

## CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

### Hearings Office

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## DECISION OF THE HEARINGS OFFICER

### I. GENERAL INFORMATION

**File No.:** LU 13-230328 LDS AD EN  
(Hearings Office 4140029)

**Applicant:** Dan MacNaughton  
Raz Brothers LLC  
3802 SW Martins Lane  
Portland, OR 97239

**Property Owners:** Raz Brothers L.L.C. (Land Division site)  
P.O. Box 19826  
Portland, OR 97280-0826

Blackacre Properties L.L.C. (Environmental Review site)  
Attn: Thomas Udell  
2629 Main Street #111  
Santa Monica, CA 90405

**Representatives:** Bradley S. Schleining  
WB Wells & Associates, Inc.  
4230 NE Fremont Street  
Portland, OR 97213

Eric Campbell and Tricia Sears  
Pacific Habitat Services Inc.  
9450 SW Commerce Circle, Suite 180  
Wilsonville, OR 97070

**Hearings Officer:** Gregory J. Frank

**Bureau of Development Services (BDS) Staff Representative:** Kate Green

**Site Location:** Vacant property at SW 25<sup>th</sup> Avenue and SW Nevada Street (Land Division and Adjustment Review site) and 6810 SW 26<sup>th</sup> Avenue (Environmental Review site)

**Legal Description:** TL 7700 1.30 ACRES, SECTION 20 1S 1E; TL 800 1.49 ACRES, SECTION 21 1S 1E; TL 8600 2.57 ACRES, SECTION 20 1S 1E

**Tax Account No.:** R991202420, R991212500, R991203530

**State ID No.:** 1S1E20AA 07700, 1S1E21BB 00800, 1S1E20AA 08600

**Quarter Section:** 3726

**Neighborhood:** Hillsdale

**Business District:** Hillsdale Bus. & Professional

**District Coalition:** Southwest Neighborhoods Inc.

**Zoning:** Land Division and Adjustment Reviews/Single Dwelling Residential 7,000 (R7)  
Environmental Review/Multi-Dwelling Residential 2,000 (R2), Design (d) overlay, Environmental Conservation (c) overlay, Hillsdale Plan District

**Other Designations:** Potential landslide hazard, wetlands, stream channel

**Land Use Review:** Type III  
Land Division-Subdivision (LDS)  
Adjustment (AD)  
Environmental (EN)

**BDS Staff Recommendation to Hearings Officer:** Approval with Conditions

**Public Hearing:** The hearing was opened at 8:31 a.m. on June 17, 2015, in the 3<sup>rd</sup> floor hearing room, 1900 SW 4<sup>th</sup> Avenue, Portland, Oregon, and was closed at 9:37 a.m. The record was closed at that time.

**Testified at the Hearing:**

- Kate Green
- Fabio de Freitas
- Daniel MacNaughton

**Proposal:** Applicants request a **Land Division-Subdivision** to divide 2 vacant properties into 8 lots for single dwelling houses. Access to the proposed lots will be via a public street extension of SW 25<sup>th</sup> Avenue. A new east-west public street extension, public pedestrian pathway, and several tracts for wetlands are also proposed.

Applicants also request an **Adjustment** to the Zoning Code provision, 33.640.200.B, which limits development within wetland areas on the subject property, in order to perform work associated with a new public pathway and for potential future work related to public stormwater management.

In addition, Applicants request an **Environmental Review** in order to route stormwater from the land division site to a stream (Stephens Creek) located on the adjacent property to the north (6810 SW 26<sup>th</sup> Avenue). Originally, Applicants proposed to install a 24-inch diameter conveyance pipe and outfall within the environmental resource area adjacent to Stephens Creek. Now Applicants propose to construct an open channel conveyance facility within the environmental resource area adjacent to Stephens Creek.

This subdivision proposal is reviewed through a Type III procedure because: (1) the subject property is in a residential zone; (2) four or more dwelling units are proposed, not including accessory dwelling units; and (3) the subject property is located within a Potential Landslide Hazard or Flood Hazard Area (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 Applicants' proposal is to create 10 units of land (8 lots and 2 tracts). 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*. The relevant criteria are:

- **33.660.120: Land Divisions in Open Space and Residential Zones**
- **33.805.040: Adjustment Review**
- **33.430.250.A: Environmental Review**

## II. ANALYSIS

**Site and Vicinity:** Generally, this surrounding area is hilly and has a fragmented street system, with most of the rights-of-way being developed with only a center strip of paving, and a few intermittent segments with curbs, planters, and sidewalks.

The area surrounding the review sites, within 500 feet, includes a mix of single and multi-dwelling zones, and most of these are developed with one or two story houses or large apartment complexes. The area includes homes established 50 or more years ago, as well as newer dwellings constructed in the past decade.

A large R7 zoned property to the east of the subject property is developed as a church.

To the west, there is a city-owned property, known as the Texas Wetland. This Bureau of Environmental Services ("BES") facility includes a series of wetlands which connect to the unnamed Stephens Creek tributary, which, as noted in the BES response, extends along the eastern edge of 6944 SW 26<sup>th</sup> (R237627) within a 10-foot wide Drainage Reserve Easement (BES tracking #4584), then crosses BES owned property (R329799), and extends north onto the environmental review site where it connects to the main stem of Stephens Creek.

More specific descriptions of the project sites are included below:

Land Division/Adjustment Review Site ("Land Division/Adjustment Site"): The site for the Land Division and Adjustment Reviews includes two vacant properties that border an undeveloped portion of SW 25<sup>th</sup> Avenue. Overall, the site area is approximately 2.79 acres. The properties slope down from the southeast to the northwest. A narrow open channel (unnamed tributary of Stephens Creek) and stream-associated wetlands border and extend onto the west and north boundaries of the Land Division/Adjustment Site. A mix of trees extends across the west half of the Land Division/Adjustment Site.

The Land Division/Adjustment Site has been in use as a garden and large expanses of the hillslopes have been mowed. A fence also borders the perimeter of the Land Division/Adjustment Site.

Environmental Review Site ("Environmental Site"): The Environmental Site is approximately 2.6 acres and is developed with six buildings with apartment units, as well as parking, landscape areas, and a swimming pool. Stephens Creek traverses the Environmental Site from west to east in an open channel. The apartment complex was developed in 1966 before the application of the environmental designation over Stephens Creek.

Based on BDS staff observations during a site visit on December 31, 2014, the portion of the stream channel on the Environmental Review site is heavily covered with ivy. There are some native and non-native ornamental trees along the banks.

The proposal includes work predominantly in an Easement Area, which is located along the southeast perimeter of the property, between the Land Division/Adjustment review property and the Stephens Creek channel.

Environmental Resources: The Environmental Site (and surrounding lands as well as the Land Division/Adjustment site) is located within Resource Site 116 of the *Southwest Hills Resource Protection Plan (Resource Plan)*. The types of resources identified in Site 116 include: perennial creek, open space, forest, wildlife habitat, wetland, groundwater recharge, scenic, recreation and cultural.

The Resource Plan also indicates that the presence of water increases the area's habitat quality since water is essential for wildlife survival. Wetlands are noted, in the Resource Plan, as rare and valued resources because of the high plant, animal and insect species to land area ratio, and for improving water quality by trapping sediment. The Resource Plan also notes that Stephens Creek helps support much of the native vegetation and forms a habitat corridor within Site 116.

The primary environmental features present on the Environmental Site include Stephens Creek and a related unnamed tributary, and stream-associated wetlands, which provide wildlife habitat, groundwater recharge, and scenic and recreational resources.

**Infrastructure:**

- **Streets** – The Land Division/Adjustment Site is bisected by a 20-foot wide unimproved section of SW 25<sup>th</sup> Avenue right-of-way. The south end of the site abuts a partially improved portion of SW 25<sup>th</sup> Avenue, which is developed with an asphalt road surface. There is a curb, planter, and sidewalk in front of the abutting property on 7132 SW 25<sup>th</sup> Avenue; otherwise, the balance of this segment of SW 25<sup>th</sup> Avenue, between SW Nevada Court and the Land Division site does not have curbs, sidewalks, or planters. At this location, SW 25<sup>th</sup> Avenue is classified as a Local Service Street for all modes in the Transportation System Plan (“TSP”).

TriMet provides transit service approximately 700 feet north and 1,200 feet west of the Land Division/Adjustment Site along SW Capitol Highway via Bus #44.

- **Water Service** – There is an existing 6-inch DI water main located in the developed portion of SW 25<sup>th</sup> Avenue just south of the Land Division/Adjustment Site, at street surface elevation of 537 feet. A water main extension must be provided to serve the proposed lots.

- **Sanitary Service** - There is an existing public 8-inch CSP sanitary-only sewer line running east-west across R329977 (BES as-built 1974 S13 03) and in the SW 25<sup>th</sup> Avenue right-of-way (“ROW”) Land Division/Adjustment Site (BES as-built #2386). The sewer continues north across 6810 SW 26<sup>th</sup> through a 5-foot wide BES sanitary and storm easement (Ordinance #102984 and BES tracking #3037). The BES sewer line is within a 5 feet wide public sewer easement across subject lot R329977 (BES tracking #5746).

- **Stormwater Disposal** – There is no public storm-only sewer currently available to the Land Division/Adjustment Site.

However, as noted in the response from BES, there is a BES stormwater facility, known as the Texas Wetland (BES as-built #E089321), located on the city owned property to the west (R329799), which connects to Stephens Creek on the Environmental Site, via a Stephens Creek tributary. In addition, BES notes that south of the Land Division/Adjustment Site and on the east side of the SW 25<sup>th</sup> ROW there is a vegetated planter maintained by the City of Portland that will drain to the new improvements in SW 25<sup>th</sup> Avenue.

**Zoning:** Zoning information for the Land Division/Adjustment Site and Environmental Site is listed below:

Land Division/Adjustment Site: The properties for the Land Division and Adjustment Reviews are located within the **Single Dwelling Residential 7,000 (R7)** zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households.

Environmental Site: The property for the Environmental Review is located in the **Multi-Dwelling Residential 2,000 (R2)** zone, which is a low density multi-dwelling zone. There is also an **Environmental Conservation (c)** overlay across the portion of property that is bisected by Stephens Creek. The Environmental Conservation zone is applied to conserve important resources and

functional values in areas where the resources and functional values can be protected while allowing environmentally sensitive urban development. This property also has a **Design (d)** overlay, which is intended to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. In addition, this property is within the boundary of the **Hillsdale Plan District**, which aims to promote compatibility between existing and new residential and commercial development and support the Hillsdale Town Center.

**Land Use History:** City records indicate there are no prior land use reviews for the Land Division/Adjustment Site and Environmental Site.

**Agency Review:** Several bureaus have responded to this proposal and relevant comments are addressed under the applicable approval criteria. Exhibits "E" contain the complete responses.

**Neighborhood Review:** An initial *Notice of Proposal in Your Neighborhood* was mailed on January 2, 2015. An updated *Notice of Proposal in Your Neighborhood* was mailed on May 21, 2015. One written response was received from a homeowner residing in close proximity to the Land Division/Adjustment Site (Exhibit 5). This homeowner expressed concerns related to traffic impacts if the Land Division/Adjustment request is approved. The Hearings Officer will address the comments made in Exhibit H.5 in the relevant transportation approval criteria below.

## ZONING CODE APPROVAL CRITERIA

### LAND DIVISION REVIEW

#### APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

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

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

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
C	33.631 - Flood Hazard Area	The Land Division/Adjustment Site is not within the special flood hazard area regulated by this criterion. However, as noted in the Site Development response, both the Land Division/Adjustment Site and the Environmental Site have a watercourse(s) and work within the floodplain boundaries is regulated by Title 24.50.
E	33.633 - Phased Land Division or Staged Final Plat	A phased land division or staged final plat has not been proposed.
F	33.634 - Recreation Area	The proposed density is less than 40 units.
	33.654.110.B.3 - Pedestrian connections in the I zones	The Land Division/Adjustment Site is not located within an I zone.
	33.654.110.B.4 - Alleys in all zones	No alleys are proposed or required.
	33.654.120.D - Common Greens	No common greens are proposed or required.
	33.654.120.F - Alleys	No alleys are proposed or required.
	33.654.120.G - Shared Courts	No shared courts are proposed or required.

Criterion	Code Chapter/Section and Topic	Findings: Not applicable because:
	33.654.130.B - Existing public dead-end streets and pedestrian connections	No public dead-end streets or pedestrian connections exist that must be extended onto the Land Division/Adjustment Site.
	33.654.130.D - Partial rights-of-way	No partial public streets are proposed or required.

**Applicable Approval Criteria are:**

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

**Findings:** Chapter 33.610 contains the density and lot dimension requirements applicable in the R7 zone. In this case, a new street is proposed, so the maximum density is based on 85 percent of the total site area divided by 7,000 square feet. There is no required minimum density, since the site has a potential landslide hazard area designation.

