

Parsons, Susan

From: Beaumont, Kathryn
Sent: Monday, October 08, 2012 4:41 PM
To: Moore-Love, Karla; Whiteside, Rachel
Cc: Rees, Linly
Subject: RE: revised alternatives & sketches

Karla:

Go ahead and distribute this with the Tuesday memo.

Thanks.

Kathryn

Kathryn Beaumont (503.823.3081)
kathryn.beaumont@portlandoregon.gov

From: Moore-Love, Karla
Sent: Monday, October 08, 2012 3:30 PM
To: Whiteside, Rachel
Cc: Beaumont, Kathryn; Rees, Linly
Subject: RE: revised alternatives & sketches

Hi Rachel,

Unless I hear differently from the City Attorney's Office, I'll distribute a copy in my Tuesday memo to Council.

Thanks,
Karla

Karla Moore-Love | Council Clerk
Office of the City Auditor
503.823.4086

From: Whiteside, Rachel
Sent: Monday, October 08, 2012 3:26 PM
To: Moore-Love, Karla
Subject: FW: revised alternatives & sketches

Karla,
I received a revised appeal statement from the applicant/appellant for LU 11-153362 LDS ENM over the

10/9/2012

weekend. This case is to be heard by Council on Wednesday (10/10). I will bring a hard copy with the LU file to the hearing. Is there anything else you need BDS to do with this document?
Thanks for your continued assistance,

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

From: Brett K. Laurila [mailto:brett@bkl-a.com]
Sent: Sunday, October 07, 2012 10:16 AM
To: Whiteside, Rachel
Subject: revised alternatives & sketches

Rachel -

Attached is the revised alternatives response along with the revised sketches. Let me know if you need further information.

Brett K. Laurila
architect

bkl/a architecture
5505 se oetkin drive
portland, or 97267
503 344 4944 office
503 720 4255 direct

October 7, 2012

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

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

From: Brett K. Laurila, Applicant & Architect

Re: Appeal Additional Evidentiary Response-revised

Introduction:

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

I. On-Street Parking Review Criteria

Hearing Officer Comment:

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

Response:

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

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

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

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

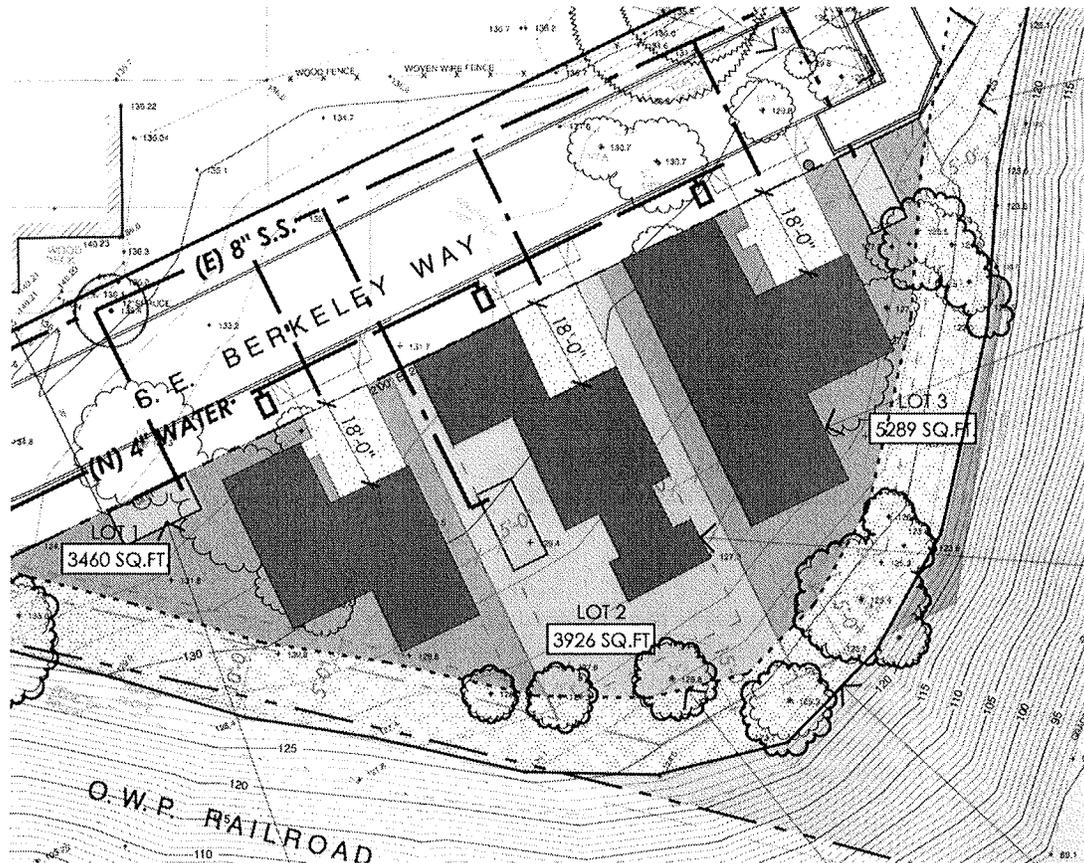


Figure 1
Enlarged View of proposed lot layout at
SE Berkeley Way.

A low level parking study was completed. A separate report is attached.

