



City of Portland Bureau of Development Services

Staff Presentation to
City Council

on appeal of
Land Use Review 09-134484 LDS EN AD

Thursday, February 18, 2010 3:30pm
Staff: Shawn Burgett and Rachel Whiteside

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Purpose of Hearing

Appeal of Hearings Officer's Decision to approve a 49-lot land division with public streets, a recreation tract and a wetland preservation tract.

(Type III Land Division with Environmental Review for a stormwater outfall and Adjustments to the recreation tract size and wetland tract requirements.)

Applicant:

Mimi Doukas of Cardno/WRG representing Property Owners

Howard Brandwein and Jeri Geblin

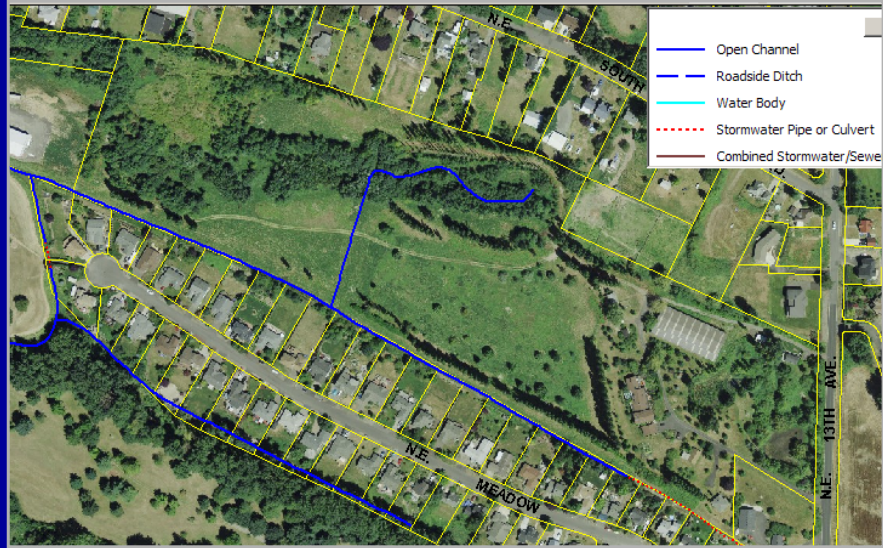
Appellant:

Maryhelen Kincaid on behalf of

East Columbia Neighborhood Association

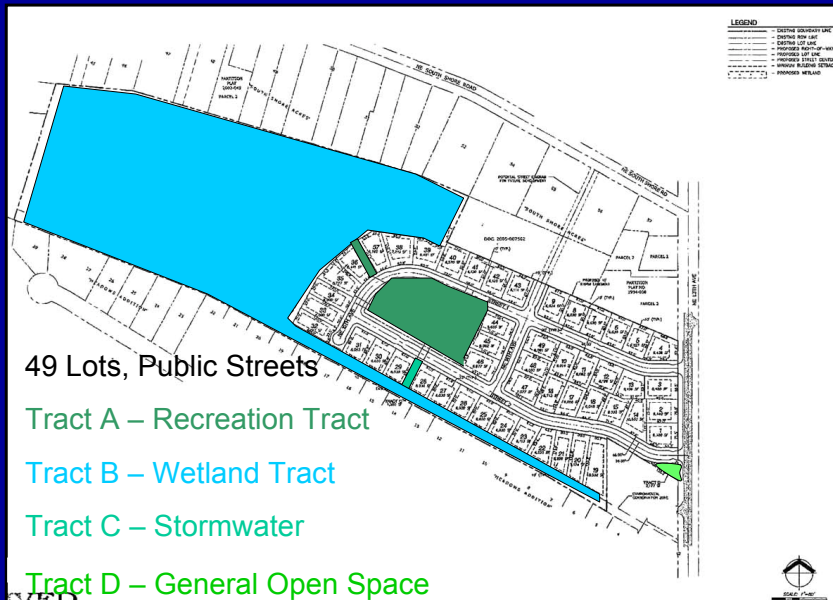
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2007 Aerial Photo



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Preliminary Land Division Plan



49 Lots, Public Streets

Tract A – Recreation Tract

Tract B – Wetland Tract

Tract C – Stormwater

Tract D – General Open Space



View of site facing west towards proposed wetland reserve



View of site from proposed wetland reserve, facing east towards the existing house and site of future development.