Based on the Land Division/Adjustment Site area of 2.79 acres or 121,099 square feet, the maximum density is 15. Applicants are proposing 8 single dwelling lots, which is within the allowed density.

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

	Min. Lot Area (square feet)	Max. Lot Area (square feet)	Min. Lot Width* (feet)	Min. Depth (feet)	Min. Front Lot Line (feet)
<b>R7 Zone</b>	4,200	12,000	40	55	30
Lot 1	6,210		60	103	60
Lot 2	6,207		60	103	60
Lot 3	6,136		60	103	60
Lot 4	6,132		59	103	59
Lot 5	6,193		60	103	60
Lot 6	5,199		60	102	60
Lot 7	5,597		55	102	55
Lot 8	5,597		55	102	55

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

The findings above show that the applicable density and lot dimension standards are met. Therefore, the Hearings Officer finds this approval criterion is met.

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

**Findings:** The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

Applicants provided an arborist report that inventories the trees within the Land Division/Adjustment Site, evaluates their condition and specifies root protection zones (contained in Exhibit A.1). Fourteen trees have been exempted because they are unhealthy or nuisance species. The arborist report indicates the following six trees are subject to the preservation requirements:

Tree #	Species	Diameter (inches)	To be retained?	Alternate Root Protection Zone (ARPZ)
421	Willow	28(significant) multi-stemmed	No	----
425	Cherry	6.5	No	----
427	Oregon Ash	33.5 (significant)	Yes	An ARPZ is proposed in accordance with 33.248.065.C. See discussion below.
436	Cherry	6.5	No	----
437	Cherry	10	No	----
446	Apple	16.5	No	----

The total non-exempt tree diameter on the Land Division/Adjustment Site is 101 inches. Applicants propose to preserve Tree 427, which is considered a significant tree at 33.5 inches in diameter, and equates to 33 percent of the total non-exempt tree diameter on the site. Since there are two significant trees on the Land Division/Adjustment Site, and one (Tree 427) is proposed to be protected, the proposal aligns with Option 2, which requires at least 50 percent of the significant trees on the Land Division/Adjustment Site and at least 30 percent of the total tree diameter on the Land Division/Adjustment Site to be preserved.

Tree 427 is located approximately 10 feet west of the SW 25<sup>th</sup> Avenue public ROW on the Land Division/Adjustment Site that does not currently have any at-grade improvements. However, within this right-of-way, there is an existing sanitary sewer line and a new public storm line is proposed to be installed as part of this proposal.

Given the proximity of the tree to the ROW, a standard root protection zone cannot be accommodated. Instead, Applicants have proposed an alternative root protection zone ("ARPZ"). As outlined in a memo prepared by Robert Mazany, Registered Consulting Arborist (Exhibit A.10), tree protection fencing will be installed 20 feet from the tree trunk for portions that do not abut the ROW, and 10 feet from the tree trunk for portions that abut the ROW, and this ARPZ will be reflected on the project plans. The memo also indicated that an arborist must be onsite to monitor any work within the proposed root protection. With these measures, the arborist indicated a sufficient level of protection will be required to fulfill the requirements of 33.248.065.C.

Applicants also consulted with City Urban Forester Myles Black regarding options for additional protection in the ROW, and reports that additional tree protections may be included as part of the public works permits, based on City Title 11 requirements (Exhibit A.10).

However, even with an acceptable ARPZ, there are other factors that could have a bearing on tree preservation:



- The tree to be preserved will be located within a seep and spring reserve tract (Tract A), which is described in more detail in Criterion J, below; and
- Applicants have requested that excavation and grading, pipe installation, and other activities be allowed within the proposed tract (Tract A), in order to accommodate potential future alterations associated with the wetlands and stormwater management, as discussed in the Adjustment Review, below.

These circumstances raise questions about the long term prospects for preserving the noted tree, since no grading or utility placement is allowed within an approved root protection zone (33.248.068). However, since the potential future work within the tract is contingent upon many factors, it is likely the tree can be retained for the foreseeable future. Applicants are aware that a Tree Review will be triggered if the tree is proposed for removal in the future.

With a condition that requires that the alternative tree preservation requirements are documented in the maintenance agreement for Tract A, the Hearings Officer finds there is adequate assurance that the future owners of the tract will be aware that development must be conducted in conformance with the tree preservation requirements. The Hearings Officer finds this approval criterion will be met.

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

**Findings:** The Land Division/Adjustment Site is located within the Potential Landslide Hazard Area. The approval criteria state that the lots, buildings, services, and utilities must be located on the safest part of the Land Division/Adjustment Site so that the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the Land Division/Adjustment Site is reasonably limited.

Site Development reviewed the proposal and provided the following (see Exhibit E.5):

*"The site is located in the Potential Landslide Hazard Area. Site Development reviewed the landslide hazard study (LHS) which consists of the December 10, 2014 Redmond Geotechnical Services geotechnical engineering and landslide hazard study report and the December 31, 2012 Northwest Geological Services Inc landslide hazard report. In addition Site Development reviewed the December 10, 2014 Redmond Geotechnical Services supplemental report providing an evaluation of embankments supporting proposed improvements.*

*The LHS concludes that the site is suitable for development as proposed provided the recommendations contained in the report are implemented. The report recommends on-site infiltration of stormwater in the proposed public stormwater facility and/or embankment fill slopes be prohibited. The report concludes that limited on-site infiltration of stormwater may be feasible on individual lots provided a geotechnical engineer review and approve proposed onsite detention and infiltration facilities.*

*Previous plans identified an UltraBlock™ retaining wall supporting a portion of the 2 horizontal to 1 vertical (H:V) pedestrian path embankment fill. The drawings depicted the facing blocks on private property and geogrid reinforcement encroaching in the public right-of-way. The revised drawings show a wall located on Tract A, however it does not appear the wall type has been defined.*

*Portland Bureau of Transportation (PBOT) must review and approve the proposed retaining wall; please refer to the Public Street/Mass Grading comments below. The retaining wall design calculations and drawings must be stamped by a registered design professional licensed in the State of Oregon. The calculations must reflect the retaining wall design recommendations provided in the geotechnical report, and demonstrate adequate factors of safety under the required design loads in the City and State Building Code.*

*Site Development concludes the information provided in the landslide hazard study is acceptable and satisfies the approval criterion of Section 33.632.100."*

Based on these factors, the Hearings Officer finds this approval criterion is met.

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

**Findings:** These regulations ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. Additionally, where geologic conditions or historic uses of the site indicate that a hazard may exist, these regulations ensure that specific improvements are made in order to make the lots suitable for their intended uses and the provision of services.

Clearing and Grading: In this case, the Land Division/Adjustment Site has steep grades (up to 20 percent), is located in the Potential Landslide Hazard area, and requires extensive grading for street, pedestrian path, and stormwater management improvements. No specific grading is proposed to make the lots developable. To satisfy this criterion, the clearing and grading associated with preparation of the ROW must occur in a way that will limit erosion concerns and assure that the preserved tree on the Land Division/Adjustment Site will not be disturbed, and also protect the stream and stream-associated wetlands on the Land Division/Adjustment Site.

Applicants submitted a Late Erosion Control Plan (Exhibit C.1.h) that depicts the proposed grading work for the streets, pedestrian path, and stormwater facilities. The plan includes the existing and proposed elevation contours, soil stockpile areas, undisturbed areas consistent with the root protection zone of tree to be preserved, and the overall limits of disturbed area. The plan also includes a work limit boundary to ensure the onsite wetlands are protected during the grading activities. Additionally, written construction methods are identified on the plan and in a memo provided by the Applicants (Exhibit A.11).

The proposed contour changes should not increase runoff or erosion because erosion control measures must be installed prior to starting the grading work. Though, as noted in the response from Site Development, additional erosion and sediment controls may be needed to meet Title 10 requirements and these requirements will be further evaluated through the public works review.

Site Development also provided the following information about the permit requirements for the site grading:

*"Public Street/Mass Grading: The development includes public rights-of-way for SW 25<sup>th</sup> Avenue, SW Texas Street, and the pedestrian path connecting to SW 25<sup>th</sup> Avenue. The preliminary plans show that site grading is not required to create developable lots. All of the grading is required for the development of the public infrastructure. Therefore, given the existing right-of-way of SW 25<sup>th</sup> Avenue, a Public Works Permit approved by the City Engineer will be required for the mass grading and public street construction pursuant to Sections 24.10.030 and 24.10.070.A.*

*Erosion Control and Construction Management: Erosion and sediment control requirements can found in Title 10. Please refer to the City of Portland Erosion and Sediment Control Manual for additional information regarding erosion and sediment control requirements. As noted above, grading work will be completed under a Public Works Permit. As such, the PBOT and BES will be responsible for reviewing the proposed erosion control plan for conformance with Title 10.*

*The project site meets the criteria specified in PCC 10.30.030 as a Special Site with additional requirements for erosion, sediment and pollution control. An erosion control plan prepared by a Certified Professional in Erosion and Sediment Control (CPESC) or State of Oregon registered professional engineer is required. If an Oregon DEQ 1200-C permit is required, the erosion control plans submitted for permit should be the same as those submitted to Oregon DEQ.*

*Site Development has performed a courtesy review of the Early and Late Erosion Control Plans, Sheets WB7 of 8 and WB8 of 8. The drawings appear to be incomplete and are missing some erosion and sediment control measures such as silt fencing or similar down slope of the stock pile and staging areas as well as cover requirements for stock piles. However, it appears that there is adequate area to install these measures. Therefore, the final permit documents will need to include additional information to be complete."*

Generally, the grading will be limited to that necessary for the needed ROW improvements and will include measures to protect water quality and aquatic habitat. To ensure the final clearing and grading plan includes the work area limits needed to protect the onsite wetlands and tree in Tract A and Tract B, the Applicants must obtain a permit which demonstrates that the final clearing and grading plan is consistent with the preliminary clearing and grading plan approved with the land division.

**Land Suitability:** The Land Division/Adjustment Site is undeveloped, and there are no known historic hazards from prior uses. Applicants' geotechnical report includes recommendations about site grading for streets and utilities, as well as for the individual lots. Provided these measures are implemented, the geotechnical report indicates the Land Division/Adjustment Site is suitable or can be made suitable for development. Further, as noted in the response from Site Development:

*"Geotechnical engineering reports will be required at the time of building permit for development on lots with slopes of 20% or greater, lots proposing onsite infiltration of stormwater, or as required by the State and City building codes."*

With the implementation of these provisions, the Hearings Officer finds that the lots can be considered suitable for new development.

With the noted condition, the Hearings Officer finds this approval criterion will be met.

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

**Findings:** The following tracts are proposed:

- Tract A: Open Space (Stream and Drainage Reserve)
- Tract B: Open Space (Stream and Drainage Reserve)

The purpose of these tracts is further discussed in Criterion J and in the Adjustment Review, below.

Applicants note that BES is under contract to purchase Tracts A and B, after the land division and final plat processes are completed. Applicants also note that until that time, these tracts are to be owned and maintained the owners of Lots 1-8.

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the tracts described above and facilities within those areas. In this case, as described in Criterion B, above, a tree must be protected within Tract A, so those tree preservation requirements must also be addressed in the maintenance agreement(s).

This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following:

*"A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."*

Several public sanitary sewer easements are also to be provided on the Land Division/Adjustment Site, as discussed in more detail in Criterion L, below. Additionally, BES has noted that an existing sewer service for an abutting property at 6944 SW 26<sup>th</sup> Avenue crosses the northwest corner of the Land Division/Adjustment Site and Applicants must show the easement for that line on the plat, and reference the document creating that easement.

With these conditions, the Hearings Officer finds this approval criterion will be met.

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

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

Five of the lots (Lots 1, 2, 5, 7 and 8) are interior lots on the east or west side of a north-south oriented street. The solar access standards call for these interior lots to be the widest (33.639.100.A.2).

The other three lots (Lots 3, 4, and 6) are corner lots at the intersection of SW 25<sup>th</sup> Avenue and the new section of SW Texas Street. Lots 3 and 6 are on the southeast and southwest corners respectively, and Lot 4 is on the northeast corner. The solar access regulations call for corner lots on the north side of the street to be the narrowest (33.639.100.B).

In this proposal, Lot 4 is the narrowest corner lot, but two of the interior lots (Lots 7 and 8) are the narrowest lots overall, so the solar access provisions are not met. However, the locations of the new street extension and the new pedestrian path, as well as the requirements for the tracts around the wetlands have a bearing on the configuration of the lots, and, as allowed by 33.639.020, these other requirements supersede the solar access regulations. Therefore, the Hearings Officer finds that this approval criterion does not apply.

