

YVONNE POELWIJK
1900 SW 4th AVE, STE 5000
PORTLAND OR 97204

RACHEL WHITESIDE
299/5000

PLANNING COMMISSION
299/7100

TONI ANDERSON
131/140

BILL FREEMAN
299/5000

BES/DEVELOPMENT SERVICES
106/1100

KURT KRUEGER
106/800

DAWN KRANTZ
PORTLAND FIRE BUREAU
472/100

WATER BUREAU PERMITS
106/601

OREGONIAN
PORTLAND TEAM
1320 SW BROADWAY
PORTLAND, OR 97201

DOUGLAS CAPPS
PORTLAND PUBLIC SCHOOLS
PO BOX 3107
PORTLAND, OR 97208

APRIL MCDOWELL
PACIFIC NORTHWEST TITLE
9020 SW WASH SQ RD, #140
TIGARD, OR 97223

HOWARD J. BRANDWEIN
945 WATERBURY LN
VENTURA, CA 93001-3843

JERI GEBLIN
945 WATERBURY LN
VENTURA, CA 93001-3843

MIMI DOUKAS
CARDNO WRG
5415 SW WESTGATE DR.
PORTLAND, OR 97221

MARYHELEN KINCAID
EAST COLUMBIA NA
2209 N SCHOFIELD ST.
PORTLAND, OR 97217

PETER LIVINGSTON
SCHWABE, WILLIAMSON & WYATT
1211 SW 5TH AVE, #1600-1900
PORTLAND, OR 97204

MARY JARON KELLEY
N PORTLAND NEIGHBORHOOD SVCS
2209 N SCHOFIELD
PORTLAND, OR 97217

SHAWN BURGETT
DEVELOPMENT SVCS
299/5000

GARY CLIFFORD
1150 NE FALOMA RD
PORTLAND, OR 97211

CATHY HUMBLE
1036 NE MEADOW
PORTLAND, OR 97211

RICHARD TOWLE
544 NE SOUTHSORE RD
PORTLAND, OR 97211

BARBARA KERR
1150 NE FALOMA RD
PORTLAND, OR 97211

BRIAN LUZADER
910 NE SOUTHSORE RD
PORTLAND, OR 97211

CLAUDIA POLETTA
839 NE MEADOW DR
PORTLAND, OR 97211

ALAN F. & LAURI ORR
801 NE MEADOW DR
PORTLAND, OR 97211

RONALD & KATHLEEN PERSON
725 NE MEADOW DR
PORTLAND, OR 97211

AMY RUIZ
MAYOR'S OFFICE
131/340

MARYHELEN KINCAID
LAND USE CHAIR
EAST COLUMBIA N.A.
2030 NE BLUE HERON DRIVE
PORTLAND OR 97211

LU 09-134484 HO
29 LABELS
~~TO BE MAILED~~ 1/22/10 *EM*



City of Portland, Oregon
Bureau of Development Services
Land Use Services

1900 SW 4th Avenue, Suite 5000
Portland, Oregon 97201
503-823-7300
Fax 503-823-5630
TTY 503-823-6868
www.portlandonline.com/bds

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

CASE FILE: LU 09-134484 LDS EN AD (Brandwein Meadows)
WHEN: Thursday, Feb. 18, 2010, 3:30PM
WHERE: Council Chambers, 1221 SW Fourth Avenue

Date: January 22, 2010
To: Interested Person
From: Shawn Burgett, Land Use Services, 503-823-3581
Rachel Whiteside, Land Use Services, 503-823-7605

A public hearing will be held to consider an appeal of the Land Use Hearings Officer's decision to approve a Land Division with concurrent Environmental Review and Adjustments at 9801 NE 13th Avenue. The Land Use Hearings Officer's decision of approval with conditions has been appealed by the East Columbia Neighborhood Association. At the hearing City Council will consider the appeal. You are invited to testify at this hearing.

This will be an on-the record hearing, one in which new evidence cannot be submitted to the City Council. For a general explanation of the City Council hearing process please refer to the last page of this notice.

File No.: LU 09-134484 LDS EN AD (HO 4090025)

Applicants: Howard J. Brandwein and Jeri Geblin
945 Waterbury Lane
Ventura, CA 93001-3843

**Applicants'
Representative:** Mimi Doukas
Cardno / WRG
5415 SW Westgate Drive
Portland, OR 97221

Appellant: East Columbia Neighborhood Association

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Staff Representative: Rachel Whiteside / Shawn Burgett

Site Address: 9801 NE 13TH AVE
Legal Description: TL 200 22.28 ACRES, SECTION 02 1N 1E
Tax Account No.: R941020310
State ID No.: 1N1E02C00200
Quarter Section: 2031

Neighborhood: East Columbia Neighborhood Association
Business District: Columbia Corridor Association
District Coalition: North Portland Neighborhood Services

Plan District: None
Zoning: R10 c,h – Single Dwelling Residential 10,000 with Environmental Conservation and an Aircraft Landing Overlay zones.
Other Designations: East Columbia Neighborhood N.R.M.P. and 100-year floodplain
Land Use Review: Type III, LDS EN AD – Land Division (Subdivision), Environmental Review and Adjustment Review

BDS Staff Recommendation to Hearings Officer: Approval of Environmental and Adjustment Review; Approval of a Preliminary Plan for a 49-lot subdivision, with conditions

Public Hearings: The first hearing was opened at 1:30 p.m. on November 23, 2009 in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland OR, and was closed at 3:01 p.m. A continued hearing was opened at 10:00 a.m. on November 30, 2009 in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland OR, and was closed at 11:39 a.m. The record was held open until 4:30 p.m. on December 9, 2009 for new evidence and held open until 4:30 p.m. on December 16, 2009 for the applicants' final argument. The record was closed at 4:30 p.m. on December 16, 2009.