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

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

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



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

II. Alternatives Analysis Criteria

Hearing Officer Comment:

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

Response:

Attached are five (5) alternative proposals for a land division on this parcel. Each requires street improvements within the SE Berkeley Way unimproved right of way (ROW).

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

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

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

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

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

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

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

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

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

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

Attached or zero lot line development (**Alternate 5** - figure 8) with three or four reduced size lots along Berkeley way is an alternative. However, this scenario is not consistent with the neighborhood development pattern, would require additional modifications to heights and building coverage while requiring the removal of the same number of trees.

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

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

In summary:

Not Practicable:

- **Lower Plateau** – Development of the lower plateau is not practicable as development is not allowed in the protection zone
- **Fewer lots** – less than 4 lots is not practicable due to the cost of required public infrastructure improvements

Greater Impacts:

- **Larger lots** – Lots meeting the minimum lot size required by the **R10 zone** would result in more impacts to sensitive habitat areas and greater disturbance area
- **Smaller lots** – would not reduce tree loss due to location of existing trees and infrastructure requirements, requires a modification to height for comparable sized homes
- **More lots** – a 5-lot proposal as allowed by the **R10 zone** would result in roughly 3,500 SF more disturbance and loss of 16 additional native trees
- **Alternative development type** (attached housing, condos) – This type of development is inconsistent with development pattern in the neighborhood, would require additional modifications to height & building coverage while still impacting all of the same trees on the upper plateau

III. Height Modification Request

The Hearings Officer's report is in error noting that the Applicant withdrew the modification request for all lots. The height modification was withdrawn on lots 1,2 and 3 as they are closest to the Springwater Corridor and Johnson Tideman Park. The height modification request was to remain on lot 4. This can be confirmed by staff and with the sound recording of the hearing.

A height modification from 30 to 35 feet is still requested for lot 4.

IV. Conclusions

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

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett K. Laurila". The signature is stylized with a large initial "B" and a long horizontal stroke at the end.