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

**Findings:** In this case, Applicants' existing conditions plans (Exhibit C.1.b and C.2.a) and wetland delineation report (within Exhibit A.6.b) indicate the presence of a stream and stream-associated wetlands on the Land Division/Adjustment Site. Applicants are required to preserve these features within a tract meeting the standards of 33.640.200.A. As noted in the Criterion H, above, two tracts (Tract A and Tract B) are proposed to satisfy this criterion.

These tracts must be identified on the final plat for the land division as "Tract \*: Open Space (Stream and Drainage Reserve)."

Additionally, maintenance agreements must be executed that outline the restrictions on activities within the tracts. Typically, activities are limited per the standards of 33.640.200.B and 33.640.200.C.

In this case, work associated with a new stormwater facility in the ROW will also include grading within the tract area, which must satisfy the standards in 33.640.200.C, below:

- C. When tract or easement may be crossed by a right-of-way. Public or private rights of way may cross the seep, spring, or stream tract or easement if the following approval criteria are met:*
- 1. There is no reasonable alternative location for the right-of-way;*
  - 2. The applicant has demonstrated that it is possible to construct street improvements within the right-of-way that will meet all of the following:*
    - a. The street improvements will not impede the flow of the stream, spring, or seep;*
    - b. The street improvements will impact the slope, width, and depth of the stream channel, spring, or seep to the minimum extent practicable; and*
    - c. The street improvements will not impede fish passage in a stream, spring, or seep has been identified by the Oregon Department of Fish and Wildlife as fish-bearing.*

Applicants have described how the location of the ROW and related stormwater improvements are necessary to achieve connectivity goals and stormwater management requirements. In Applicants' narrative, Stephens Creek is identified as fish-bearing near the confluence with the Willamette River. Applicants, at the June 17, 2015 public hearing, submitted two documents indicating that Stephens Creek, at this location, does not support fish.

BDS staff found, in its revised Staff Report (Exhibit H.11), that though some of the proposed grading work for the stormwater facilities is within the tract area, it is outside of the delineated wetlands and the required 15-foot buffer around those features. Based on these factors, the proposed ROW improvements for the stormwater facility are not expected to impede the flow or configuration of the stream. Therefore, the Hearings Officer finds these standards are met.

Additionally, Applicants have requested an Adjustment to the standards of 33.640.200.B to allow excavation and grading activities and the installation of pipes within the tracts, in the event the tracts are purchased by the City of Portland/BES.

The Adjustment also includes a request to modify the standards of 33.640.200.C to allow grading and a retaining wall for a public pedestrian facility to be constructed within Tract A, as shown on Exhibit C.1.h. Applicants have noted that an Adjustment to these standards is requested, since the grading and a retaining wall for the proposed pedestrian facility are outside of the ROW and are not traditional street improvement that could otherwise be allowed if the standards noted above were met.

Provided the required maintenance agreement spells out the activities allowed by the standards or as otherwise approved by an Adjustment, and the required notes are listed on the plat, the Hearings Officer finds this approval criterion will be met.

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

**Findings:** The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit

service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

PBOT reviewed the proposal and provided the following comments (Exhibit E.2):

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

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

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

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

*The proposed land division will create 8 lots from the current site in order to accommodate 8 new detached single- homes. Referring to the ITE Trip Generation Manual, 9<sup>th</sup> Edition, there will be 6 new AM peak hour trip and 8 additional PM peak hour trip (80 total new daily trips) that may result from the development proposal on the site.*

*To determine existing traffic volumes at the studied intersections, traffic counts were conducted during the morning and evening peak hour time periods. Background volumes were calculated with a 2% increase in traffic volumes (a conservative figure) to determine the “no build” scenario and provide level of service measurements without factoring the expected trip generation from the proposed development. Finally, the expected trip generation from the proposed subdivision was added to identify level of service (capacity) at the studied intersections including all expected future trips. The following table represents the level of service calculations from the applicant’s traffic consultant:*

<u>Intersection (AM/PM)</u>	<u>Existing LOS (AM/PM)</u>	<u>Projected LOS</u>
SW 25 <sup>th</sup> Ave/SW Nevada Ct (uncontrolled)	A / A	A / A
SW Capitol Hwy/SW Nevada Ct (stop-uncontrolled)	B / B	B / D

*Most trips to/from the site will arrive/depart via the intersection at SW Capitol Hwy/SW Nevada Ct, based on the traffic consultant's trip distribution assumptions. Said number of additional trips will have some effect on the operation of this intersection, as referenced in the table above. However, both studied intersection are projected to operate acceptably after the proposed development is constructed.*

*Vehicle access and loading: As noted above, the intersection at SW Capitol Hwy/SW Nevada will be the primary access point for most of the site trips. From this intersection, SW Capitol Hwy connects directly to a number of arterial streets in the broader transportation system.*

*Standard street improvements will be extended into the site along SW 25<sup>th</sup> Ave. The new roadway will provide access to on-site parking spaces for each of the 8 proposed lots. The new driveways associated with the new lots will serve to accommodate loading activities for each lot. Loading activities associated with residential land uses of this scale are typically light and infrequent and there is ample space for these activities to occur on each of the proposed lots.*

*On-street parking impacts: The parking demand that will be generated as a result of the proposed subdivision is estimated using rates from the Institute of Transportation Engineers (ITE), Parking Generation Manual, 4th Edition, 2010. The data utilized to determine the parking demand for the 8 new homes on the site was for land use #210, Single-Family Detached Housing. Based upon this data, the 85<sup>th</sup> percentile peak parking demand will be 17 parking spaces.*

*The extension of standard street improvements into the site along SW 25<sup>th</sup> Ave will result in the creation of at least 12 new on-street parking spaces (that don't technically exist today). Further, in relation to the development of each lot, it is expected that the new homes will include garages with access from new driveways. Accordingly, each lot is expected to accommodate 2 on-site parking spaces. There is sufficient on-site parking available on the project site for nearly all of the expected demand noted above, for the proposed development. Combined with the on-site parking opportunities, there will be ample on-street parking available within the immediate area to accommodate the additional parking (demand) generated by the proposed new residences.*

*Though the applicant's consultant did not conduct site observations to identify existing on-street parking supply/demand, it does not appear that there is a high demand related to the existing limited single-family residential development along SW 25<sup>th</sup> Ave, north of SW Nevada Ct. The 4 homes that are currently located along this segment of SW 25<sup>th</sup> Ave, have long enough driveways and some, with multiple car garages, can clearly accommodate several vehicles parked on each of these lots. Given the additional on-street parking supply that will be created by the extension of SW 25<sup>th</sup> Ave into the subject site, along with the on-site parking*



*opportunities resulting from the proposed development, PBOT finds that on-street parking impacts will be minimized.*

*Availability of transit service and facilities and connections to transit: Tri-Met's closest bus service in proximity to the subject site is 4 blocks to the west along SW Capitol Hwy via route #44, (Capitol Hwy/Mocks Crest). Though it appears that SW Nevada Ct has no existing sidewalk improvements between SW 25<sup>th</sup> Ave and SW Capitol Hwy, the street is a low speed, low volume street with gravel shoulders that makes it reasonable for pedestrians to walk along.*

*Impacts on the immediate and adjacent neighborhoods: Associated impacts from new subdivisions include those related to new trips generated into the transportation system and those related to on-street parking supply. As described previously, the expected trips from the 8 new homes will not result in significant degradation of the studied intersections. Further, there is ample on-street parking supply (and there will be more in relation to the proposed development) in the area to accommodate the existing uses as well as the expected demand from the development.*

*Safety for all modes: The applicant's traffic consultant examined crash records for the most recent 5-year reporting timeframe (2007-2011) available for the studied intersections. During this time period, there were no reported crashes.*

*With regard to bicyclists, there are identified bike facilities (Portland Bike/Walk Map) in the area, including Shared Roadways along SW Nevada Ct, SW 29<sup>th</sup> Ave, SW Caldew, SW Capitol Hill Rd and SW Troy, all within close proximity to the subject site.*

*As mentioned previously, existing r.o.w. conditions along SW Nevada Ct do not include any sidewalks. Pedestrians are expected to share the low speed/low volume roadways. This is similar to other streets in the surrounding area of the site. However, in relation to the proposed development, the applicant will be extending SW 25<sup>th</sup> Ave into the subject site and constructing standard sidewalk corridors along both sides of the street as well along a stub street directed towards the east (SW Texas extension) for potential future connection opportunities with the site to the east. These improvements will improve the pedestrian environment in the area. The existing streets and infrastructure in the vicinity are sufficient to provide safe access for all travel modes.*

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

Kyle Hays ("Hays"), the property owner who submitted Exhibit H.5, expressed transportation related concerns about the proposed development on the Land Division/Adjustment Site. Hays stated, in Exhibit H.5, the following:

*"Currently SW Nevada Ct. to the east of the intersection with SW 25<sup>th</sup> is an unimproved road and is not a thru road to access SW 23<sup>rd</sup> Ave or SW 21<sup>st</sup> Ave as depicted on the zoning map File No LU 13-230328 LDS, AD, EN Exhibit B (October 14, 2014). All new traffic to and from the proposed subdivision wanting to access Capitol Hill Road to Barber Blvd will be via Caldew St which is not depicted correctly on the maps that were sent in the notice I received. Improving SW Nevada Ct. to the east and making it a through road would allow for better traffic flow and access to the new subdivision.*

*SW Nevada Ct. to the west of the intersection studied is also an unimproved road with portions of gravel and narrow paved area not able to fit two car widths. Cars on this portion of the road often have to pull over for oncoming traffic. This road also sees the majority of pedestrian traffic from the neighborhood to access the Multnomah Village businesses and the local Synagogue. The increased traffic to the new lots will negatively [effect] pedestrian and vehicular traffic on this road if not improved."*

Fabio de Freitas ("de Freitas"), PBOT staff, appeared at the June 17, 2015 public hearing. De Freitas testified that all of the relevant transportation related approval criteria had been met in this proposal. De Freitas stated that access to the Land Division/Adjustment Site is typical of many SW Portland neighborhoods; lots of circuitous streets and many "paper streets." De Freitas described a "paper street" as one shown on zoning maps but not actually improved with gravel, pavement or sidewalks. De Freitas stated that Applicants' traffic engineer did a study that included trip distribution. De Freitas stated that Applicants' trip distribution study indicated that the majority of trips from the Land Division/Adjustment Site would travel to the west. De Freitas also indicated that not all travel, from the Land Division/Adjustment Site to the east, would take SW Caldew; de Freitas indicated there were alternative routes to proceed from the Land Division/Adjustment Site to SW Capitol Hill Road and SW Barbur Boulevard. De Freitas did not perceive any pedestrian safety issues resulting from approval of this subdivision proposal.

The Hearings Officer reviewed the complete PBOT response (Exhibit E.2) and the Lancaster Engineering "Traffic Impact Study" (attachment to Exhibits A.1 and A.4). The Hearings Officer finds that while the comments of Hays are sincere, they do not negate any of the technical findings in Exhibits A.1, A.4 and E.2. The Hearings Officer finds that the transportation system is capable of safely supporting the proposed development in addition to the existing uses in the area. The Hearings Officer finds no mitigation is necessary in order to meet this approval criteria. The Hearings Officer finds these approval criteria are met.

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

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

**33.651 Water Service standard – See Exhibit E.3 for detailed bureau comments.**

The Water Bureau indicated that there is no existing water service to the Land Division/Adjustment Site. The nearest water service is located in the developed portion of SW 25<sup>th</sup> Avenue, just south of the Land Division/Adjustment Site. Applicants must make arrangements to extend a new water main in SW 25<sup>th</sup> Avenue to ensure service is available to Lots 1-8.

The Water Bureau has noted that Applicants have the option of paying for the Water Bureau to design and install this water main which would require dedication of the street as only the Water Bureau may perform public water system work in the ROW, or installing it themselves and paying the Water Bureau to review the developers plans, inspect construction of the installation, and connect the new water main to the existing water main in SW 25<sup>th</sup> Avenue.

The Water Bureau also noted, *"The proposed new water main as it is shown in the revised plan set will not be approved with the shown location. All new water mains installed in a new street must be constructed a minimum of 6 feet from the face of the curb. There appears to be sufficient room to move the location of the proposed storm water system to provide this required clearance."*

Based on these factors, and in order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau, prior to final plat approval. With the implementation of this condition, the Hearings Officer finds this approval criterion will be met.

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

BES indicated that service is available to the Land Division/Adjustment Site, as noted earlier in this decision. The sanitary sewer service standards of 33.652 have been verified.

However, BES notes that an existing 5-foot wide public sewer easement, which extends from SW 25<sup>th</sup> Avenue to the west, will need to be widened to 15-feet and shown on the plat. Alternatively, that 15-foot area needs to be within dedicated ROW. The plat will need to reference the document that created the existing 5-foot easement to the satisfaction of BES.

In addition, BES noted that Applicants will need to show the private sanitary easement 6944 SW 26<sup>th</sup> on the plat and reference the original document that created the easement.

With the aforementioned conditions, the Hearings Officer finds this approval criterion will be met.