Testified at the November 23, 2009 Hearing:

Rachel Whiteside, BDS Staff Representative
Mimi Doukas, Cardno/WRG, 5415 SW Westgate Drive, Portland, OR 97221
Maryhelen Kincaid, East Columbia Neighborhood Association Representative, 2030 NE Blue Heron Drive, Portland, OR 97211
Shawn Burgett, BDS Staff Representative
Brian Luzader, 910 NE Southshore Road, Portland, OR 97211
Howard Brandwein M.D., 945 Waterbury Lane, Ventura, CA 93001
Gary Clifford, 1150 NE Faloma Road, Portland, OR 97211
Cathy Humble, 1036 NE Meadow, Portland, OR 97211
Richard Towle, 544 NE Southshore Road, Portland, OR 97211
Barbara Kerr, 1150 NE Faloma Road, Portland, OR 97211

Testified at the November 30, 2009 Hearing:

Rachel Whiteside, BDS Staff Representative
Shawn Burgett, BDS Staff Representative
Matt Lewis, Cardno/WRG, 5415 SW Westgate Drive, Suite 100, Portland, OR 97221
Mimi Doukas, Cardno/WRG, 5415 SW Westgate Drive, Suite 100, Portland, OR 97221
Cathy Humble, 1036 NE Meadow, Portland, OR 97211
Gary Clifford, 1150 NE Faloma Road, Portland, OR 97211
Barbara Kerr, 1150 NE Faloma Road, Portland, OR 97211
Maryhelen Kincaid, East Columbia Neighborhood Association Representative, 2030 NE Blue Heron Drive, Portland, OR 97211

Proposal: The applicants propose to subdivide the 23.5-acre site into 49 lots for single-family development, public streets, Recreation Tract for the use of residents, large Open Space Tract and a Wetland Preservation Tract.

In preparation for this proposal, the applicants have secured approval from the Division of State Lands ("DSL") to fill and grade the site so that some of the existing wetlands will be filled and others enhanced. There are three existing wetlands on this site – Wetland A: in the west with 6.4 acres, Wetland B: in the center with .82 acres, and Wetland C: at eastern end of site with .86 acres. Wetlands B and C, totaling 1.7 acres, will be filled. The mitigation for this work will restore 2.6 acres of historic wetlands and enhance another 1.5 of wetland area. The restored and enhanced wetlands, along with preservation of Wetland A, will all be preserved in a 12.53-acre non-development Open Space Tract in the western half of the site. Also, as a

result of this work, the ground levels in the area proposed for future development will be modified in such a way that all of the proposed lots will be outside of the flood plain.

The applicants requested two Adjustments as part of this proposal. The first is to reduce the size of the required recreation area (Portland City Code ("PCC") 33.634) so that it is 10 percent of the area proposed for development rather than 10 percent of the total site. This would result in a 1.11-acre Recreation Tract. The applicants have proposed an information and viewing kiosk along the eastern side of the Open Space and Wetland Tracts to provide additional passive recreational amenities for the residents. The second Adjustment is to waive the requirement for a tract (PCC 33.640) over an existing wetland area (Wetlands B and C described above) that has been approved for fill by DSL and to allow grading in Tract B to all for the wetland enhancement for the fill. Wetlands to be enhanced will be placed in a 12.53 acre Open Space Tract west of the proposed development.

The proposal includes a Tree Preservation Plan meeting Options 2 and 3 in PCC Chapter 33.630. Sanitary sewer and water main line extensions are proposed in the new public streets to serve the lots. Stormwater for the new homes will be directed to flow-through planters and then to the street system. Stormwater from the public street improvements will be managed via street-side swales with an outfall and disposal to the drainage ditch along the southern boundary of this site.

This southern drainage ditch is within the Environmental Conservation Overlay zone and the proposed stormwater outfall facility will go into the Environmental Conservation zone. This outfall does not meet the environmental standards for land divisions in PCC Section 33.430.160, therefore a Type II Environmental Review is required for the outfall.

This land division proposal is reviewed through a Type III procedure because: (1) the proposal requires a concurrent Environmental Review; and (2) more than ten dwelling units are proposed (see PCC 33.660.110). For purposes of State Law, this land division is considered a subdivision. To subdivide land is to divide an area or tract of land into four or more lots within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland City Code. The applicable approval criteria are:

- **33.660.120 – Approval Criteria for Land Divisions in Open Space and Residential Zones**
- **33.430.250.A.1 & A.3 – Approval Criteria for outfalls and land divisions in the Environmental Overlay Zones.**
- **33.805.040 – Approval Criteria for Adjustments**

REVIEW BODY DECISION

Approval of Environmental Review for a stormwater outfall associated with the proposed 49-lot subdivision.