Brett K. Laurila, Applicant

GENERAL SITE CHARACTERISTICS
NO SCALE

S.E. TENINO STREET

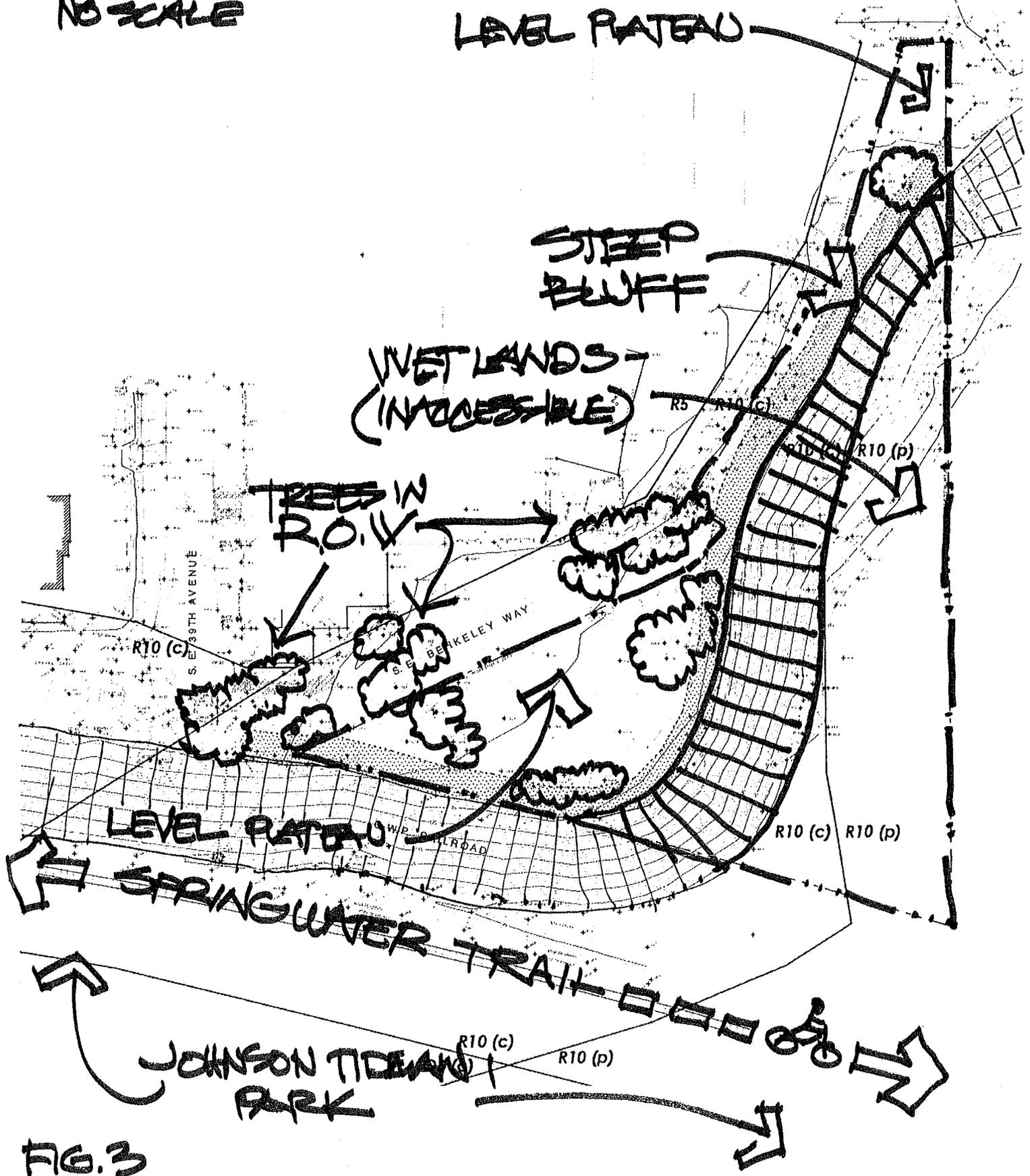


FIG. 3

ALTERNATE #1

SE. TENINO STREET

- SINGLE LOT & ASSOCIATED GREEN TRACT
- SUBSTANDARD (20') STREET IMPROVEMENT
- LAND USE (ENVIRONMENTAL) REVIEW
- STORMWATER IMPROVEMENT

ADJACENT LOT REQUIRING ACCESS TO BERKELEY WAY

TREE MITIGATION REQUIRED IN R.O.W.