**33.653.020 & .030 Stormwater Management criteria and standards – See Exhibits E.1 and E.5**

No stormwater tract is proposed or required.

Site Development reviewed the stormwater management proposal and noted, *"The preliminary plans show stormwater will be routed off site for discharge. Therefore, Site Development has not concerns with the slope/building setbacks."*

BES has reviewed Applicants' stormwater management proposal and provided the following:

(Applicants proposed to) *"construct a new storm sewer in SW 25<sup>th</sup> with flow toward the drainageway to the north. The outfall will be located at the base of the hill and just north of the subject property's northern property line. The drainageway is proposed to be regraded to accommodate the 25-year conveyance of stormwater flow from the upstream basin. Walls are necessary in order to provide sufficient cross-sectional conveyance area without disturbing the property to the east. Regrading of the channel will be further reviewed and permitted under a Public Works Permit. The drainageway will be maintained by City staff according to the easement to the City of Portland, which as a condition of approval, will need to be recorded prior to Final Plat.*

- i) *The City has received an Acceptance of Sewer Easement that was signed by a managing member of the Blackacre Properties (6810 SW 26<sup>th</sup>). The timing of when the easement is recorded will be at the discretion of BES and will be relative to the progress of the Public Works review. The easement will include the eastern-most 15 feet of 6810 SW 26<sup>th</sup>, from the south property line to the southern bank of Stephens Creek. The proposed walls will be located within the public easement though they will not be maintained by the City of Portland. If revision to the easement is necessary then it would need to be completed prior to recording.*
  - (1) *No other utilities, buildings, facilities, easements, material storage, grade change or tree planting will be allowed within the easement boundaries without prior written consent of the Director of the Bureau of Environmental Services. Landscaping which by its nature is shallow rooted and may be easily removed to permit access to the sewer lines and facilities authorized by this easement shall not require consent.*
- ii) *BES Public Works staff has reviewed the provided plans and reports including the potential disturbance area. The proposal (EP048) is adequate for concept approval of the Public Works design for the storm sewer, the public stormwater management facility, and the improvements to the drainageway on 6810 SW 26<sup>th</sup>. The provided limits of disturbance appear feasible for the proposed development.*
- iii) *Construction of the new BES infrastructure and regrading of the drainageway will need to be constructed under a Public Works permit as a condition of approval. An approvable engineered design (as determined by BES engineering staff), financial guarantee (bond), and engineering/inspection fees must be received by BES prior to final plat approval.*
- iv) *The Public Works proposal is specific regarding the proposed plants within the easement area of 6810 SW 26<sup>th</sup>. Trees will need to be outside of the easement area and at least 5-feet from existing or proposed public sewers. BES recommends that trees also be located at least 5-feet from walls. Further refinement of the planting plan in the drainageway will be necessary as part of the Public Works review. All of the plants in the Environmental Zone will need to be in substantial conformance to the Environmental Review.*
- v) *BES recommends that if additional mitigation plantings are necessary then those plants*

*should be along Stephens Creek and outside of the easement area."*

With the implementation of the noted conditions, the Hearings Officer finds this approval criterion will be met.

**33.654.110.B.1 Through streets and pedestrian connections**

**33.654.110.B.2 Approval criterion for dead-end streets in OS, R, C, and E zones.**

**33.654.120.C.3.c. Approval criterion for turnarounds.**

**33.654.130.C Future extension of proposed dead-end streets & pedestrian connections**

Generally, through streets should be provided no more than 530 feet apart and pedestrian connections should be provided no more than 330 feet apart. Also, these facilities should be at least 200 feet apart.

The block on which the Land Division/Adjustment Site is located does not meet the noted spacing requirements. To address these provisions, Applicants proposed a new east-west through street, which will consist of a new section of SW Texas Street between SW 25<sup>th</sup> Avenue and the property to the east (2374 SW Vermont Street, *Greater Portland Bible Church*), and a new pedestrian facility between SW 25<sup>th</sup> Avenue and the property to the west (R329799, *BES-Texas Wetlands*), as well as additional right-of-way dedication and improvements to the undeveloped segment of SW 25<sup>th</sup> Avenue that bisects the Land Division/Adjustment Site.

PBOT provided the following details about the street and pedestrian connections at this location:

*"Although there is a gridded and established block pattern that exists west of the subject site, said pattern essentially ends at SW 26<sup>th</sup> Ave, one block west of the subject site. A large swath of properties bounded by SW Vermont St (north), SW Bertha (east), SW Nevada Ct (south) and SW 26<sup>th</sup> Ave (west) are developed with a mix of multi-dwelling residential, non-residential and institutional uses without the benefit of public street or pedestrian connection opportunities. Said existing, established and considerable development in this area, which abuts the subject property, creates significant challenges to further the above referenced connectivity goals. To complicate matters more so, the City has been in the process of purchasing northern portions of the subject site for long-term and large-scale stormwater management purposes. As currently platted/mapped, the SW 25<sup>th</sup> Ave r.o.w. extends much further north than is proposed to serve the proposed subdivision. Conceptually, this existing r.o.w. could be utilized to further the above referenced connectivity goals (towards the abutting property to the north). However, the City's intent on purchasing a significant portion of the subject site for stormwater management needs/ purposes, rivals said connectivity goals.*

*The issue of furthering the City's connectivity goals in relation to the proposed subdivision has been one of the significant matters in the review of this project. After many months of attempted coordination, communication, collaboration, City staff from multiple bureaus along with the developer's team and input from other interested entities in the area, have come to the following resolution (which may/may not be satisfactory to all parties):*

- *Public street connection will be extended to the north along the existing (and widened) SW 25<sup>th</sup> Ave r.o.w. and to the east with the alignment/extension of SW Texas St (from west of the subject site). This will provide potential public street connectivity to the east via the existing large property currently occupied by the Greater Portland Bible Church. This expansive property is zoned for single-family residential purposes with the ability to be further subdivided into many smaller residential lots, with a need to include street connections to (at least) SW Capitol Hill Rd/SW Bertha Blvd. The applicant will be including a short east-west standard public street segment through the portion of the site proposed to be developed (identified on the submitted plans as SW Texas).*
- *Public pedestrian connection to the west via a 15-ft wide dedicated public r.o.w. that will be directed towards the existing SW Texas Green Street & Wetland Enhancement site that abuts the subject site. A 5-ft hard surface recreational pathway will be constructed by the applicant from the northern end of (what will be) the improvements to SW 25<sup>th</sup> Ave, to a point 15-ft from the site's western property line. This pathway, its construction, its function/intent and its design has been the subject of significant analysis, considerable resources from the City and the applicant and extensive negotiations. In relation to locating the recreational pathway, the applicant made efforts to correctly delineate the existing wetland on the site. Further, the applicant was advised of limitations to placing the recreational pathway in close proximity to the western property line due to the location of an existing drainage-way immediately west of said property line. Hence, the agreement to terminate the proposed pathway a short distance from the western property line of the subject site.*

*City staff from multiple bureaus have been instrumental in the negotiation/design process with the applicant given the sensitivity of the established wetland area (SW Texas Green Street & Wetland Enhancement site) that abuts the subject site to the west. Although this wetland facility (which serves a great regional purpose) allows for public access through its series of pathways, the desire from BES [the City's entity charged with the maintenance/preservation of the wetland] has never been for this preserve area to be further expanded for the public's use/benefit as a connection between the existing neighborhood west of the subject site and the neighborhood south-east of the subject site. Accordingly, and as shown on the latest plans that were submitted by the applicant, the public r.o.w. dedication for the recreational pathway is correctly shown to extend to the western property line of the subject site, but the actual improvement (hard surface) of the pathway stops prior to said property line. In the event of future potential considerations by BES to allow for additional passageway through the SW Texas Green Street & Wetland Enhancement site, an actual physical connection can be made at that time. From PBOT's perspective, this is the best and most reasonable solution that can be achieved in furthering the connectivity goals related to this specific approval criterion."*

A sidewalk is proposed along both street frontages, which will provide convenient public access to and through the Land Division/Adjustment Site. In addition, the pedestrian path will allow for a potential future extension to the west.

Additionally, since both public streets will terminate with a temporary hammer-head turn-around at the intersection of the new improvements for SW 25<sup>th</sup> Avenue and SW Texas Street, the Fire Bureau has noted that "No Parking" signs must be installed to ensure that the turn-around is available at all times for emergency vehicles.

Overall, the configuration of these street improvements (street, pedestrian path, associated stormwater facilities, and fire department turn-around and access) is also being reviewed part of the public work permit to ensure these facilities will provide adequate area for safe vehicular and pedestrian movement. In order to ensure that the noted right-of-way improvements are provided, plans, financial guarantees, and fees must be provided as part of the public works permit to the satisfaction of PBOT, BES, and Fire, prior to final plat.

With this condition, the Hearings Officer finds this approval criterion will be met.

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

PBOT, BES, and the Fire Bureau reviewed the proposal to determine if the width and elements in the ROW are sufficient to serve the proposed lots.

PBOT noted, *"The applicant's submitted plans indicate that the north-south segment of the extension of SW 25<sup>th</sup> Ave as well as the new east-west oriented street will be 49-ft wide r.o.w. including a 28-ft wide roadway, 0.5-ft curbs, 4.5-ft wide planters, 5-ft wide sidewalks and 0.5-ft wide frontage zones."*

With these improvements, PBOT has determined that eight additional dwellings can be safely served by this existing street without having any significant impact on the level of service provided.

The Fire Bureau also found the proposed width of the ROW improvements on the subject site are acceptable, with the condition for "No Parking" signs as part of the required turn-around, as discussed above. However, as noted in the May 22, 2015, response from Fire and based on conversations with Fire Bureau staff on May 27, 2015, the improved portion of the ROW (SW 25<sup>th</sup> Avenue) leading to the Land Division/Adjustment Site is approximately 16-feet wide, which is narrower than the minimum 20-foot width required to meet fire department access requirements to the Land Division/Adjustment Site. On May 28, 2015, Applicants filed a Fire Code Appeal with the Fire Bureau to propose an alternate method to satisfy this access requirement. The Fire Bureau appeal was approved (Exhibit H.14).

In addition, PBOT noted, *"(t)he applicant will need to receive approval from BES for the appropriately sized (and type of) stormwater management facility. As shown on the submitted plans, there is a stormwater management facility at the end of the north-south segment of the proposed street extension that will need to be approved by BES."*

BES indicated, in the addendum response (Exhibit E.1), the proposed stormwater facilities are acceptable for concept approval, provided sufficient easements are established for the offsite stormwater disposal system (Alternative 1) across the adjacent property (6810 SW 26<sup>th</sup>

Avenue).

Details about the size of the ROW for the pedestrian connection are addressed separately in the findings, below.

Overall, based on the foregoing, the Hearings Officer finds that this approval criterion can be met with the implementation of the following conditions:

- The ROW dedication necessary to accommodate the new public streets, pedestrian path, stormwater facilities, fire department access, and the easements for offsite stormwater disposal, must be shown on the final plat; and
- Applicants must provide plans and financial assurances for the construction of the street improvements, prior to final plat approval.

**33.654.120.E. Approval criterion for the width of pedestrian connections.**

**Findings:** To meet this criterion, the size of the ROW for the pedestrian connection must be sufficient to accommodate the improvements required by PBOT. For this project, PBOT is calling for a 5-foot wide walkway and stormwater facilities for the path and will require that the improved path terminate approximately 15 feet from the stream channel that borders the western edge of the Land Division/Adjustment Site.

As noted by BES, there is an existing 5-foot wide easement for a public sanitary sewer that runs within and adjacent to the proposed path ROW, and the easement must be widened to 15-feet or placed within dedicated ROW. In either scenario, there is sufficient space to accommodate the ROW needed for the pathway.

Some of the work for the path extends outside of the ROW, but will be contained within construction limits to avoid impacts to the onsite wetlands, and is further addressed in Criterion J and the Adjustment Review findings.

With regard to allowing users to see one end of the pedestrian ROW from the other end, the path is routed to fit the site topography and is not straight, but the grade difference between each end allow a clear line of sight and visibility between each end.

Overall, as shown on Exhibit C.1.c, the ROW for the pedestrian path is an irregular shaped area, north of proposed Lot 6, and the configuration of the path ROW appears adequate to fit the required improvements. Provided the ROW matches that shown on the preliminary plat or the wider configuration noted in the BES response is clearly delineated on the final plat, the Hearings Officer finds this approval criterion will be met.

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

Any easements that may be needed for private utilities that cannot be accommodated within the adjacent ROWs can be provided on the final plat. Applicants have proposed a 6-foot utility easement adjacent to the public street, so the Hearings Officer finds this approval criterion is met.



## **ADJUSTMENT REVIEW**

### **33.805.040 Approval Criteria**

**A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** In order to perform grading and construction within the wetland tracts (Tract A and Tract B) required per Land Division Criterion 33.660.120 .J, above, Applicants have requested an Adjustment to the standards that limit work within the wetland tracts.