Approval of an Adjustment to reduce the size of the required recreation area (PCC 33.634) so that it is 10 percent of the area proposed for development rather than 10 percent of the total site.

Approval of an Adjustment to waive the requirement for a tract (PCC 33.640) over an existing wetland area (Wetlands B and C described above) that has been approved for fill by DSL and to allow grading in Tract B to accommodate the grading activities associated with the wetland enhancement.

Approval of a Preliminary Plan for a 49-lot subdivision, that will result in 49 standard lots, new public streets, a common Recreation Tract and Wetland Protection Reserve as illustrated

with Exhibit C.1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of drainage reserve on Lots 4-9, along with future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. The applicants shall meet the street dedication requirements of the City Engineer for NE 13th Ave. along with the new public streets within the site. The required right-of-way dedication must be shown on the final plat, along with any additional dedication needed to accommodate stormwater management facilities in NE 13th Ave.
2. Tract A shall be noted on the plat as "Tract A: (Common Recreation Area). A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 49.
3. Tract B shall be noted on the plat as "Tract B: (Wetland Protection Reserve). A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 49.
4. Tract C shall be noted on the plat as "Tract C: (Stormwater Management Tract). A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 49.
5. Tract D shall be noted on the plat as "Tract D: (Common Open Space). A note must also be provided on the plat indicating that the tract will commonly owned and maintained by the owners of Lots 1 through 49 or by any other individual or group allowed under Code section 33.636.100.A.
6. The pathway and viewing kiosk between Lots 36 and 37 must be placed in a separate Open Space Tract located at least 15 ft. from the edge of the wetland. The size of Tract B may be reduced accordingly.
7. 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 C.8 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."
8. Prior to final plat approval, the 10' public easement over the drainageway at the north property line near NE 13th Ave. must be removed, and the applicants must submit a revised plan showing: the location of the drainageway at the northeastern portion of the property, the required drainage reserve, and conceptual building footprints located outside the drainage reserve.
9. Prior to final plat approval, based on the standards of Zoning Code Section 33.639.100 (Solar access), the following changes must occur:
 - Lot 2 should be wider than Lots 1 and 3.
 - Lot 9 should be narrower than Lots 5-8.

- Lot 45 should be wider than Lots 44 and 46.
- Lot 48 should be wider than Lots 47 and 49.

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

Streets

1. The applicants shall meet the requirements of the City Engineer for right-of-way improvements along the frontage of NE 13th Ave. and the new public streets that will access the site as shown in Exhibit C-1. The applicants shall provide plans and financial assurances to the satisfaction of the Bureau of Transportation Engineering and Development Review, and the Bureau of Environmental Services for required street frontage improvements.
2. The applicants shall submit an application and have finalized a Site Development Permit for mass grading and utility construction for the new public street and related site development improvements. Street design plans must be prepared by, or under the direction of, an Oregon licensed civil engineer. The Site development permit should also include:
 - Mitigation approved as part of the Compensatory Wetland Mitigation Plan will restore 2.6 acres of historic wetlands and enhance 1.5 acres of existing wetland. This mitigation will be provided on the western end of the site within the proposed 12.53 acre Tract B
 - Construction of the stormwater outfall, which must also include the wetland benching approved under LU 07-143290 EN
 - Written proof of Completion of the Compensatory Wetland Mitigation Plan from DSL and receipt of the final Conditional Letter of Map Revision (CLOMR) application through FEMA must be submitted and approved by BDS prior to final plat approval
 - All grading work must be completed consistent with the Compensatory Wetland Mitigation Plan and CLOMR prior to final plat approval.
 - A continuous channel at a maximum elevation of 5' (NAVD 1988) is to be located in Tract B between the north and south wetlands to allow free passage of flood waters. If a channel cannot be delineated at existing grades, a channel may need to be graded in place. The construction limits should be modified as needed to accommodate grading for the channel.
 - Final approval of decommissioning permits for the existing on-site sewage disposal systems and any drywells shall be required prior to final plat approval, or final approval of demolition permits (or permits to move the structures) for removal of the existing structures that include all required decommissioning shall be required prior to final plat approval.
3. The applicants shall provide a Clearing and Grading Plan with the Site Development permit required for the mass grading described in Condition C-2. The Clearing and Grading Plan must substantially conform to the Preliminary Clearing and Grading Plan approved with this decision (Exhibits C.5 and C.6) including grading within Tract B and on Lots 16, 17, 44 and 45 where protected trees are located.

Utilities

4. The applicants shall meet the requirements of the Bureau of Environmental Services (BES) for sanitary and stormwater improvement into the new public right-of-way. The public sewer extension requires a Public Works Permit, which must be initiated prior to final plat approval. In addition, the applicants must provide engineered designs, and performance guarantees for the sewer extension to BES prior to final plat approval.

5. Final approval of decommissioning permits for the existing on-site sewage disposal systems and any drywells shall be required prior to final plat approval, or final approval of demolition permits (or permits to move the structures) for removal of the existing structures that include all required decommissioning inspections shall be required prior to final plat approval.
6. The applicants shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension into the new public rights-of-way.
7. The applicants shall meet the requirements of the Fire Bureau. Fire hydrant systems shall comply with the Fire Code. Where a portion of the facility or building hereafter constructed or moved into that is Group R-3 or Group U within the jurisdiction is more than 600 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the Fire Marshal.

