themselves, which insists upon this; yet, those guidelines are absent in LU 16-159330 LDS EN; and, as such, the approval criteria cannot be said to have been met.

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We ask you, Members of City Council, not to take a stand against development, but to take a stand on THIS proposal, and to consider the validity of the HNA's testimony, to ensure that infill of this nature is handled wisely.

A summary of the HNA's basis for appeal is as follows, but should not supplant testimony already submitted into the record by the HNA, by neighbors, and by other interested parties.

33.630.200 Tree Preservation Approval Criteria

33.630.200.A states: ***"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, there has been no attempt to preserve trees, and no effort made to utilize creative or sensitive design that includes the integration of trees.

The City and Applicant both claim that the site regrading and connectivity requirements are the reasons that trees cannot be preserved, yet there has been no analysis of any alternative plans with fewer lots or smaller home footprints that might preserve native trees.

There are seven native, significant trees (20 or more inches in diameter) that are not in the Environmental Zone "all of which are proposed for removal to allow for construction of streets and homes." (Staff report, page 10)

There is no effort being made to preserve these trees because the Applicant would be forced to consider alternative layouts which sacrifice lots or reduce the size of home footprints. These significant trees carry with them the **"highest priority"** for preservation, yet a commensurately prioritized effort to preserve them has not been made in the slightest.

33.630.200.C.4 states: ***"Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following: 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;"***

The City's response to this section of the approval criteria is "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." (Staff report, page 11)

How can the City determine "it is not clear" that fewer lots would preserve more trees if they were never given an alternative layout that had fewer homes, a narrower street connection, or alternatively-positioned home footprints against which they could compare the current proposal?

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33.632.100 Landslide Hazard Area Approval Criterion

The following approval criterion must be met: Locate the lots, buildings, services and utilities 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.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Specific improvements, engineering requirements, techniques or systems, or alternative development options, including alternative housing types and reduced density (minimum or maximum), may be required in order to facilitate a suitable development that limits the risk to a reasonable level. Reductions to minimum or maximum density are done as part of the land division review, and do not require an adjustment.

Neither the Applicant nor the City has ever looked at reducing density as a way to managing the landslide hazard risk on this site; their only solution is to fill and regrade the entire site.

Again, there are more environmentally sensitive alternatives for development which reduce the risk to adjacent neighbors and property owners.

PortlandMaps online shows that the entire proposed site is in a Landslide Hazard Area.

We remind City Council that there was a landslide just one half mile away, at 4334 SW Fairvale Drive in December, 2016, displacing seven families.

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;

Despite this language, the entire developable portion of the site is being re-graded, and all contours changed in order to maximize development by building 11 homes. "Significant 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." (Staff report, page 13)

There are smarter alternatives that can be elected by both the City and the Applicant which would not have anywhere near as significant of an impact.

The City, itself, has even stated that they don't know how the protected wetland will be impacted by the extensive site regrading.

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"Staff found the information provided by the applicant a reasonable explanation of likely outcomes of the proposed development, however it is acknowledged that the actual impact to the wetland from the change in drainage patterns is unknown at this time." (Memo from Stephanie Beckman, dated March 22, 2017)

Members of City Council, it should be **unacceptable to you** that the fate a wetland so firmly protected at the highest levels of government is being left to chance.

33.640 Streams, Springs and Seeps

The City and the Applicant are using semantics to avoid addressing additional springs that were found by BES outside of the Environmental Zone just a week prior to the public hearing.

Applicant's counsel asserts that for a spring to be present, an aquifer must also be present, yet aquifers do not exist in SW Portland, so if this definition were applied across the board, there would be no springs anywhere in SW Portland. All "seeps and springs" in southwest Portland are fed by perched groundwater or follow buried ancient streams.

After repeated insistence by neighbors that additional water features exist, and after that insistence was validated by the City one week prior to the hearing, both the Applicant and the City nonetheless continue to wriggle out of the identified additional water elements and the potential for yet additional water elements to exist.

In Stephanie Beckman's memo dated March 22, 2017, she states that Staff "have expertise in, and are assigned the responsibility for objectively assessing these resources, as well as objectively assessing impacts of proposed development projects on these resources;" yet, even as the City objectively identified these additional water elements, they continue to rely on the Applicant's comments as a means to disqualifying these water elements.

The resulting domino effect is that the Hearings Officer then based his decision on the City's comments.

Members of City Council, how can an additional water source be physically identified and then imagined away with words?

In fact, the only party that has demonstrated accurate assessment in this area is the body of neighbors who have asserted that water elements outside of the EC zone exist. Why is this **fact** not being acknowledged?

We ask that you see these inconsistencies as unarguable justification to invoke an independent third party to review the entire site, to determine if there are additional features to be protected.