Summary of HO Decision

- **Approval of Environmental Review** for a stormwater outfall associated with the proposed 49-lot subdivision.
- **Approval of an Adjustment** to reduce the size of the required recreation area (PCC 33.634).
- **Approval of an Adjustment** to waive the requirement for a tract (PCC 33.640) over an existing wetland area that has been approved for fill by DSL and to allow grading in Tract B to accommodate the grading activities associated with the wetland enhancement.
- **Approval of a Preliminary Plan for a subdivision** that will result in 49 standard lots, new public streets, a common Recreation Tract and Wetland Preservation Tract.

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Appeal Summary

Point 1: Procedural Challenges

- PCC 33.730.030.D requires mailed notice 20 days prior to the scheduled hearing. This requirement was met by holding the hearing on November 30, 2009.
- The Hearings Officer chose to also hold the hearing originally scheduled for November 23, 2009 because it was too late to mail notice of the reschedule.
- The Hearings Officer does not have the authority to extend the 120-day review period and must work within state-mandated timelines.



Appeal Summary

Point 2: Flood Hazards

- PCC 24.50.010 and 24.50.060 are regulations found in the Building Code and are applied at the time a building or site development permit is requested.
- The Hearings Officer found that the applicable criteria in PCC 33.631.100 could be met with conditions of approval.
- The Hearings Officer included a condition of approval requiring a finalized site development permit prior to final plat approval.
- The Hearings Officer included a condition of approval requiring receipt of the final Conditional Letter of Map Revision (CLOMR) from FEMA prior to final plat approval.

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Appeal Summary

Point 3: Special Construction Considerations

- PCC 10.30.030 is found in the Erosion Control Code and is applied at the time a building or site development permit is requested.
- The Hearings Officer found that the applicable criteria in PCC 33.635.100 could be met with conditions of approval.
- The Hearings Officer included a condition of approval requiring a finalized site development permit prior to final plat approval.
- PCC 10.30.030 will be implemented at the time of review and inspection of the site development permit required by condition of approval.

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Appeal Summary

Point 4: Traffic Impacts

- The Hearings Officer found that the applicable criteria in PCC 33.641 could be met with conditions of approval.
- Construction traffic is not an evaluation factor in PCC 33.641. It is considered a temporary impact, not related to street capacity or intersection loads.
- At the time of permit the City Traffic engineer reviews and approves a Traffic Control Plan that would dictate the flow of construction traffic.



Appeal Summary

Point 5: Stormwater Management and Trees

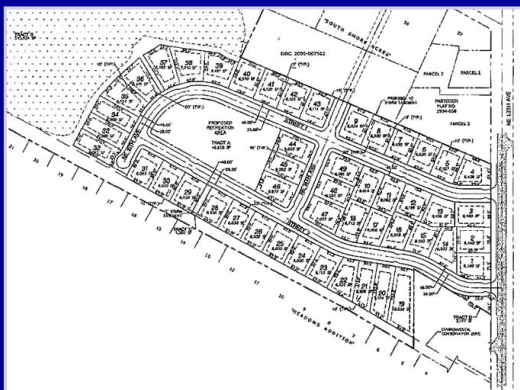
- The Hearings Officer found that the applicable criteria in both PCC 33.630, Tree Preservation, and 33.653.020, Stormwater Management, could be met with conditions of approval.
- The tree preservation options in PCC 33.630 were developed to specifically reduce erosion, siltation, & flooding and to filter stormwater & reduce runoff.
- The applicant provided a stormwater report evaluating the amount of impervious surface area identified on Exhibit C.1, Site Plan, that was reviewed by BDS, BES, and MCDD, and accepted by the Hearings Officer.



Appeal Summary

State Permits and Regional Compliance

- The state requires a Land Use Compatibility Statement (LUCS) from the local jurisdiction.
- The local jurisdiction does not have the authority to determine if a permit request to the state is valid.
- None of the three review types requested fall under the Metro Title 13 guidelines.



Council Alternatives

Appeal of Hearings Officer's Decision to approve a 49-lot land division with public streets, a recreation tract and a wetland preservation tract.

- Deny the appeal. Uphold Hearings Officer decision for approval of the proposal.
- Uphold the appeal, thereby overturning the Hearings Officer's decision and adopt revised findings.

120-Day Clock