FLAG LOT

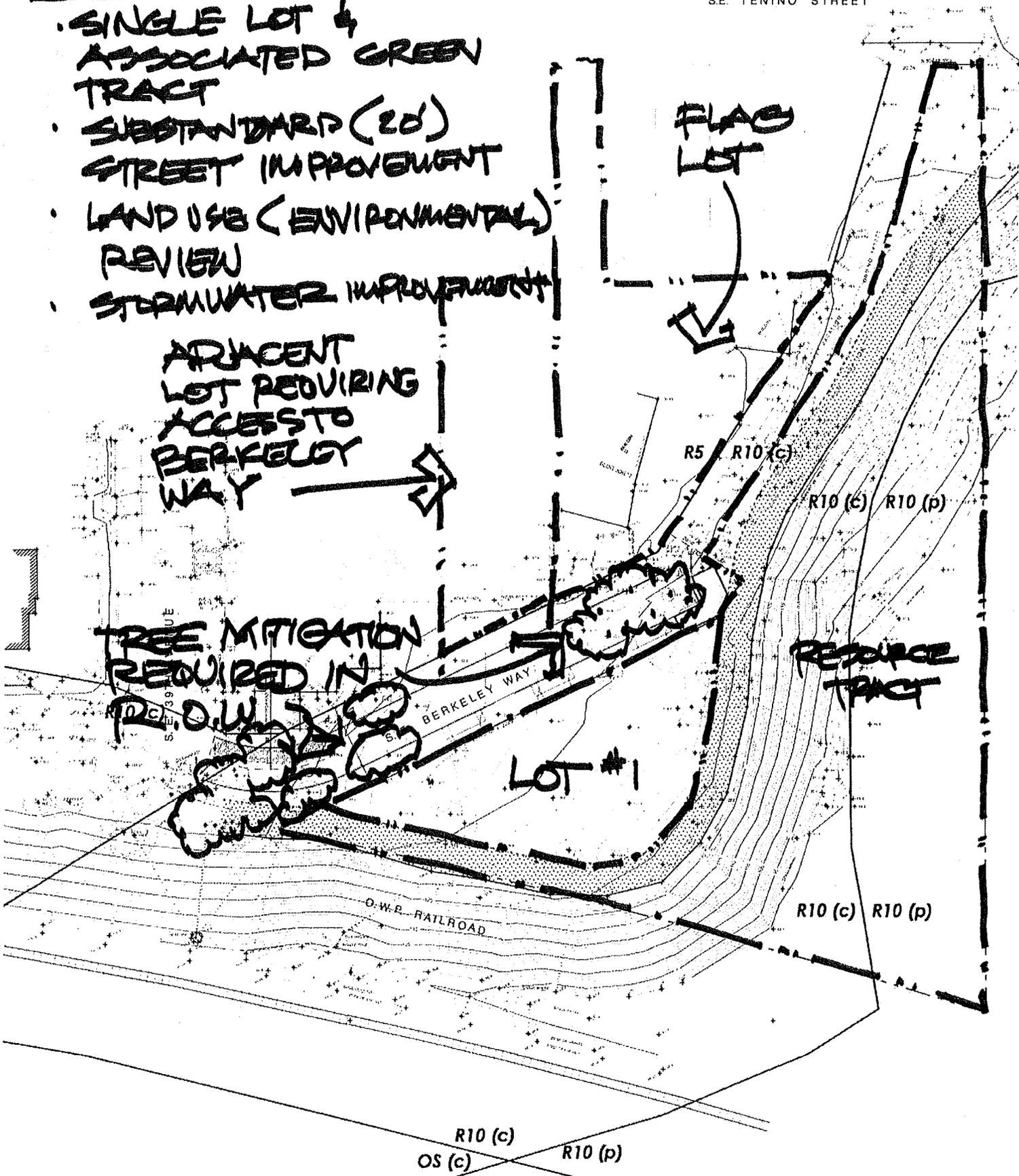
RESOURCE TRACT

LOT #1

O.W.R. RAILROAD

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

FIG. 4



ALTERNATIVE #2

SE. TENINO STREET

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

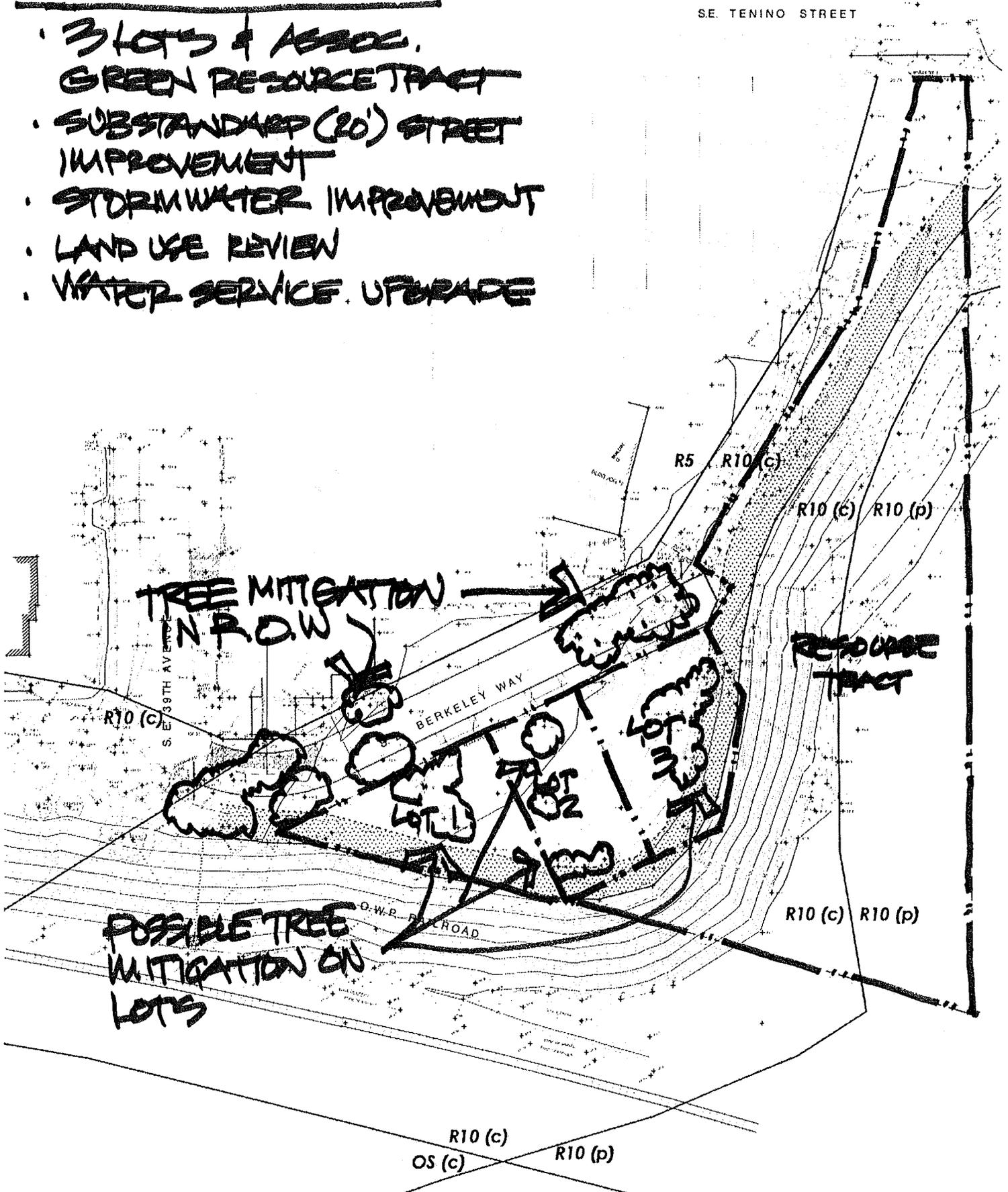


FIG. 5

ALTERNATIVE #3

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

SE TENINO STREET

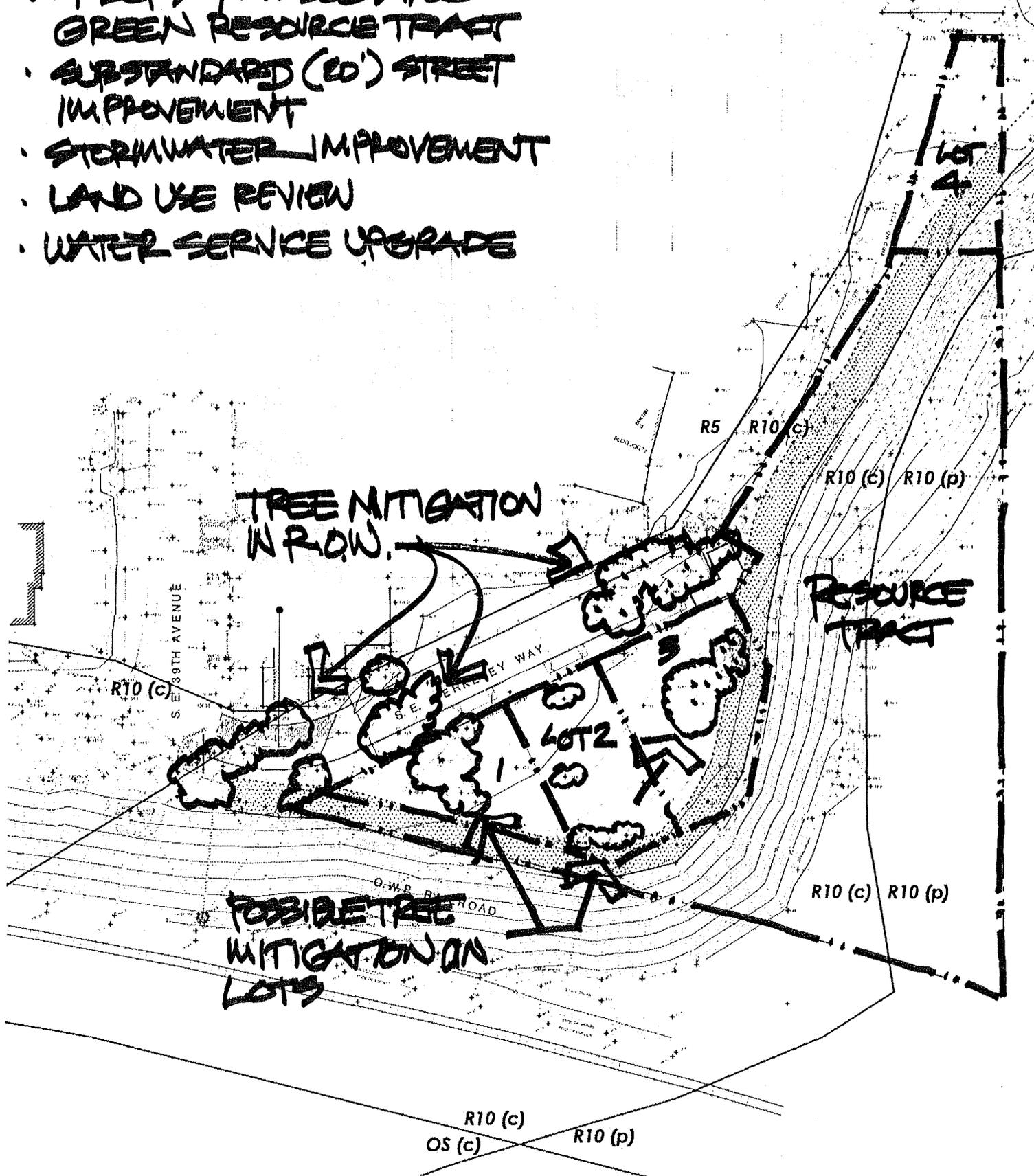


FIG. 4

ALTERNATE #4

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

SE. TENINO STREET