(If the City and Applicant are so confident in their reports which state there aren't additional features - even after those reports were proven wrong - why would they still refuse to adopt a shared interest in an independent party surveying ALL of the water elements on the subject site, to confirm accuracy?)

Moreover, it is a **fact** that the Applicant has not been able to confirm the hydrology source for the mapped wetlands and riparian areas on the subject site. Yet, when the potential source was identified just one week prior to the hearing, the Applicant refused to consider that this is the hydrology source of the wetland, instead opting to argue the definition of a spring.

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Staff states that the proposal will remove two of the three potential hydrology sources to the wetland. Ignoring the newly identified springs as the hydrology source for the wetland is reckless because this source of water could potentially be the only one remaining to the wetland after extensive site regrading.

If this last water source is removed, it could dry up the wetland **permanently**.

Members of City Council, we reiterate: it is unacceptable that the fate of this wetland at the headwaters of a tributary of Fanno Creek, and which is so firmly protected at the highest levels of government, is being left to **chance**.

33.653.020 Stormwater Management Approval Criteria

Stormwater management must meet the following approval criteria:

B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater

The City and Hearings Officer have both based their assessment of the existing stormwater management culvert system west of the property on incorrect information regarding the downstream culvert.

In the current proposal, the Applicant is not being required to upsize the smaller downstream culverts because both the City and Applicant have asserted that the downstream culverts were installed without permits. In fact, the permit for the culvert under the driveway of 5929 SW 48th Ave. was indeed issued by the City.

Given this new evidence that the permit is City-issued, the Applicant should be required to upsize the downstream culverts.

If downstream culverts are not upsized, it will result in flooding, according to a memo from Otak, dated March 21, 2017.

Transportation Impacts 33.641.020 Approval Criterion

*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.***

The Applicant's transportation plan did not consider factors required such as pedestrian safety, bicycle safety, and effect on neighborhood livability and the current Safe Route to School.

Senior city officials have also expressed concern with how this plan will impact the Safe Route to School.

The HNA has shown that there are alternatives which would create a pedestrian and bicycle route, and which would allow for access to emergency vehicles, yet which would limit vehicular traffic through this quiet neighborhood where children walk and bike alone on the streets.

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Instead, PBOT Staff went out of his way to offer applicant-supporting testimony at the end of the public hearing on March 8 - which, in particular, sought to undo the applicability of the Safe Routes to School program as an element that the Hearings Officer should be considering, and which also sought to undo the credibility of the published Safe Routes to School maps. It is important to note that this testimony was unsolicited by the Hearings Officer, and that at one point in his testimony, **PBOT Staff instructs the Hearings Officer**, "I would **caution you** about how much weight you put on this document," referring to the Safe Routes to School map.

(Please refer to PBOT Staff's testimony in the hearing recording, timestamp 2:38-2:52)

Not only is the "cautioning" of an independent party by PBOT disappointing, but it should be of real concern to every citizen in the City of Portland that those who are in the position of authority to ensure the safety associated with new street development are "cautioning" an independent hearings officer to not consider a city-sponsored initiative that is intended specifically to prioritize the safety of every child in the city of Portland.

Though it is not referenced in the city code, Safe Routes to School is a high-profile program being promoted by City staff, including City Council Commissioners. It is in stark conflict with this required street connection, and the HNA is calling on City Council to determine how to balance these conflicting priorities in a way satisfies all interested parties.

33.654.110 Connectivity and Location of Rights-of-Way

The HNA understands that the desired street connection "might" be referenced in the City's Comprehensive/ Transportation System Plan, but it is **not at all clear**. In the subject area (Map 11.11.16 Southwest District, Page 11-29), arrows indicate **BOTH** "Street Connection Points **CERTAIN** & Alignments **UNCERTAIN**" arrows and "Street Connection Points & Alignments **UNCERTAIN**" arrows, which is **DIFFERENT** than other designations, wherein street connections are shown only as "Street Connection Points and Alignment **CERTAIN**."

There is no further information provided in the Transportation System Plan map as to why the specific location on the subject site might be considered "**Uncertain**" with the equivocating arrows, though **one can look at the site, and logically infer that connection limitations are indeed due to precisely those barriers that exist on the subject site such as the complex topography, water features, and an environmental zone.**

The HNA has raised concerns many times about the impact that connectivity will have to existing neighbors and families. PBOT has said that the addition of sidewalks through the site and on the southern portion of SW 48th will improve safety, but the fact is that this section of SW 48th (south of SW Pendleton) is a dead end which has limited vehicular traffic (only four homes with driveways), and so the addition of sidewalks won't have an impact, and the proposed walking route through the site **does not lead to any of the neighborhood schools.**

PBOT Staff states:

"The less-than-standard conditions along SW Pendleton (northern leg) and SW 48th Ave will be greatly improved by the requirement to construct partial street and sidewalk corridor improvements along the site's frontages."