The Adjustment includes a request to allow site grading and the construction of a retaining wall in Tract A to support a public path that is proposed in the abutting ROW.

The Adjustment also includes a request to allow future work related to public stormwater management in Tract A and Tract B. BES is under contract to buy both tracts, in order to expand and enhance the onsite wetlands in a manner similar to the neighboring Texas Wetland stormwater facility.

On a related note, BES has been advised that, based on current zoning regulations, any future use of the tracts as a water quality and flow control facility or a stormwater facility, which are examples of a Basic Utility (33.920.400) use, may only be allowed in the R7 zone (33.110.100/Table 110-1) if approved through a Conditional Use Review, per the approval criteria in Section 33.815.105 Institutional and Other Uses in R Zones. The narrative also noted that BES recognized that any future work would be subject to local, state and federal permits and approvals.

In any event, in order to meet this criterion, the proposal must equally or better meet the purpose of the stream, seeps, and springs regulations, which reads as follows:

#### **33.640.010 Purpose**

*The standards in this chapter ensure that important streams, seeps and springs that are not already protected by the Environmental Overlay Zones, are maintained in their natural state.*

The standards allow for some work and development within the tracts, provided the impacts are limited as follows:

#### **33.640.200 Stream, Spring, and Seep Standards**

**B. Development allowed in the tract or easement.** *The following development, improvements, and activities are allowed in the tract or easement:*

- 1. Disturbance associated with discharging stormwater to the stream channel, if BES has determined that the site's storm water cannot discharge to a storm sewer and BDS has determined that on-site infiltration is not an option;*
- 2. Removal of non-native invasive species with hand held equipment;*
- 3. Planting of native vegetation listed on the Portland Plant List when planted with hand held equipment;*
- 4. Erosion control measures allowed by Title 10 of Portland City Code;*

5. *Construction of required driveway connections or required connections to services when there is no practicable alternative to locating the driveways or service connections within the tract or easement; and*
6. *Maintenance and repair of existing utilities, services, and driveways;*

**C. *When tract or easement may be crossed by a right-of-way.*** *Public or private rights of way may cross the seep, spring, or stream tract or easement if the following approval criteria are met:*

1. *There is no reasonable alternative location for the right-of-way;*
2. *The applicant has demonstrated that it is possible to construct street improvements within the right-of-way that will meet all of the following:*
  - a. *The street improvements will not impede the flow of the stream, spring, or seep;*
  - b. *The street improvements will impact the slope, width, and depth of the stream channel, spring, or seep to the minimum extent practicable; and*
  - c. *The street improvements will not impede fish passage in a stream, spring, or seep has been identified by the Oregon Department of Fish and Wildlife as fish-bearing.*

As shown on the Late Erosion Control Plan (Exhibit C.1.h), some of the grading for the public path and associated retaining wall will be outside of the ROW and within the 15-foot border from the edge of Wetlands C and D, so that work is beyond the scope allowed by these standards. Therefore, to ensure the wetlands are not degraded, Applicants have proposed construction methods to keep grading work outside of the identified wetlands. The measures include installing fencing, erosion and sediment controls, and tree protection and using specific equipment and methods to keep materials away from the wetlands. With a condition for a Zoning Permit to document the implementation of these measures, this work will be conducted in a manner that will afford protection of the wetlands on par with the purpose of this regulation.

With regard to potential future work by BES in Tract A and Tract B, Applicants provided a memo from BES that indicated that the wetlands are currently degraded from their "natural state," due to altered vegetation and altered hydrology, based on a Hydrogeomorphic Assessment ("HGM") (Exhibit A.10.a). BES explained that the HGM Approach to assessing wetland functions is a method to assess the functional condition of a specific wetland referenced to data collected from wetlands across a range of physical conditions. It is accepted by Division of State Lands ("DSL"), US Army Corps of Engineers ("Corps") and the Environmental Protection Agency ("EPA") to evaluate proposals for alterations of wetlands and riparian areas.

The BES memo noted that future work would be conducted to improve wetland functions in the following areas:

- Water Storage and Delay
- Sediment Stabilization and Phosphorus Retention
- Primary Production
- Invertebrate Habitat Support

The BES memo indicated that grading will be conducted to create pools and hummocks to capture stormwater and reconnect the channelized stream with the wetlands, and native plantings would be

installed to increase emergent vegetation, carbon inputs, and provide habitat for invertebrates. In addition, with the implementation of the tree protection measures outlined in the Land Division criteria, the Hearings Officer finds that there will be adequate protection of an existing native tree and the related habitat functions it provides.

The BES memo also included a monitoring schedule and contingency strategies to evaluate outcomes of the proposed activities, which will provide tools to measure the wetland changes and ensure those succeed and enhance the wetland functions within Tract A and Tract B.

With conditions that implement the proposed BES program, contingent upon city-ownership of the tracts, the future work is expected to improve and enhance the wetland features in the tracts, and will better meet the purpose of the standard.

Based on these factors, the requested Adjustment will retain or improve the stream and wetland functions on the site, which will equally or better meet the purpose of this provision. As such, the Hearings Officer finds this approval criterion is met.

**B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

**Findings:** The proposed stream and wetland tracts are within the portion of the Land Division/Adjustment Site that is located in the R7 zone. The residential area includes the Land Division/Adjustment Site, which is located in a single-dwelling (R7) zone and other nearby properties within a 500 foot radius, which are in the single-dwelling zones (R2.5, R5, R7) and multi-dwelling zones (R1 and R2). This area is developed with a mix of single-dwelling houses, multi-story apartments, BES wetland facilities, Water Bureau facilities, and a church. Overall, the residential area consists of a range of building types of varying scale and intensity.

Generally, provided the activities associated with the construction of these facilities is undertaken in a manner that avoids and/or limits and mitigates for impacts, as discussed in Criterion A, above, and Criterion E, below, the proposed grading and retaining wall for the public pedestrian path and the BES wetland expansion work, are expected to have minimal or only positive effects on the livability and appearance of the noted residential area, since the proposed walkway extension has the potential to improve access to and through the neighborhood, and the wetland work would be intended to enhance the functionality and habitat benefits of the wetland areas.

Based on these factors, the Hearings Officer finds this approval criterion is met.

**C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** One adjustment is requested for grading and retaining wall work associated with the walkway and for future BES wetland enhancement for stormwater management, so the Hearings Officer finds this approval criterion does not apply.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** There are no city-designated scenic or historic resources that are required to be preserved on the site, so the Hearings Officer finds this approval criterion does not apply.

**E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** As noted above, the project narrative indicated that future BES work in the tracts would improve the current conditions of the following wetland functions: water storage and delay, sediment stabilization and retention, primary production, and invertebrate habitat support. The narrative also indicated that the public walkway would allow for the connectivity requirements to be met.

Based on the findings in Criterion A, above, the baseline existing conditions of the wetlands are degraded, and the proposed work will be conducted in a manner to avoid further impacts or to improve the conditions and create improved hydrologic and habitat functions.

Accordingly, with the aforementioned conditions, potential impacts to the tracts will be avoided or adequately mitigated, and the Hearings Officer finds this approval criterion will be met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** The portion of the Land Division/Adjustment Site that is subject to this Adjustment request does not have environmental zoning, so the Hearings Officer finds this approval criterion is not applicable.

## **ENVIRONMENTAL REVIEW**

### **33.430.250 Approval Criteria**

**A. Public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, and Planned Developments.** Within the resource areas of environmental zones, Applicants' impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, have been met.

**Findings:** In order to provide a disposal point for stormwater from the Land Division/Adjustment Site, Applicants proposed to convey stormwater offsite to a stream (Stephens Creek) located on the adjacent property to the north (6810 SW 26<sup>th</sup> Avenue). Stephens Creek is within an Environmental Conservation (c) overlay, so those portions of the proposed stormwater conveyance system that are within the environmental resource area must comply with the standards for stormwater outfalls (33.430.180), or be approved through an environmental review. According to city zoning maps, the boundary for the environmental conservation zone is a 100-foot wide area centered on and measured from the centerline of the stream channel.

In this case, as outlined in Applicants' narrative (Exhibit A.10), the proposal does not meet several of the applicable standards (33.430.180.A, F, and G), so an environmental review is requested for the following work within the environmental resource area:

- Grading and associated vegetation removal to construct an open channel connection between a new stormwater swale and the established channel for Stephens Creek.
- The installation of two riprap pads on either side of an existing 36-inch pipe culvert, which Stephens Creek enters as it leaves the Environmental Review site.
- The installation of erosion controls and mitigation plantings.

The criteria applicable to this proposal are outlined in A.1 and A.3, so only those are listed and addressed below:

1. *General criteria for public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, and Planned Developments;*
  - a. *Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;*
  - b. *There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;*
  - c. *The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;*
  - d. *Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and*
  - e. *The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.*
3. *Roads, driveways, walkways, outfalls, and utilities;*
  - a. *The location, design, and construction method of any outfall or utility proposed within the resource area of an environmental protection zone has the least significant detrimental impact to the identified resources and functional values of other practicable alternatives including alternatives outside the resource area of the environmental protection zone;*
  - b. *There will be no significant detrimental impact on water bodies for the migration, rearing, feeding, or spawning of fish; and*
  - c. *Water bodies are crossed only when there are no practicable alternatives with fewer significant detrimental impacts.*

To address these criteria, Applicants provided an alternatives analysis; and, for the preferred alternative, Applicants identified potential detrimental impacts, and proposed measures to mitigate for unavoidable impacts.

**Alternatives Analysis:** Applicants included a list of 4 alternatives, which are summarized below:

Alternative 1 (Applicants' Preferred Alternative): As shown on Figure 5A (Exhibit C.2.d), this alternative includes grading for the construction of an open channel connection between a new stormwater swale and the existing channel for Stephens Creek, the installation of two riprap pads on either side of an existing 36-inch diameter pipe, and the installation of mitigation plantings. The narrative indicates the area of work will be within a wetland (Wetland B/Wetland Delineation Report, included in Exhibit A.6.b) and will warrant the removal of one tree (Tree 841, a 6-inch diameter willow).

The narrative indicates the overall disturbance area within the resource area will include:

- Temporary Disturbance: 17 square feet
- Permanent Disturbance: 596 square feet

Applicants indicated that this alternative was selected because it would prevent or eliminate the continued deficiency in the existing downstream drainage situation, which is currently failing for any significant storm event. Applicants further noted that the proposed stormwater conveyance channel has been designed to have flow velocities that will be low enough to prevent scour and erosion and the mitigation plantings will help to stabilize the streambank and surrounding area.

Alternative 2: As shown on Figure 8A (Exhibit A.8), the storm drain for the entire Land Division/Adjustment Site would go to the wetland on Tract A. The storm drain system is completely out of the c zone with this alternative. Applicants noted that this alternative was not pursued, since it would not correct the downstream drainage issue, and infiltration on the Land Division/Adjustment Site is not recommended per Applicants' geotechnical report.

Alternative 3: As shown on Figure 8B (Exhibit A.8), the majority of the Land Division/Adjustment Site would drain to the wetland on Tract A. The roof drains for lots 5-8 would go to the outfall and drain to other wetlands. The storm drain system is completely out of the c zone with this alternative. As with Alternative 2, Applicants noted Alternative 3 was not selected because it would not resolve the downstream drainage issues and would conflict with the geotechnical recommendations for the Land Division/Adjustment Site.

Alternative 4: As shown on Figure 8C (Exhibit A.8), this alternative consists of a 24-inch outfall pipe and a riprap pad to convey and deposit stormwater from the Land Division/Adjustment Site into Stephens Creek. Applicants determined that this alternative was not viable, since it included a retaining wall system in the right-of-way, which PBOT would not allow. Additionally, as noted in the BES addendum, this alternative could not be acceptable, since it could not provide sufficient cover over the proposed pipe.

Overall, provide there are sufficient construction management measures and mitigation for unavoidable impacts, as discussed below, it appears Alternative 1 is the only potentially viable option to meet the project goals of providing an adequate stormwater disposal point and addressing the existing deficiencies in downstream capacity.

**Impacts and Mitigation Measures:** Applicants indicated that the proposed stormwater conveyance system for the proposed 8-lot subdivision has been designed to minimize impacts to

identified resources and functional values, which include: perennial creek, open space, forest, wildlife habitat, wetlands, groundwater recharge, as well as scenic, recreational and cultural resources.

As shown on the project plans-Figures 5A and 6A (Exhibit C.2.d and C.2.f), construction within the environmental resource area will affect Stephens Creek, Wetland B, and areas that are covered predominately with mowed lawn and landscape trees. Applicants' narrative indicated that Stephens Creek is identified as fish-bearing near the confluence with the Willamette River. However, Applicants provided documentation (Exhibit H.13), at the June 17, 2015 public hearing, that there are "no fish" in this section of Stephens Creek.