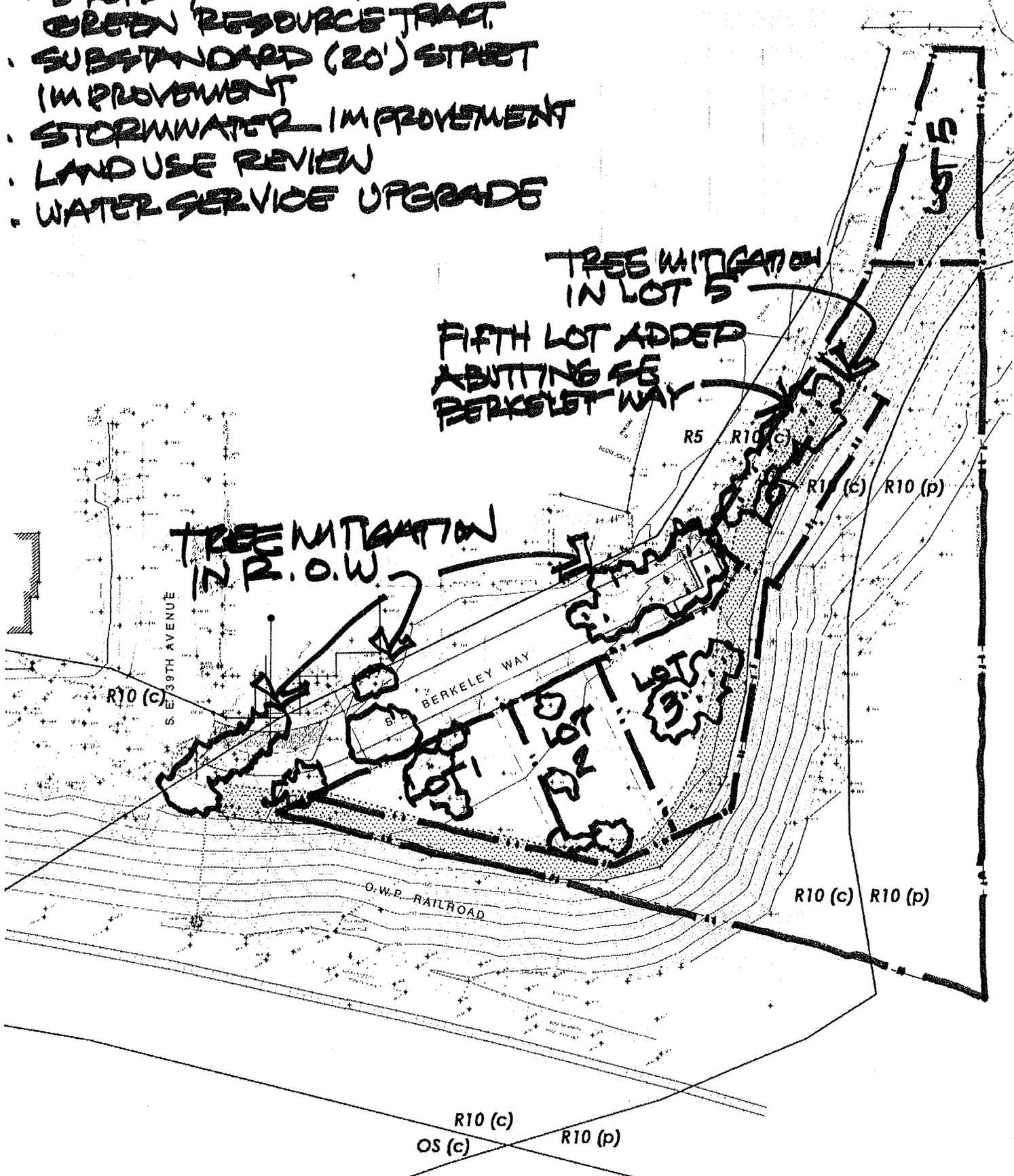


FIG. 7

ALTERNATE # 3

- 4 LOTS & ASSOCIATED GREEN RESOURCE TRACT.
- SUBSTANDARD (20') STREET IMPROVEMENT
- ATTACHED OR ZERO LOT LINE HOUSES
- LAND USE REVIEW
- WATER SERVICE UPGRADES
- ADDITIONAL MODIFICATIONS REQUIRED.

SE. TENINO STREET

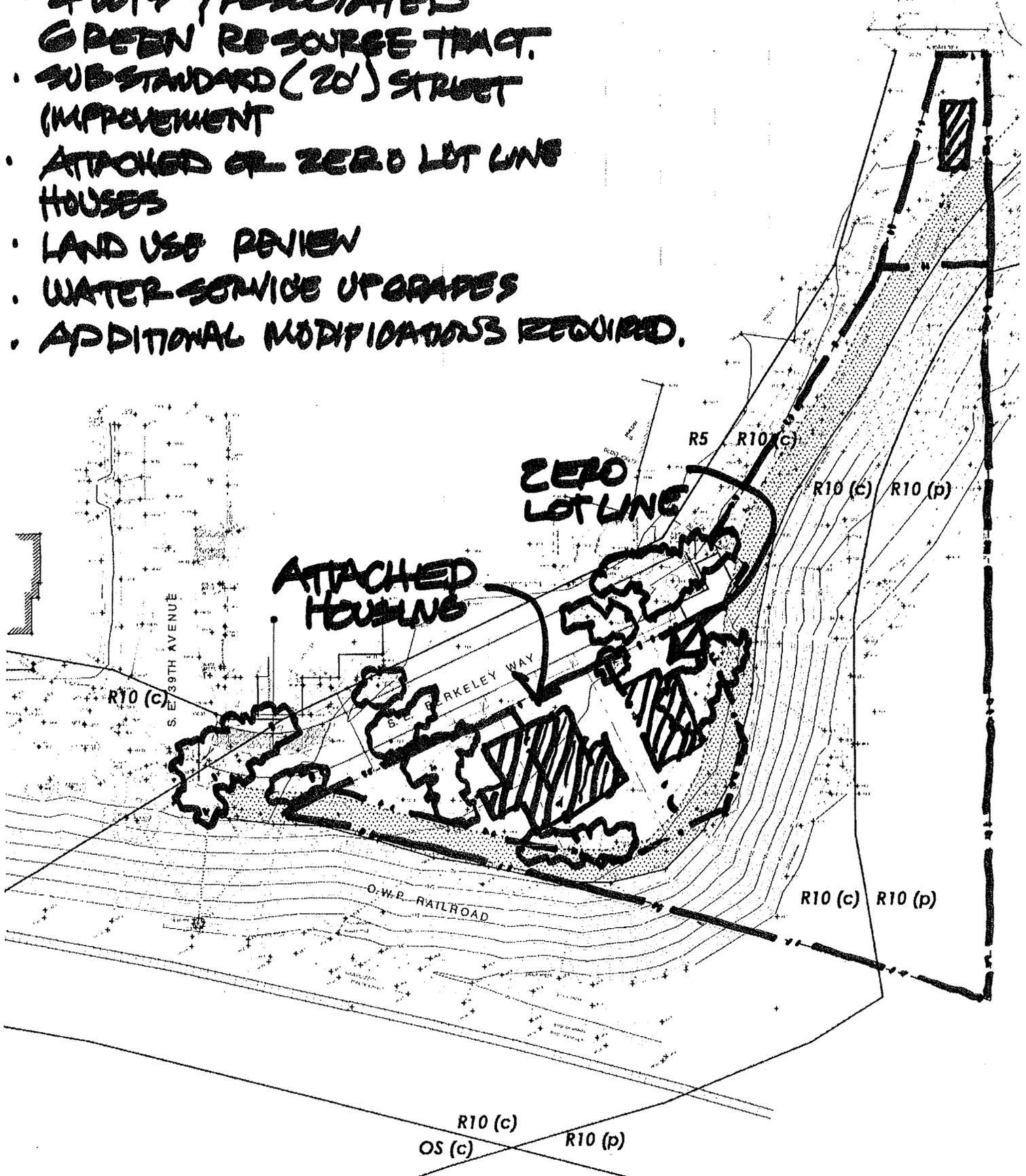


FIG. 8

*Fw to Council, BOS
10/9/12*

AUDITOR 10/09/12 AM 9:15

October 8, 2012

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

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

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

As the Land Use Chair of the Woodstock Neighborhood Association, I am writing in support of the Woodstock and Ardenwald-Johnson Creek Neighborhood Associations' position that the applicant for the proposed subdivision on SE Berkeley Way has not submitted complete or adequate evidence that his proposed alternative meets the Zoning Code requirements of 33.430.250.A., as cited on pages 5, 6, and 7 of the Decision of the Hearings Officer (HO) under:

ZONING CODE APPROVAL CRITERIA.