Required Legal Documents

8. The applicants shall execute a Maintenance Agreements for Tracts A, B and C, D and the Open Space Tract required for the viewing kiosk, as described in Conditions B.2-B.6 above. The agreement shall assign common, undivided ownership of the tracts to the owners of Lots 1-49 (or owners allowed under Code Section 33.636.100 A.) and include provisions assigning maintenance responsibilities for the tract and any shared facilities within that area. The Maintenance Agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.
9. The applicants shall submit a Performance Guarantee and construction timing agreement specifying the installation schedule of improvements, as approved by the Bureau of Development Services, for 125 percent of the estimated construction cost for the recreational tract and viewing Kiosk and associated improvements in conformance with exhibit C.9, meeting the requirements of PCC Section 33.700.050. The Performance Guarantee must be accompanied by a contract approved by the City Attorney.
10. Prior to final plat approval, the applicants will be required to apply for a zoning permit for installation and construction of mitigation approved as part of the Adjustment Reviews including viewing kiosk along the eastern side of the Wetland Tract. The viewing station must be surrounded by a physical barrier, such as a split-rail fence and educational signage informing visitors of potential impacts from human disturbances and recreational amenities within Tract A in substantial conformance with Exhibit C.9, including at least two benches, three types of playground amenities within the play equipment area and at least three types of additional amenities required for mitigation described in the adjustment review. The zoning permit must be final prior to the final of permits for residential development as specified in Condition D.3 below.

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

1. Development on Lots 16, 17, 44 and 45 shall be in conformance with the Tree Preservation Plan (Exhibits C.7 and C.8) and the applicants' arborist report (Exhibit A.2). Specifically, trees numbered 549, 583, 584 and 585 located on Lots 16 and 45 (with RPZ's that encroach onto adjacent Lots 17 and 44) are required to be preserved, with the root protection zones indicated on Exhibit C.8. 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 supervision. The report from an arborist and any revisions to permit plans reflecting new root protection zones must be submitted and approved by Planning and Zoning prior to any working occurring in

the root protection zone. If work is conducted in the RPZ and Planning & Zoning approval is not obtained before the work begins and the tree subsequently falls, it may result in a violation.

2. The minimum rear building setback for Lots 4-9 shall be 15 feet to assure that adequate space is available to accommodate a drainage reserve that can comply with the requirements of the Stormwater Management Manual.
3. Development on lots and tracts shall be in conformance with the following:
 - a. Recreation area improvements and viewing kiosk must be installed prior to final inspection of any dwelling units in the subdivision. The zoning permit applied for in association with these improvements must be final.
 - b. All vegetation planted in a resource area is native and listed on the Portland Plant List. Plants listed on the Portland Nuisance Plant List or Prohibited Plant List are prohibited.
 - c. The minimum front, street, or garage setbacks of the base zone may be reduced to any distance between the base zone minimum and zero.
 - d. Fences are allowed only within lots (not within Tract B: Wetland Protection Reserve).
 - e. Exterior lights must be spaced at least 25 feet apart. Incandescent lights exceeding 200 watts (or other light types exceeding the brightness of a 200-watt incandescent light) must be placed so they do not shine directly into resource areas. This condition applies to lots that abut any environmental zoning on the site.
4. At the time of building permit review for the affected lots, a Notice of Condition must be recorded against the property deeds identifying the presence of a drainage reserve per Appendix A.3 of the SWMM.

Gregory J. Frank, Hearings Officer

12/30/09
Date

APPEAL

The Land Use Hearings Officer's decision of approval with conditions has been appealed by the East Columbia Neighborhood Association. According to the appellants' statement, the appeal of the Land Use Hearings Officer's decision is based on arguments that:

1. Procedural challenges. Proper procedure of notification for this hearing was not followed and notice of this was brought up by the neighborhood, not City staff. Notice was sent Nov. 6th for a Nov 23rd hearing. The neighborhood notified the City of the error and a concession was made to hold a second hearing a week later (Nov.30th) which was the Monday after Thanksgiving which did not allow a full week of preparation due to the previous week holiday. The neighborhood was told there was no procedure to follow if the proper timeline for notice of hearing was not met. The applicant had been granted hearing date extensions prior to this hearing but the neighborhood's request for a resending of the notice and rescheduling of the hearing was not.
2. PCC 24.50.010 and 24.50.060 Flood Hazards. This criteria was not considered in the BDS staff review but is applicable and of concern. These code references were cited by City staff in the Revised Land Use Review from Site Development, dated November 20, 2009. The

applicant should have to prove that they have met the criteria of 24.50.010: *The purpose of this Chapter is to protect the public health, safety, and welfare by restricting or prohibiting uses which are dangerous to health, safety, or property in times of flood or which cause increased flood heights or velocities.* The Hearings Officer described neighbors testimony of prior flooding and evacuations as “anecdotal”. There are historical documented references to flooding in 1996 (submitted as testimony), the site is predominantly in a 100 year flood zone, geotechnical reports done by the applicant’s consultants indicate a need for special considerations due to flooding hazards, so there is scientific evidence to apply to this code and it should be considered as criteria. Additionally the geotechnical report was done during a dry month (June) and not a wet month and ECNA requests testing and a report be done of the soil saturation during a wet month to meet this criteria.