Within the resource area, the work will include approximately 23 cubic yards of cut and 2 cubic yards of fill, the removal of one native tree, and the installation of native riparian plantings throughout the disturbance area. The cut is proposed to establish a stormwater conveyance channel and integrate that channel with the Stephens Creek stream channel before both channels enter a culvert that is located on the east property line and leave the Environmental Site. The fill is proposed in the form of riprap to provide some shoreline armoring on either side of the existing culvert at the property line. The tree removal is triggered by the excavation needed to establish the finished grades to allow the conveyance of stormwater to Stephens Creek.

These activities could create detrimental impacts to the stream, wetland, and habitat resources by altering the current flows and removing a native tree. To minimize these potential detrimental impacts, the plans show work area limits will be implemented, as noted on Figure 5A, and erosion and sediment controls will be put in place. These measures will help to protect the resources and functional values in areas designated to be left undisturbed in the environmental zone.

To mitigate for the impacts that cannot be avoided within the environmental resource area, Applicants proposed to replant the disturbance area. As noted on Figure 7, the replanting measures include the installation of native groundcover seed and native shrubs within the BES easement area, and the installation of native groundcover, shrubs, and trees in an area west of the easement. Applicants noted that the native plantings have been selected from the *Portland Plant List*, specifically from Section 2.4, Deciduous Forested Wetlands and Floodplains, and from the BES *Stormwater Management Manual*.

While the types of plantings are acceptable, BDS found that the extent of the mitigation area was not sufficient to offset the area of permanent disturbance. Specifically, BDS found that the plantings within the BES easement should not be considered mitigation, since those plantings are necessary for the facility. Therefore, BDS proposed a larger area of shrub and tree plantings should be provided outside of the BES easement to afford a sufficient amount of mitigation for the conveyance system within the BES easement. BDS proposed a condition that a 500 square foot area adjacent to Stephens Creek on the Environmental Review site must be identified on the Mitigation and Restoration Plan (Figure 7) and planted with native mitigation plantings at the rate of 10 plants per 50 square feet at a ratio of 1 tree, 2 shrubs, and 7 groundcover plants, this will afford a greater level of mitigation for the permanent impacts to the environmental resource area. The Hearings Officer agrees with the BDS mitigation recommendation. The Hearings Officer finds

that with provisions that all plantings are installed with hand-held equipment and that Applicants provide monitoring reports to document success of the plantings, the proposed mitigation measures will be effective

The project narrative does not specifically address potential impacts to wetlands; nor does it include any specific mitigation measures for the aquatic environment, except to note that a full copy of the Joint Permit Application (JPA) to the Department of State Lands and US Army Corps will be provided upon request, once it is completed. The noted mitigation plantings should help to improve the nearshore habitat, which will in turn improve water quality and the aquatic habitat by filtering stormwater and adding food resources along the stream bank.

Information about other City regulations that also apply to the work area are described in the Site Development response as:

*"An unidentified watercourse is located adjacent to the western and northern site boundaries. These watercourses, generally draining one acre or more, are not identified in a Federal Insurance Study and may not be identified on the Water Features map. It is the responsibility of the applicant to provide a correct delineation of the floodplain boundaries.*

*Substantial alterations are proposed to the unidentified watercourse as part of proposed open channel storm sewer improvements. This work qualifies for the exemption from Bureau of Development Services permit per Section 24.10.030. Therefore, the work will be reviewed and constructed under a public works permit and the Bureau of Environmental Services (BES) will be responsible for reviewing the proposed development for conformance with the requirements of Section 24.50 Flood Hazard Areas.*

*The 30% Drainage Swale Plans show grading work on 6810 SW 26<sup>th</sup> Avenue. The grading work must comply with the applicable sections of the City of Portland and State of Oregon building codes. The plans submitted for public works permit must demonstrate compliance with*

- Horizontal setbacks from descending slopes per Section 1808.7.2 of the 2014 Oregon Structural Specialty Code; reflected in Figure 3 (24.70).*
- Minimum foundations embedment depth of 18 inches below adjacent grade per Sections 1809.4 and 1809.5.1 of the 2014 Oregon Structural Specialty Code.*

*A building permit issued by the Bureau of Development services will be required if alterations to the existing building are required; e.g. foundation underpinning.*

*Ground disturbing activities within the environmental zone are proposed as part of the public works permit. Pursuant to PCC 10.10.030.A, enforcement of the erosion control requirements will be the responsibility of BES or PBOT as part of the public works permit review."*

As noted in the addendum from BES, and in the findings for the Land Division, Criterion 33.653.020 & .030, a public works permit is required for the proposed drainageway work. Provided Applicants can demonstrate that the public works permit will satisfy the requirements noted in the



Site Development comments, above, within the proposed construction limits, no additional impacts to the environmental resources outside of the identified disturbance area are anticipated.

Overall, all the mitigation plantings will occur on the Environmental Site in the Stephens Creek watershed. Most of the noted work will occur within a BES easement. That easement will spell out and ensure the construction and mitigation work conducted in the easement is completed in accordance with this land use decision.

However, some of the grading and planting work is shown outside of the BES easement area, and Applicants must demonstrate that there is a legal instrument in place that will verify that Applicants can carry out and ensure the success of the mitigation measures in these areas. With a condition to this effect, the Hearings Officer finds this requirement will be satisfied.

Based on the foregoing, with conditions to ensure the implementation of the measures outlined above, the Hearings Officer finds these approval criteria will be met.

#### **DEVELOPMENT STANDARDS**

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

The Land Division and Adjustment Review site is currently vacant, so the division of the property will not cause the structures to move out of conformance or further out of conformance with any development standard applicable in the R7 zone, and the requirements of 33.700.015 are met.

The proposed removal of trees along the east lot line of the Environmental Review site, which is developed with a multi-dwelling apartment complex, could move that site out of or further out of conformance with the landscape standards, 33.120.235, which apply in the R2 zone. Therefore, Applicants must ensure that the property will continue to conform to the landscape standards or obtain an approved Adjustment Review to allow for an alternative to that standard.

#### **OTHER TECHNICAL REQUIREMENTS**

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

<b>Bureau</b>	<b>Code Authority and Topic</b>
Development Services/503-823-7300 <a href="http://www.portlandonline.com/bds">www.portlandonline.com/bds</a>	Title 24 – Building Code, Flood plain Title 10 – Erosion Control, Site Development Administrative Rules for Private Rights-of-Way
Environmental Services/503-823-7740	Title 17 – Sewer Improvements

Bureau	Code Authority and Topic
<a href="http://www.portlandonline.com/bes">www.portlandonline.com/bes</a>	2008 Stormwater Management Manual
Fire Bureau/503-823-3700 <a href="http://www.portlandonline.com/fire">www.portlandonline.com/fire</a>	Title 31 Policy B-1 – Emergency Access
Transportation/503-823-5185 <a href="http://www.portlandonline.com/transportation">www.portlandonline.com/transportation</a>	Title 17 – Public Right-of-Way Improvements Transportation System Plan
Urban Forestry (Parks)/503-823-4489 <a href="http://www.portlandonline.com/parks">www.portlandonline.com/parks</a>	Title 20 – Street Trees and other Public Trees
Water Bureau/503-823-7404 <a href="http://www.portlandonline.com/water">www.portlandonline.com/water</a>	Title 21 – Water availability

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

- **Fire Bureau:** Applicants must meet the requirements of the Fire Bureau in regards to fire apparatus access roads and hydrants, fire flow/water supply, fire hydrant spacing, grade, public street requirements, addressing of structures, aerial fire department access roads, and residential fire sprinklers. These requirements are based on the 2007 Oregon Fire Code and the technical standards of Title 31 and Fire Bureau Policy B-1.
- **Urban Forestry:** Applicants must provide street trees as part of the street plans to the satisfaction of Urban Forestry.

### III. CONCLUSIONS

Applicants proposed an 8-lot lot subdivision, as shown on the attached preliminary plan (Exhibit C.1.c). In addition, Applicants have requested an Adjustment to allow earthwork and improvements within the proposed stream and stream-associated wetland tracts, in order to allow for the activities associated with the construction of a pedestrian connection and potential BES stormwater facilities within those tracts (Exhibit C.1.h). Further, to provide a stormwater discharge point for the land division improvements, Applicants have requested an Environmental Review to construct an open conveyance channel within the environmental resource area located on an abutting property (Exhibit C.2.d).

As discussed in this decision, the primary issues identified with this proposal are:

- Stormwater management and disposal
- Street and pedestrian connection improvements
- Fire Bureau access and maneuvering
- Tree preservation
- Stream associated wetlands
- Adjustment Review
- Environmental Review

The Hearings Officer found that with conditions that address these requirements, this proposal can meet the applicable approval criteria and should be approved.

#### **IV. DECISION**

**Approval of a Preliminary Plan** for an 8-lot subdivision for 8 standard lots, with 2 tracts, new rights-of-way for street and pedestrian improvements and public stormwater facilities, as illustrated with Exhibit C.1.c, subject to the following conditions:

**A. The final plat must show the following:**

1. Applicants shall meet the street dedication requirements of the City Engineer for SW 25<sup>th</sup> Avenue, SW Texas, and the (unnamed) pedestrian path. The required right-of-way dedication must be shown on the final plat.
2. The existing 5-foot wide public sanitary sewer easement running east-west over an 8-inch public sanitary sewer shall be widened to 15-feet and shown on the plat over the relevant portions of the Tract A, to the satisfaction of BES. That easement shall be granted to the City of Portland and must be labeled as "Public Sewer Easement to City of Portland." Alternatively, that 15-foot area shall be within dedicated right-of-way and shown on the plat, to the satisfaction of BES. The plat must also reference the document that created the existing 5-foot easement to the satisfaction of BES.
3. The private sanitary easement benefitting 6944 SW 26th must be shown on the plat and must reference the original document that created the easement, to the satisfaction of the Bureau of Environmental Services.
4. The stream-associated wetlands tracts shall be noted on the plat as "Tract \*\*\*: Open Space (Stream and Drainage Reserve)." A note must also be provided on the plat indicating that the tracts will commonly owned and maintained by the owners of Lots 1 through 8, a home owners association, a public or private non-profit organization, or the City or other jurisdiction.
5. 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 Condition B.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for (name of feature) has been recorded as document no. \_\_\_\_\_, Multnomah County Deed Records."

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

## Streets

1. Applicants shall meet the requirements of the City Engineer for right-of-way improvements along the site's street frontages. Applicants shall submit an application for a Public Works Permit and provide plans and financial assurances to the satisfaction of the Portland Bureau of Transportation, Environmental Services, and Fire for required street, pedestrian path, and stormwater management improvements. Applicants must post the turnaround with "No Parking" signs to the satisfaction of the Fire Bureau. The location of the signs must be shown on the permit plans.
2. Applicants shall obtain a Zoning Permit for the mass grading associated with the public works improvements. The clearing and grading plan must substantially conform to the Late Erosion Control Plan approved with this decision (Exhibit C.1.h) and include:
  - The alternative root protection zone for Tree 427, per Exhibit C.1.h.
  - The construction limits per Condition D.
  - The temporary staging and stockpile areas.
  - A note that topsoil must be stockpiled on site and re-used to the extent practicable.

## Utilities

3. Applicants shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SW 25<sup>th</sup> Avenue.
4. Applicants must construct a stormwater discharge point for the individual lots and the rights-of-way to the satisfaction of BES. An approvable engineered design, financial guarantees, and engineering/inspection fees must be provided to the satisfaction of BES.
5. Applicants shall meet the requirements of the Fire Bureau for ensuring adequate hydrant flow from the nearest hydrant. Applicants must provide verification to the Fire Bureau that Appendix B of the Fire Code is met, the exception is used, or obtain an approved Fire Code Appeal (See Exhibit H.14). If a new hydrant is required by the Fire Bureau, Applicants shall meet the requirements of the Fire Bureau for installing a new fire hydrant. Applicants must contact the Water Bureau, Development Services Department at 503-823-7368, for fee installation information related to the purchase and installation of fire hydrants. Applicants must purchase the hydrant and provide verification to the Fire Bureau that the Water Bureau will be installing the required fire hydrant, with the required fire flow and pressure.
6. Applicants shall meet the fire department access grade requirements. If an exception that allows the grade to be 18 percent is applied, Applicants must execute an Acknowledgement of Special Land Use Conditions to the satisfaction of the Fire Bureau.

## Required Legal Documents

7. A Maintenance Agreement shall be executed for the tracts described in Condition A.4 above. The agreement shall include provisions assigning maintenance responsibilities for

the tract area and any shared facilities within that area, consistent with the purpose of the tract, and all applicable City Code standards. The agreement must also acknowledge all easements granted within the tracts, the beneficiaries of those easements, and the limitations on the easement areas to the satisfaction of the beneficiary service agencies. The agreement must also include the tree preservation requirements that apply to Tract A. 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.