PCC 33.430.250 states that "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."...

On page 6 of his decision, under Findings, the HO states, "The approval criteria which apply to the proposed subdivision are found in PCC 33.430.250.A."

PCC 430.250.A. General criteria for public safety utilities, rights-of-way, driveways..
... land divisions...(includes):

PCC 430.250.A.1.a. Proposed development locations, designs, and construction methods have the least significant environmental impact to identified resources and functional values of other practicable and significantly different alternatives, including alternatives outside the resource area of the environmental zone.

(The wording in italics is not applicable because the entire site is in environmental zones.)

The key phrase here is "practicable and significantly different alternatives." The applicant has actually submitted only one alternative site plan with three variations obtained by subtracting or adding lots to his preferred site plan. His only analytical criterion for evaluating "least significant impact" is a table showing the costs to develop the lots proposed in each of the site plans. Admittedly, the costs to develop (or subdivide) is a practicable consideration. However, as presented here, it applies solely to the least significant impact to the developer's bottom line.

PCC 33.430.250.A.1 also requires the developer to analyze the environmental impacts of each of his alternatives, and to provide evidence as to why the preferred alternative has the least significant environmental impact of all the alternatives considered. As of the initial submittal of the appeal, the developer had submitted no analysis of the environmental impacts of the alternatives presented.

In addition, I would submit that the appellant has not been thorough and has been misleadingly selective in the alternatives he submits. For example, Alternative #1 shows the bluff plateau area being developed with only one house. Yet his Table 1: Probable Project Cost, includes \$120,000 for street right-of-way improvements for just one house. It is not at all clear why a more than 200 foot long street improvement would be needed to develop one lot that would have easy access from SE Cesar Chavez. While there is a potential land-locked lot on SE Berkeley way north of the site, when the owner of that lot decides to develop it, he/she would then be responsible for bearing the cost of right-of-way access improvement.

There could be an alternate three-lot subdivision with the land on the plateau accessed from SE Berkeley Way being divided into only two parcels and the third parcel being what is referred to as Lot 4 in the preferred alternative. This three-lot alternative would probably cost somewhat more per lot than the preferred four-lot Alternative #3. However it seems possible that two lots in the plateau area could be accessed from a considerably shorter improvement of SE Berkeley Way, thus cutting down the \$120,000 cost of Street Right-of-Way improvements. Fewer houses (3 instead of four) and less disturbance to the site would cause less detrimental environmental impact.

As the Hearings Officer points out on page 16 of his decision:

Findings: Chapter 33.610 contains the density and lot dimension requirement applicable in the RF through R5 zones. Because the site is within Environmental zones, a potential landslide area, and a flood hazard area, THERE IS NO MINIMUM DENSITY REQUIREMENT. (Emphasis added.)

The directive that an alternative should be practicable may mean that it should be developable with reasonable gain to the developer. However, I don't interpret it to mean that the site should be parceled in such a way as to yield the highest possible profit margin to the developer.

This is a highly sensitive site with considerable environmental value. Practicability should be balanced with the directive to develop with the "least significant environmental impact." For us that would mean fewer houses, smaller houses and houses set back further from the bluff.

Thank you for your consideration.

Sincerely,


Terry Griffiths, Land Use Chair,
Woodstock Neighborhood Association

11 September 2012

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

Subject: LU Case # 11-153362 LDS ENM
HO Case # 4120015
Additional Evidentiary Response – On-street Parking Analysis

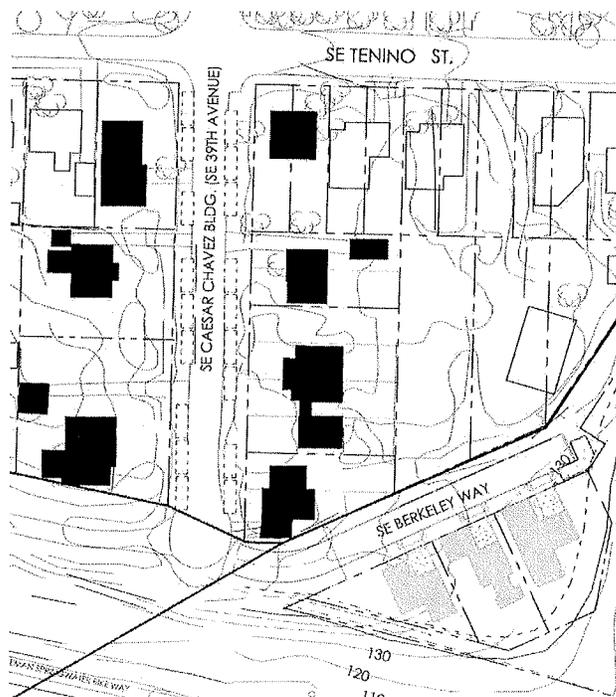
From: Brett K. Laurila, Applicant & Architect

Introduction:

This memo addresses a simplified parking analysis based on photographic observations taken at random morning & evening times over a seven (7) day period.