3. PCC 10.30.030 B3 Special construction considerations. The applicant’s geotechnical report recommended special consideration for site prep and earth work, yet BDS did not list that as a criteria and it should have been. The Hearings Officer found it not applicable, but given recommendations from expert technical advisors of the applicant ECNA believes it is relevant and criteria should be met.
4. PCC 33.641 “...traffic impacts caused by dividing and then developing land to be identified...” The impact of 8,000 dump truck loads of fill on NE 13th, a street designated as “No Trucks” was not considered or addressed. NE 13th is built over a main drainage way system for the neighborhood, any damage could cause impacts to the drainage system. 20-30 truckloads a day could impact traffic flow in the neighborhood as NE 13th is a major N/S streets.
5. PCC 33.660 Stormwater Management. There was no consideration in either the tree preservation standards or the geotechnical report for loss of tree canopy, and its affect on stormwater retention or increased runoff. Approximately 70% of the trees on the property are slated to be removed. 85% of the open space will be covered with impervious surfaces. While staff have stated they meet the tree preservation code there is no consideration for the loss of this tree canopy (less water hitting the ground) and the loss of water absorption and retention through the root systems. Many of the trees slated to be removed are Lombardy poplar and cottonwood – large trees known to absorb large amounts of water.
6. PCC 33.430.010 and 33.910 Environmental Review and Definitions. Significant Detrimental Impact as stated in the code is: “An impact that affects the natural environment to the point where existing ecological systems are disrupted or destroyed. It is an impact that results in the loss of vegetation, land, water, food, cover, or nesting sites. These elements are considered vital or important for the continued use of the area by wildlife, fish, and plants, or the enjoyment of the area's scenic qualities.” Staff based their evaluation of the value of the area on references to the East Columbia Natural Resources Management Plan (ECNRMP) which is 20 years old and outdated. These references are not in agreement with the Fall 2009 Natural Resources Inventory (NRI) done by City BES staff or the Metro Title 13 assessment done for the area. Both these recent assessments rate almost the entire site as highly significant and a special habitat area that should be protected. A list of wildlife in the area is in the Natural Resources Inventory done by BES staff, as well as an urban fauna report done by the Audubon Society. Both list significant habitat of both common wildlife species and ones that are either protected or in danger, specifically the Western painted turtle and a migratory bat species.

7. PCC 33.430.270 Special Evaluation by a Professional. The Hearings Officer did not address the neighborhood request. This site is a fragile, sensitive area. There is considerable documentation of its natural habitat value (mentioned in previous testimony), and unique character. Given the documented current flooding occurrences, past history of flooding, the exceptionally complicated components of this case and the technical nature, East Columbia requests that BDS engage an independent panel or third party to evaluate the geotechnical data, applicant's conclusions on preliminary stormwater plans, preliminary drainage plans and validate that this development as proposed presents no danger of flooding to the adjacent neighbors properties.

Review of the case file: The Land Use Hearings Officer's decision and all evidence on this case are now available for review at the Bureau of Development Services, 1900 SW 4th Avenue, Suite 4500, Portland, OR 97201. Copies of the information in the file can be obtained for a fee equal to the City's cost for providing those copies. I can provide some information over the phone.