8. If the Fire Bureau has required an Acknowledgement of Special Land Use Conditions form, Applicants shall execute an Acknowledgement of Special Land Use conditions, and the acknowledgement shall be referenced on and recorded with the final plat to the satisfaction of the Fire Bureau.
9. An easement to the City of Portland for the purposes of stormwater discharge is required across 6810 SW 26<sup>th</sup> Avenue (Environmental Review site) and must be recorded, prior to final plat to the satisfaction of BES. The easement must be at least 15-feet wide.

#### Other requirements

10. Applicants must install protective fencing around the perimeter of the Tree 427 in Tract A as shown on Exhibit C.1.h. The fence must be 6-foot high chain link and be secured to the ground with 8-foot metal posts driven into the ground. Prior to final plat the applicant must receive final inspection approval of a Zoning Permit verifying that the fencing has been installed.
- C. The following conditions are applicable to site preparation and the development of individual lots/tracts:
1. Development on Tract A shall be in conformance with the Tree Preservation Plan (Exhibit C.1.f) and the applicant's arborist report (Exhibit A.6.c). Specifically, Tree 427 is required to be preserved, with the alternative root protection zones indicated on Exhibit C.1.f. 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 under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones 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. Applicants 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. If the Fire Bureau has required sprinklers (See Exhibit H.14) to be installed to meet Fire Code requirements, all residential permit applications for development on Lots 1-8 must include residential sprinklers, to the satisfaction of the Fire Bureau.

**Approval of an Adjustment** for grading and a retaining wall for a pedestrian path and future BES work within the stream and stream-associated wetland tracts (Tract A and Tract B), subject to the following conditions:

- D. The grading and retaining wall for the public pedestrian path must be included on the permit plans required per Condition B.1 and B.2, and must provide for the following:
  1. Prior to any ground disturbing activities on the site:
    - a. Sediment barriers and protective construction fencing (limits of disturbance) shall be installed outside of the onsite wetlands, in accordance with Title 10 and Chapter 24.50, and in substantial conformance with Exhibit C.1.h.
    - b. Mechanized construction vehicles are not permitted beyond the limits of disturbance.
- E. Prior to any grading or construction activities for work by BES, the owner(s) of the tracts shall obtain a Zoning Permit to demonstrate the following:
  1. City ownership of the tracts.
  2. Plans that show how the wetland functions on the site will be improved with a HGM sanctioned by the DSL, and in substantial conformance with Exhibit A.10.a.
- F. At the 1 year anniversary of the construction completion, BES must obtain a Zoning Permit and provide an "as-built" report, with an as-built drawing and a biologist's report documenting progress toward meeting design goals, per Condition E.
- G. Within 1 year after the submittal of the "as-built" report, per Condition F, and for the subsequent 4 years, an annual monitoring report must be provided to document survival of 500 stems per acre of native shrubs and trees. Contingency strategies for failure to meet goals may include replacement planting; alternative plant species; supplemental watering; modified planting methods; modified planting timing; protecting plants from predation.
- H. At 5 years after construction completion, BES must obtain a Zoning Permit and submit a final monitoring report and an update of the HGM assessment to document changes in functions.

**Approval of an Environmental Review** for an open conveyance channel, riprap armoring, and tree removal, subject to the following conditions:


- I. Prior to approval of permits, Applicants must demonstrate to the satisfaction of the Bureau of Development Services the following:
  1. Documentation of a legal instrument to confirm the applicant can carry out and ensure

success of the mitigation measures for the areas outside of the BES easement.

- J. All work within the Environmental Conservation overlay zone shall be in substantial conformance with Exhibits C.2.d and C.2.f, as approved by the Bureau of Development Services, or as otherwise modified to include the fish passage measures, as outlined in Condition I.
- K. Applicants shall obtain the required permits from the Bureau of Development Services and the City Engineer for the approved work. Title 10 provides that Title 10 shall be administered and enforced by the director of the city bureau that is performing or contracting for development. By extension, regulatory authority of the City Engineer applies to erosion control and floodplain regulations. The Zoning Permit plans must provide the following:
  - 1. The planting plan submitted for the permits shall be in substantial conformance with Exhibit C.2.g, and shall include an additional 500 square foot mitigation area adjacent to Stephens Creek on the Environmental Review site. All planting shall be selected from the *Portland Plant List*.
  - 2. Any plant substitutions, within the BES easement, must have been approved in writing by BES and the Bureau of Development Services (attach letter(s) allowing substitution to submitted plans).
  - 3. The 500 square foot mitigation area must be planted with native mitigation plantings at the rate of 10 plants per 50 square feet at a ratio of 1 tree, 2 shrubs, and 7 groundcover plants. Any plant substitutions, in the mitigation areas, must have been approved in writing by the Bureau of Development Services Land Use Review Planners (attach letter(s) allowing substitution to submitted plans).
  - 4. After installing the required mitigation plantings, the applicant shall request inspection of mitigation plantings and final the Zoning Permit.
- L. The Zoning Permit Plans shall include the following written information and be implemented as noted:
  - 1. Mitigation plantings must be installed as follows:
    - a. Plantings shall be installed between October 1 and March 31 (the planting season).
    - b. 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.
    - c. 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. All tape shall be a contrasting color that is easily seen and identified.
  - 2. Prior to any ground disturbing activities at the site:
    - a. Sediment barriers and protective construction fencing shall be installed in accordance

- with Title 10 and Chapter 24.50, and in substantial conformance with Exhibit C.2.f.
- b. Within the approved disturbance area in the Environmental Conservation Overlay Zone, mechanized construction vehicles are permitted. Outside of the approved disturbance area, all other work within the Environmental Conservation Overlay Zone, including invasive vegetation removal and planting work, shall be conducted using hand held equipment.
3. Mitigation plantings must be monitored as follows:
- a. The land owner shall monitor the required plantings for three years to ensure survival and, if warranted, replacement.
  - b. At the end of the 3-year monitoring period, the landowner shall obtain a Zoning Permit for a final inspection. The permit must be finalized no later than 3 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. The land owner is responsible for ongoing survival of required plantings.

**Note:** In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

  
\_\_\_\_\_  
Gregory J. Frank, Hearings Officer

7/11/15  
\_\_\_\_\_  
Date

<b>Application Determined Complete:</b>	May 19, 2014
<b>Report to Hearings Officer:</b>	January 16, 2015
<b>Revised Report to Hearings Officer:</b>	June 5, 2015
<b>Decision Mailed:</b>	July 2, 2015
<b>Last Date to Appeal:</b>	4:30 p.m., July 16, 2015
<b>Effective Date (if no appeal):</b>	July 17, 2015    Decision may be recorded on this date.

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



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

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

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

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

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

**Recording the land division.** If the project is approved, a final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

**Recording concurrent approvals.** If the preliminary land division is approved and also includes concurrent approval of other reviews, the other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with the concurrent land use reviews. The applicant, builder, or

their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

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

**Expiration of concurrent approvals.** For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment and Environmental review. These approval(s) expires if:

- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

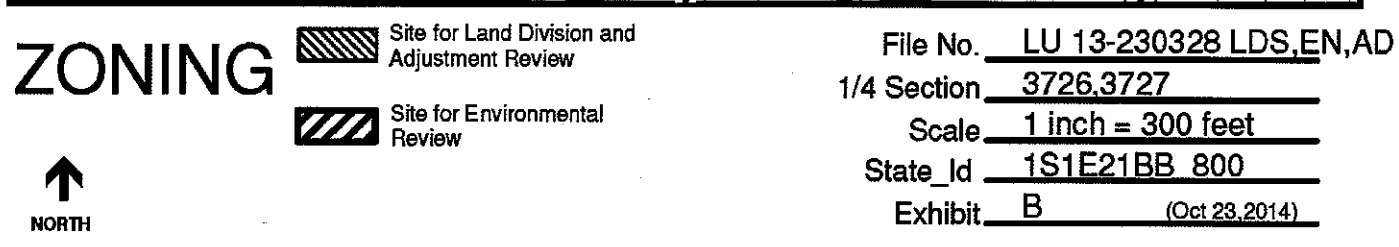
All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun.

**EXHIBITS**  
**NOT ATTACHED UNLESS INDICATED**

- A. Applicants' Statement
  - 1. Initial Submittal, 11/20/2013
  - 2. Preliminary Stormwater Calculations, received 12/13/2013
  - 3. 120-day waiver
  - 4. Response to Completeness Review, received 10/8/2014
  - 5. Request to reschedule hearing, received 11/21/2014
  - 6. Updated/Revised Narrative, received 12/15/2014
    - a. Revised Land Division Approval Criteria
    - b. Environmental Review and Adjustment Review Narrative
    - c. Arborist Report Addendum
    - d. CD-copy of updates
  - 7. Email re: easement cross-sections, received 12/17/2014
  - 8. Original Proposal Plan Set
  - 9. Letter re: waiver of review timeline per ORS 227.178, dated 1/27/2015
  - 10. Revised Narrative and Plan Set, received 4/17/2015
    - a. BES memo re: Hydrogeomorphic Methods (HGM)
  - 11. Memo re: narrative and plan revisions, received 5/19/2015
  - 12. CD copies of plan and narrative updates
- B. Zoning Map (**attached**)
- C. Plans and Drawings
  - 1. Land Division/Adjustment Review Plan Set
    - a. Cover/Vicinity Map (Sheet 1)
    - b. Existing Conditions (Sheet WB 2)
    - c. Preliminary Plat (Sheet WB 3) (**attached**)
    - d. Preliminary Improvement Plan (Sheet WB 4)
    - e. Preliminary Grading Plan (Sheet WB 5)
    - f. Tree Preservation Plan (Sheet WB 6) (**attached**)
    - g. Early Erosion Control Plan (Sheet WB 7)
    - h. Late Erosion Control Plan (Sheet WB 8) (**attached**)
  - 2. Environmental Review Plan Set
    - a. Existing Conditions-Overview (Figure 4)
    - b. Existing Conditions-Closeup (Figure 4A)
    - c. Proposed Development Plan-Overview (Figure 5)
    - d. Proposed Development Plan-Closeup (Figure 5A) (**attached**)
    - e. Construction Management Plan-Overview (Figure 6)
    - f. Construction Management Plan-Closeup (Figure 6A)
    - g. Mitigation and Restoration Plan (Figure 7)
  - 3. Public Works Plan Set
    - a. Cover Sheet (Sheet SE1)
    - b. Street and Storm Plan (Sheet SE2)
    - c. Turnaround and Planter Plan (Sheet SE3)

- d. Site Utility Plan (Sheet SE4)
  - e. Drainage Swale Plan (Sheet SE5)
- D. Notification information
  - 1. Request for response
  - 2. Posting letter sent to applicant
  - 3. Notice to be posted
  - 4. Applicant's statement certifying posting
  - 5. Mailing list
  - 6. Mailed notice
  - 7. Revised posting letter sent to applicant
  - 8. Revised Notice to be posted
  - 9. Applicant's statement certifying posting of Revised Notice
  - 10. Mailing list for revised proposal
  - 11. Mailed notice for revised proposal
- E. Agency Responses
  - 1. Bureau of Environmental Services
  - 2. Portland Transportation
  - 3. Water Bureau
  - 4. Fire Bureau
  - 5. Site Development/Bureau of Development Services
  - 6. Urban Forestry
  - 7. Department of State Lands re: Wetland Notification
- F. Letters: (none received)
- G. Other
  - 1. Original LU Application
  - 2. Updated LU Application, with environmental review site
  - 3. Letter to applicant re: incomplete application
  - 4. Southwest Hills Resource Protection Plan, Site 116
  - 5. Wetland Notification to Department of State Lands
  - 6. Emails to/from applicant
- H. Received in the Hearings Office
  - 1. Request to reschedule -- Green, Kate
  - 2. 1/2/15 Notice of Public Hearing -- Green, Kate
  - 3. Staff Report -- Green, Kate
  - 4. 1/22/15 Letter -- Morse, Kenneth
  - 5. 1/27/15 Letter -- Hays, Kyle
  - 6. Record Closing Information -- Continued -- Hearings Office
  - 7. Request to reschedule -- Green, Kate
  - 8. 1/27/15 letter from Dan MacNaughton -- Green, Kate
  - 9. Request to Reschedule -- Green, Kate
  - 10. Notice of Rescheduled Hearing -- Green, Kate
  - 11. Revised Staff Report -- Green, Kate
  - 12. 6/16/15 Memo from Tricia Sears and Eric Campbell/Pacific Habitat Services, Inc. -- MacNaughton, Dan
  - 13. 6/9/15 E-mail Tom Murtagh/Eric Campbell -- MacNaughton, Dan

14. 6/9/15 Letter from Nate Takara, Fire Marshal -- MacNaughton, Dan
15. 6/17/15 Memo -- Green, Kate
16. PowerPoint presentation printout -- Green, Kate
17. Record Closing Information -- Hearings Office