I. On-Street Parking Determination

There are seven (7) residences fronting SE Caesar Chavez Blvd. between SE Berkeley Way and SE Tenino Street. (Shown in black in the drawings below.) It is determined that there are approximately eighteen (18) parallel street parking spaces located between residential driveways. The parking spaces are delineated by dotted line rectangles in the drawing provided below:



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

II. On-Street Parking Analysis

SE Caesar Chavez Blvd. is signed as a dead-end at SE Crystal Springs Boulevard, ultimately ending at the intersection of SE Berkeley Way. This limits traffic to residents, visitors and service vehicles past SE Crystal Springs Blvd. Additionally, only SE Tenino Street (Dead ends one block east of intersection) and SE Berkeley Way (unimproved) intersect SE Caesar Chavez Boulevard south of the intersection of SE Crystal Springs Blvd. further limiting on-street parking to the residents abutting SE Caesar Chavez Blvd. and the associated service and visitor use vehicles. There are no commercial or other intensive parking uses located on SE Caesar Chavez Blvd. south of Crystal Springs Blvd.

I visited SE Caesar Chavez Blvd. between SE Tenino Street and SE Berkeley Way at random times over the period of one week to observe existing on-street parking patterns.

My observations are noted in the table below:

	Monday September 3rd - (Labor Day)	Tuesday September 4th	Wednesday September 5th	Thursday September 6th	Sunday September 9th	Average
<u>Time</u>						
Morning	3			3	4	3.33
Mid-day				4		4.00
Evening		0	1			0.50

These random observations of parking patterns reflects (3) to (4) cars at various times a day parked in the SE Caesar Chavez Boulevard right of way. The majority of on-street vehicles in the morning and mid-day were centered in front of one particular residence. The photographic evidence shows that other locations also had sporadic on-street parking use. Based on these observations only, (14-15) on-street parking spaces are available for use.

Photographic evidence of my observations is noted in the subsequent pages:



Figure 1
View north from SE 39th dead end
(Intersection with SE Berkeley Way 7:48 am 09/03/2012 – Monday - holiday)

(3) ON STREET CARS NOTED



Figure 2
View north from SE 39th dead end
(Intersection with SE Berkeley Way 5:36 pm 09/04/2012 - Tuesday)

(0) ON STREET CARS NOTED



Figure 3
View north from SE 39th dead end
(Intersection with SE Berkeley Way 4:57 pm 09/05/2012 - Wednesday)

(1) ON STREET CARS NOTED



Figure 4
View north from SE 39th dead end
(Intersection with SE Berkeley Way 6:46am 09/06/2012 - Thursday)

(3) ON STREET CARS NOTED



Figure 5
View north from SE 39th dead end
(Intersection with SE Berkeley Way 1:46pm 09/06/2012 - Thursday)

(3) ON STREET CARS + (1) Scooter NOTED

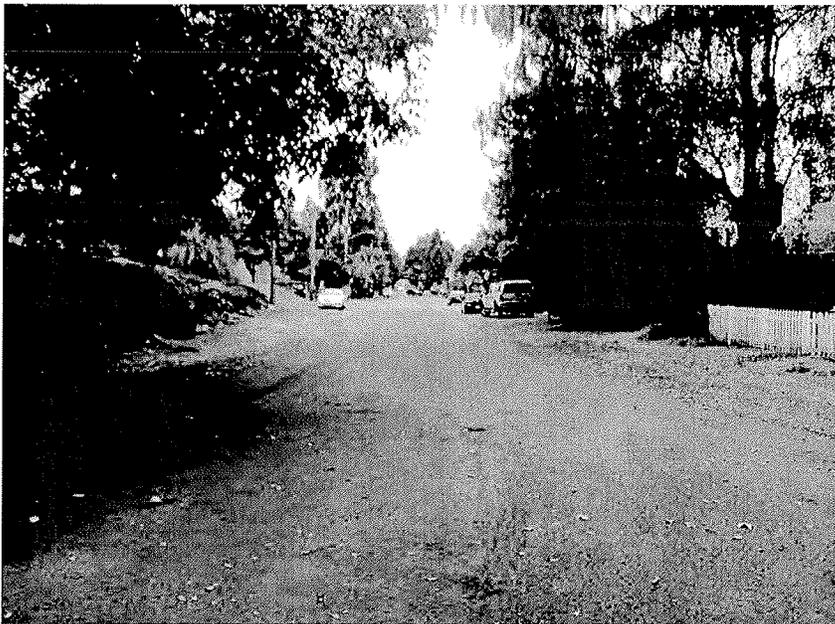


Figure 6
View north from SE 39th dead end
(Intersection with SE Berkeley Way 9:25am 09/09/2012 - Sunday)

(4) ON STREET CARS NOTED

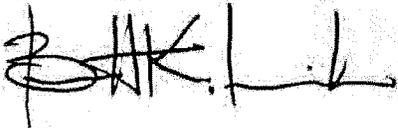
III. Conclusions

Based on this simplified on-street parking analysis consisting of random time and day observations, on-street parking when needed, can easily be accommodated on SE Caesar Chavez Blvd. near the intersection of SE Berkeley way for the proposed three single-family lots. Any on-street parking being accommodated on SE Caesar Chavez Blvd. keeps additional parking out of the environmental zone encumbered by the limited improvements within SE Berkeley Way.

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

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brett K. Laurila". The signature is stylized with a large initial "B" and a long horizontal stroke at the end.

Brett K. Laurila, Applicant