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This statement by PBOT Staff is gravely misleading because the sidewalks being built do not connect to any other sidewalks at all - they are an island unto themselves - yet PBOT asserts they will increase safety in the neighborhood.

SW 48th Ave. between SW Pendleton and SW Cameron is the main pedestrian route for the neighborhood. The proposed sidewalks will do absolutely nothing to protect the children and families who have always used and will continue to use SW 48th Ave. to access Hayhurst Elementary and the neighborhood.

PBOT's assertion that the introduction of sidewalks on a newly-created street will make people safer on an entirely different street - a street which does not have sidewalks, which is unimproved, which has poor visibility, and which will have through traffic in the future **is misleading**.

Why is the member of PBOT who contributed thoughts on this proposal unwilling to consider modified specifications, despite the HNA pleading for them and the property owner stating that he does not advocate for a street connection, knowing full well that the street connection is, itself, forcing the safety risk to pedestrians as well as the majority of detrimental impact to the subject site?

If connectivity can be achieved in a manner which both maintains pedestrian safety and limits detrimental impact to the site (which it most certainly can), why would the City not entertain such an option?

Even if connectivity ends up as a requirement, there is plenty of precedent in Portland for alterations to width and other specifications of through streets which can be engaged in this case.

33.654.120.B & C Width & elements of the right-of-way

Approval criterion for width of the right-of-way. The width of the local street right-of way must be sufficient to accommodate expected users, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, and natural features.

With the current street connection forcing the grading plan and the extensive tree removal, why is it a requirement to have sidewalks and on-street parking on both sides of the new 54-foot right of way? Based on the characteristics of the site and vicinity, this new street is going to be used by homeowners and neighborhood residents. There is no reason to have on-street parking or sidewalks on both sides of the street if narrowing the street could save even a few of the significant trees and reduce the impact of re-grading.

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Summary Comments

Members of City Council, we ask that you uphold the standards for development so clearly outlined in the Portland City Code, and that you finally include in your evaluation of this proposal the voices of neighbors and the voice of the formal Hayhurst Neighborhood Association, whose reasonable requests for alternative, lower-impact designs have, to date, been unheeded by Applicant and City bureaus, alike.

The HNA's testimony is applicable and also reasonable.

Still, the Applicant, BDS, and PBOT insist that there is only one way to develop on this property, which is an unreasonable statement to make in any development scenario, much less one of this complexity.

The requirement for street connectivity is:

- forcing the regrading of the entire developable portion of the site
- forcing the alteration of the site's natural drainage patterns, wherein there is already a stormwater drainage issue
- forcing the removal of nearly all of the trees outside of the environmental zone, including all significant trees (over 20" diameter)
- forcing the elimination of a recognized Safe Route to School, and
- superseding the Applicant's requirement to meet other key approval criteria

In turn, the Applicant is leveraging this requirement to attain more frontage for more lots, instead of prioritizing lower impact alternatives as called for in the approval criteria.

The HNA is certain that connectivity can be achieved with more moderate street specifications which do not force the dramatic impacts to the site.

In general, connectivity is just one example where alternatives are not being considered or even acknowledged by both the City and the Applicant.

The intent of the code is to ensure that Portland can continue to meet its housing and revenue needs while ensuring that no single party's interests are absolute or go unchallenged.

Even at this inflection point in Portland's lifecycle, we implore you to honor the obligation all of us have to the language and spirit of the Portland City Code, because it is unmistakable in its intent to ensure that proposals like LU 16-159330 LDS EN are modified so as to avoid permanent detriment to or decimation of the elements of our neighborhoods that we all have a vested interest in preserving.

When the last beam has been hammered, and the final truck has pulled away, it is the neighbors and the new homeowners of Hayhurst who will have to live with the impact of this development for generations to come.

A recognized wetland is on the line.

A mature tree canopy is on the line.

A City-recognized Safe Route to School and the lives that will be in jeopardy as a result of its destruction are on the line.

A neighborhood is on the line.

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Once they're gone, they're gone forever.

But you can prevent that, while still satisfying all parties.

What's to stop you from choosing that option?

With gratitude for your time,
The Hayhurst Neighborhood Association

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

1. SUBMISSION OF TESTIMONY

- a. Testimony may be submitted via email to CCTestimony@portlandoregon.gov or in writing to the Council Clerk, 1221 SW Fourth Avenue, Room 130, Portland, Oregon 97204. Written comments must be received by the time of the hearing and should include the case file number.
- b. Testimony may be submitted orally (see below).

2. HEARINGS PROCESS

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

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

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

3. OTHER INFORMATION

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

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