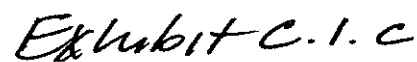


Exhibit C.1.f

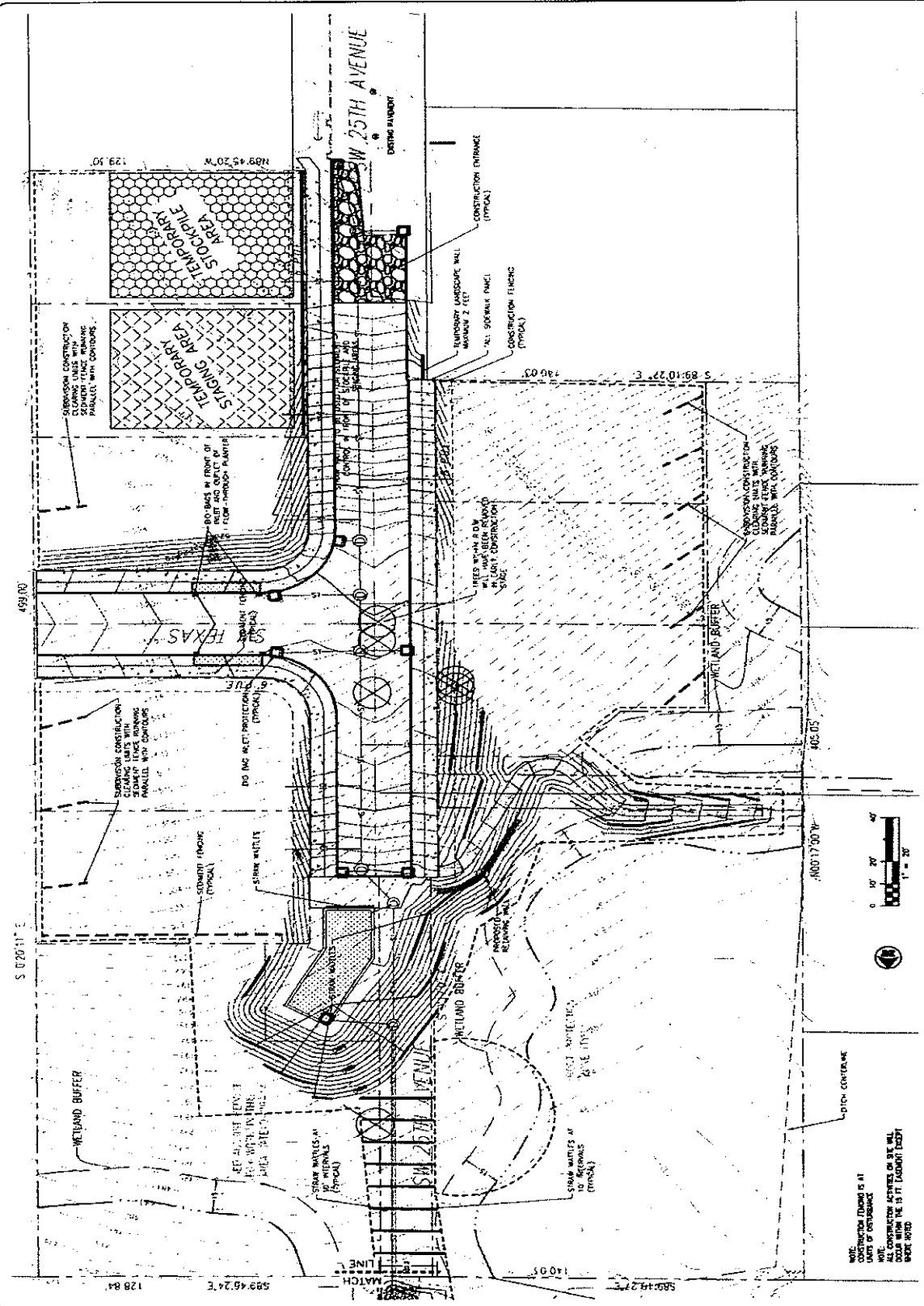


W.B. WELLS  
& ASSOCIATES, INC.  
A PROFESSIONAL CORPORATION  
12500 NE PORTLAND STREET  
PORTLAND, OREGON 97218  
PHONE 503-288-4400  
FAX 503-288-4401

**LATE EROSION CONTROL**  
**SW 25TH AVENUE SUBDIVISION**  
 FOR  
 Dan MacNaughton  
 City of Portland, Oregon

Dan MacNaughton  
 3602 SE Madison Ln  
 Portland, OR 97214  
 503-251-5571  
 dan@macnaughton.com

REVISIONS	
DATE	
DESCRIPTION	
DESIGNED BY	CM
CHECKED BY	CM
DATE	08-04-07
SCALE	AS SHOWN
DATE	08-04-07
BY	W.B. WELLS
DATE	08-04-07



**LEGEND**

- CONSTRUCTION FENCING
- STORM WATER
- STORM WATER
- CONSTRUCTION FENCING
- NO-SURF W/OUT PROTECTION

**NOTES**

1. EROSION CONTROL MEASURES SHALL BE USED TO STABILIZE THE SLOPES AND TO PREVENT EROSION AT THE TOP OF THE SLOPES AND TO PREVENT EROSION AT THE TOP OF THE SLOPES.

2. A SMALL SLOPEPROOF CONSTRUCTION SHALL BE USED TO STABILIZE THE SLOPES AND TO PREVENT EROSION AT THE TOP OF THE SLOPES.

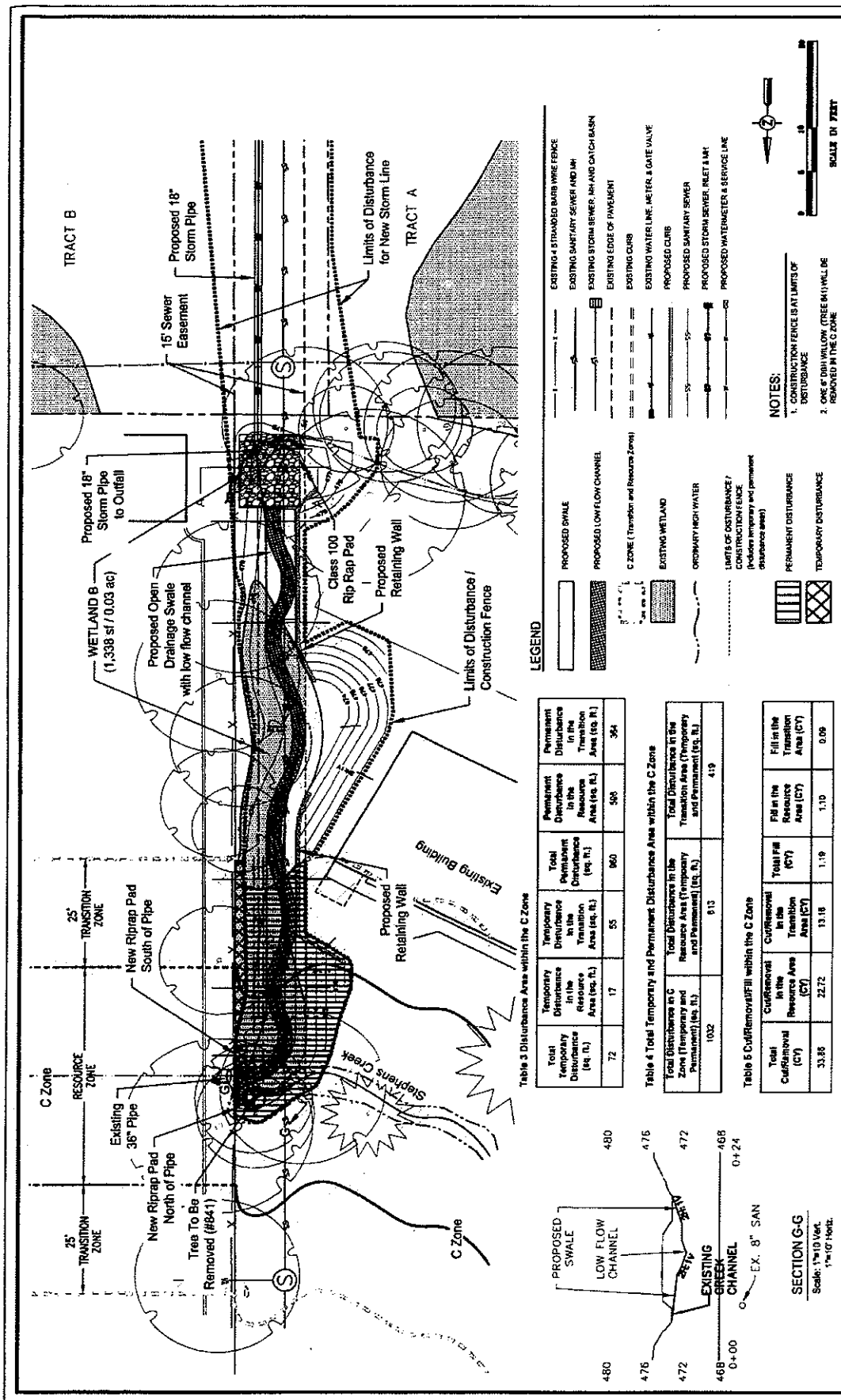
3. ALL MATERIAL FROM THE DAMP TRAIL LOCATION SHALL BE PLACED TO THE WEST OF THE DAMP TRAIL LOCATION.

4. WHEN THIS MATERIAL IS REQUIRED, THE DAMP TRAIL SHALL BE PLACED OUT BY THE EROSION AND STABILIZED.

**NORTHERN EXTENSION**

13-230328

Exhibit C.1.4



**LEGEND**

- PROPOSED DRYLE
- PROPOSED LOW FLOW CHANNEL
- C ZONE (Transition and Resource Zones)
- EXISTING WETLAND
- ORDINARY HIGH WATER
- LIMITS OF DISTURBANCE / CONSTRUCTION FENCE (Indicates temporary and permanent disturbance areas)
- PERMANENT DISTURBANCE
- TEMPORARY DISTURBANCE
- EXISTING 4 STRANDED BARB WIRE FENCE
- EXISTING SANITARY SEWER AND INLET
- EXISTING STORM SEWER, MAN AND CATCH BASIN
- EXISTING EDGE OF PAVEMENT
- EXISTING CURB
- EXISTING WATER LINE, METER, & GATE VALVE
- PROPOSED CURB
- PROPOSED SANITARY SEWER
- PROPOSED STORM SEWER, INLET & MAN
- PROPOSED WATERMETER & SERVICE LINE

**NOTES:**

- CONSTRUCTION FENCE IS AT LIMITS OF DISTURBANCE
- ONE 8" DBH WILLOW (TREE #41) WILL BE REMOVED IN THE C ZONE

Table 3 Disturbance Area within the C Zone

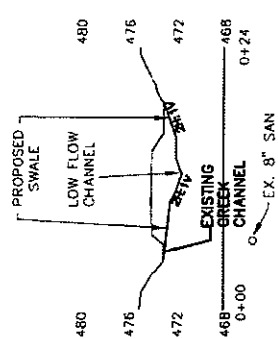
Total Temporary Disturbance Area (sq. ft.)	Temporary Disturbance in the Resource Area (sq. ft.)	Temporary Disturbance in the Transition Area (sq. ft.)	Total Permanent Disturbance in the Transition Area (sq. ft.)	Permanent Disturbance in the Resource Area (sq. ft.)	Permanent Disturbance in the Transition Area (sq. ft.)
72	17	55	560	503	34

Table 4 Total Temporary and Permanent Disturbance Area within the C Zone

Total Disturbance in C Zone (Temporary and Permanent) (sq. ft.)	Total Disturbance in the Resource Area (Temporary and Permanent) (sq. ft.)	Total Disturbance in the Transition Area (Temporary and Permanent) (sq. ft.)
1032	913	419

Table 5 Cuff Removal/Fill within the C Zone

Total Cuff Removal (CY)	Cuff Removal in the Resource Area (CY)	Cuff Removal in the Transition Area (CY)	Total Fill (CY)	Fill in the Resource Area (CY)	Fill in the Transition Area (CY)
33.88	22.72	13.18	1.19	1.10	0.09



SECTION G-G  
Scale: 1"=10' Vert.  
1"=10' Horiz.

**FIGURE 5A**  
5-26-2015

Proposed Development Plan Closeup  
SW 25th Avenue Subdivision - Portland, Oregon

Plan Provided by WB Wells & Assoc.  
and Sisul Engineering

**PHS**  
Pacific Habitat Services, Inc.  
10000 SW 25th Avenue, Suite 200  
Portland, OR 97205  
Phone: 503.255.1234  
Fax: 503.255.1235

13.230328 Exhibit C.2.d