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

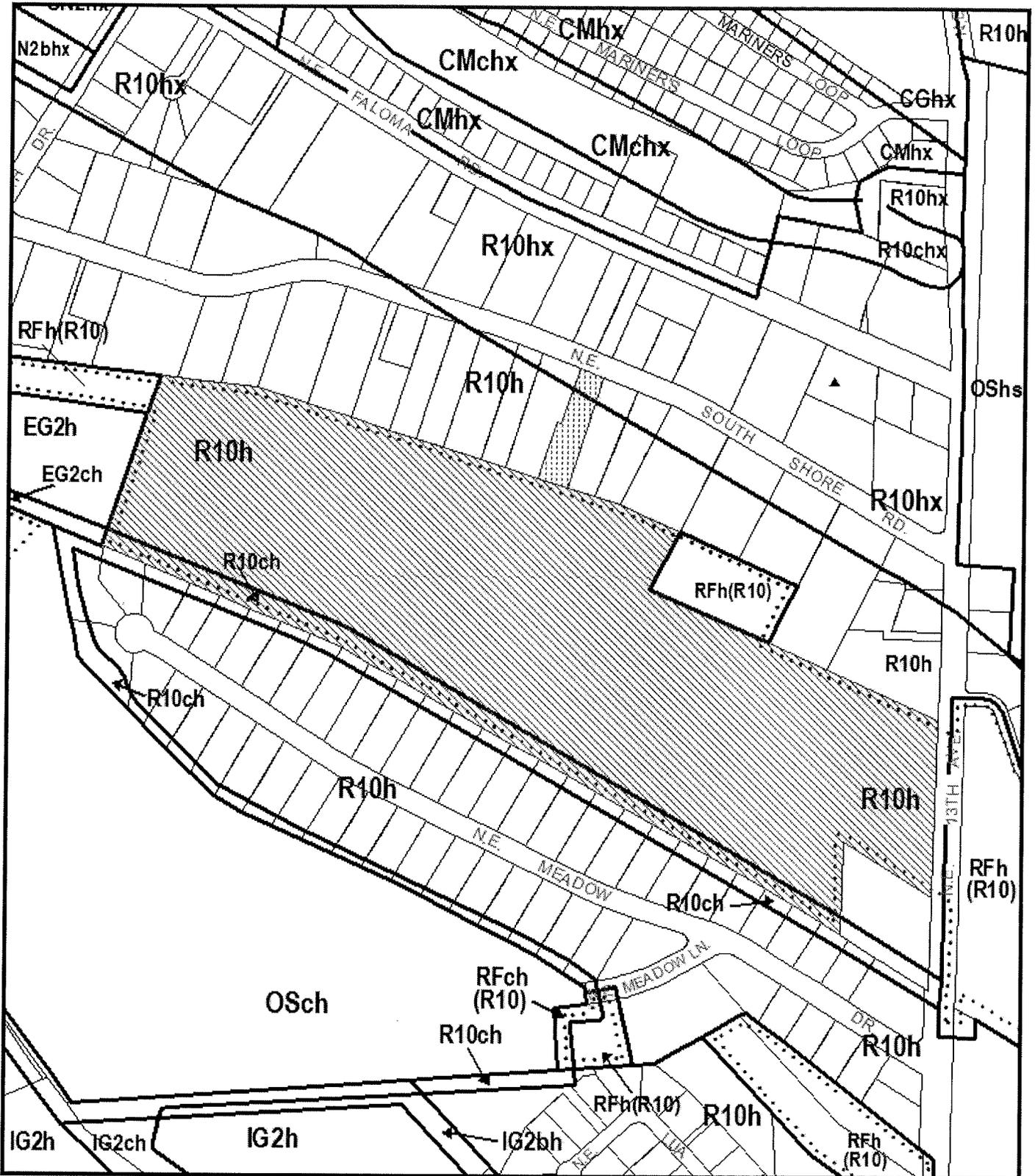
If you choose to provide testimony by electronic mail, please direct it to the Council Clerk (kmoore-love@ci.portland.or.us). Due to legal and practical reasons, City Council members cannot accept electronic mail on cases under consideration by the Council. Any electronic mail on this matter must be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

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

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

Attachments:

1. Zoning Map
2. Site Plan
3. Tree Preservation Plan, split into western & eastern halves of site (2 pages)
4. Tree Preservation Table (2 pages)
5. Planting Plan
6. Outfall Construction Plan
7. City Council Appeal Process

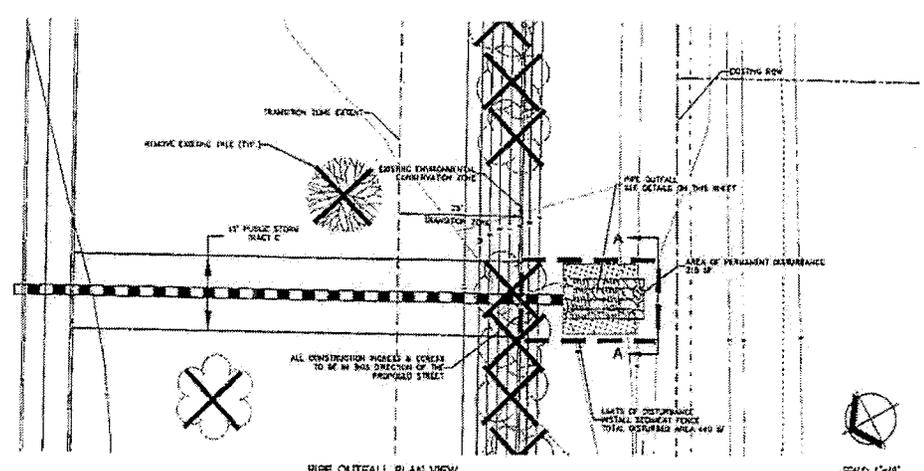


ZONING

-  Site
-  Also Owned



File No. LU 09-134484 LDS,EN,AD
 1/4 Section 2031
 Scale 1 inch = 300 feet
 State_Id 1N1E02C 200
 Exhibit B (Jun 10,2009)

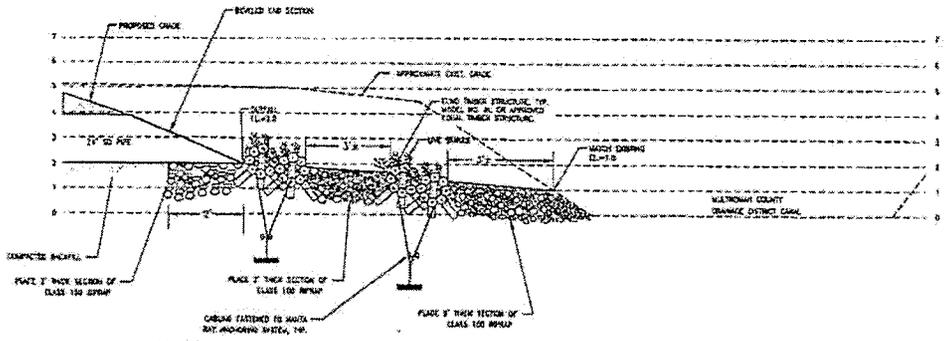


SITE FLOOD PLAIN BALANCING
 TOTAL OUTFALL VOLUME: 1000 CF
 TOTAL FILL VOLUME: 1500 CF

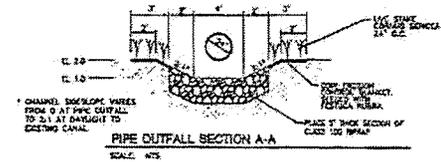
AREA OF DISTURBANCE
 PERMANENT DISTURBANCE: 215 SF
 TEMPORARY DISTURBANCE: 225 SF
 TOTAL DISTURBED AREA: 440 SF

- LEGEND**
- - - - - EXISTING BOUNDARY LINE
 - - - - - EXISTING ROW LINE
 - - - - - EXISTING LOT LINE
 - - - - - EXISTING DRAIN CENTERLINE
 - - - - - EXISTING 1' CONTROLS
 - - - - - EXISTING 3' CONTROLS
 - - - - - PROPOSED 1' CONTROLS
 - - - - - PROPOSED 3' CONTROLS
 - - - - - PROPOSED RIGHT-OF-WAY LINE
 - - - - - PROPOSED LOT LINE
 - - - - - PROPOSED STREET CENTERLINE
 - - - - - PROPOSED BUILDING PAD
 - - - - - PROPOSED 6' DRIVEWAY FENCE FOR TREE PROTECTION
 - - - - - EXISTING WETLANDS
 - ▨ EXISTING ASPHALTIC PAVEMENT
 - ▨ EXISTING WALK TO REMAIN
 - ▨ EXISTING TREES TO BE SAVED

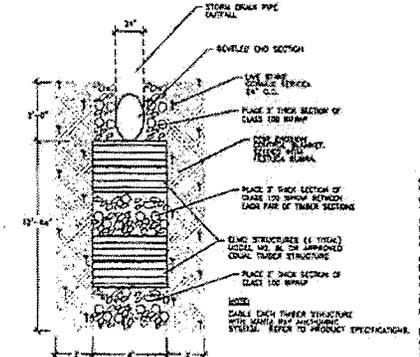
- ENVIRONMENTAL REVIEW NOTES**
1. ALL PROPOSED BUILDINGS, PATHS, BENCHES, WALLS, STRUCTURES, ETC. TO BE LOCATED OUTSIDE OF ENVIRONMENTAL CONSERVATION ZONE.
 2. ENVIRONMENTAL CONSERVATION ZONE TO BE UNDISTURBED UNLESS AS SHOWN ON THIS PLAN AND AN SEPARATE PREVIOUSLY APPROVED ENVIRONMENTAL REVIEW.
 3. ALL EQUIPMENT STAKES AND SIGNAGE AREAS INCLUDING TOPICS TO BE INSTALLED WITHIN ENVIRONMENTAL CONSERVATION AND TRANSITION ZONES APPROPRIATE SCHEDULED AND RELATED CONTROL SWAPS TO BE IMPLEMENTED, INCLUDING BUT NOT LIMITED TO PERMANENT SEDIMENT FENCE AND CONTROL OF EROSION.
 4. SEDIMENT FENCE TO BE INSTALLED ALONG PERIMETER OF DISTURBED AREA. OTHER EROSION SWAPS TO BE IMPLEMENTED AS NECESSARY FOR THE APPROVED 1200-C PERMIT.
 5. NEW DRAINAGE EXCAVATION TO BE COMPLETED AND RESTORED TO THE EXISTENT PRACTICAL BEFORE MAKING THE CONNECTION TO THE RECEIVING DRAINAGE MAIN. A PAIR OF 18" DIA. SOLE SHOULDER SHOULD BE INSTALLED BETWEEN THE CENTRAL CHANNEL EXCAVATION AND THE RECEIVING DRAINAGE MAIN. THE CONNECTION IS READY TO BE MADE.
 6. IF IMPACT OF OTHER DISTURBANCE WILL OCCUR IN THE AREA WHERE THE NEW OUTFALL IS TO BE CONSTRUCTED, FOUR SWAPS OR OTHER FORMS OF RESTORATION MUST BE ACCOMPANIED TO EQUAL CONSTRUCTION IN RELATIVELY EASY CIRCUMSTANCES.
 7. CONSTRUCTION EQUIPMENT TO REMAIN WITHIN THE LIMITS OF DISTURBANCE AND WITHIN THE TRANSITION ZONE.
 8. OUTFALL TO BE EXCAVATED PER THIS PLAN AND SITE DRAINAGE PLAN. SUITABLE EXCAVATED MATERIALS TO BE REUSED ON-SITE. UNSUITABLE MATERIALS TO BE Hauled TO APPROVED DISPOSAL SITE.
 9. WORK TO BE COMPLETED BETWEEN JULY 1 AND OCTOBER 15. COORDINATION TO COORDINATE WORK WITH WASHINGTON COUNTY DRAINAGE DISTRICT.
 10. ALL CONSTRUCTION DEBRIS, HAZARDOUS MATERIALS, HUMAN WASTE AND LITTER TO BE STORED OUTSIDE OF ENVIRONMENTAL CONSERVATION AND TRANSITION ZONE. APPROPRIATE POLLUTION CONTROL SWAPS TO BE IMPLEMENTED.



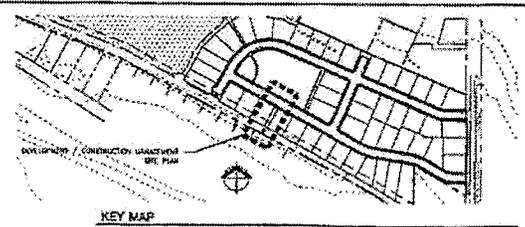
PIPE OUTFALL PROFILE
 SCALE: NTS



PIPE OUTFALL SECTION A-A
 SCALE: NTS



PIPE OUTFALL PLAN DETAIL
 SCALE: NTS



KEY MAP
 SCALE: NTS

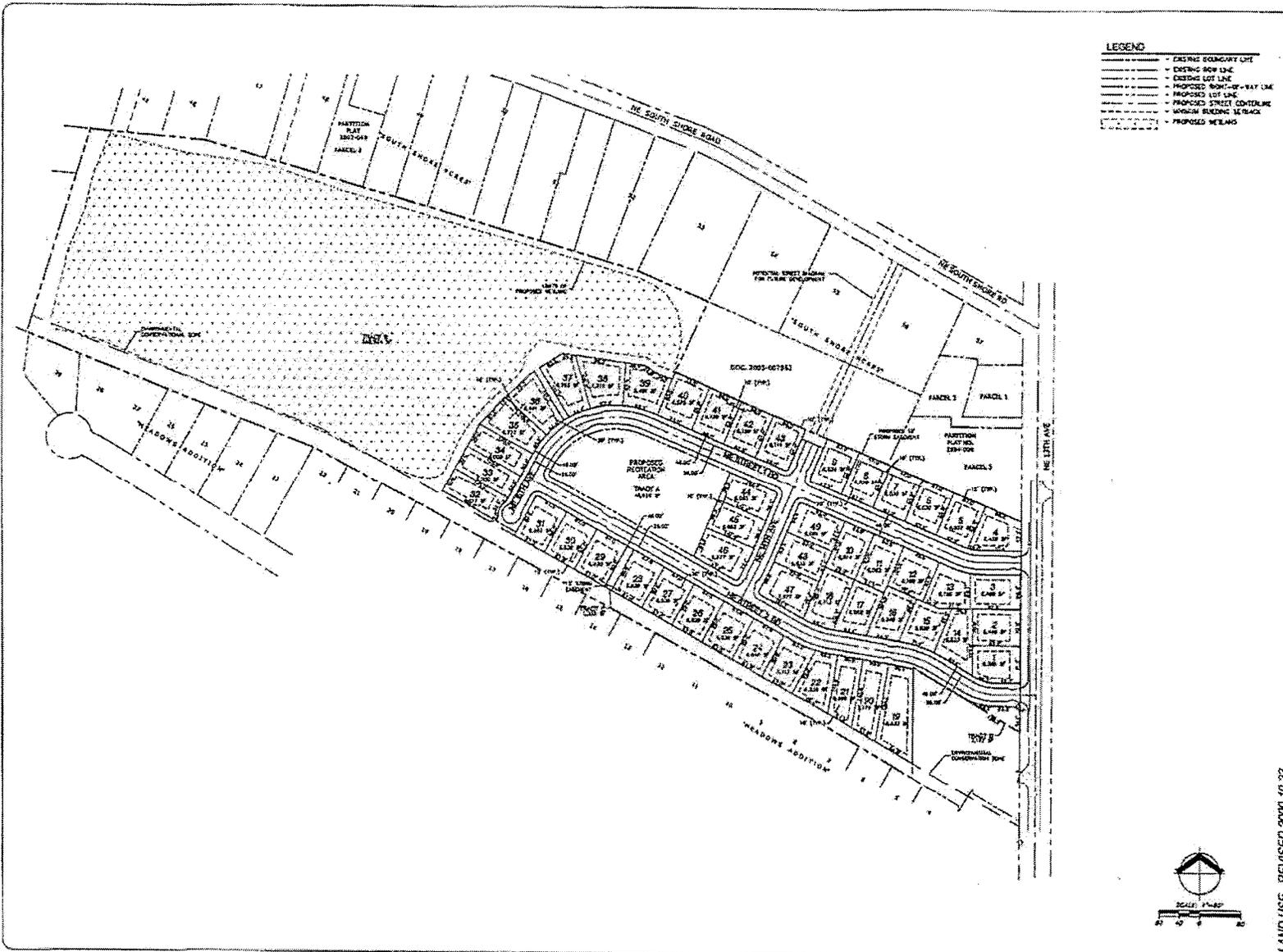


DEVELOPMENT / CONSTRUCTION MANAGEMENT SITE PLAN
BRANDWEIN MEADOWS
 A HOWARD BRANDWEIN DEVELOPMENT
 PORTLAND, OREGON

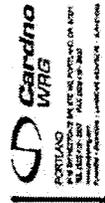
LAND USE - REVISED 2009-10-23

PROJECT NO.	09-134784
DIST.	BRANDWEIN
DESIGNED BY	ALPHA
DRAWN BY	ALPHA
CHECKED BY	UG

CONSTRUCTION PLAN
 EN1.0

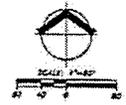


- LEGEND**
- - - - - EXISTING BOUNDARY LINE
 - - - - - EXISTING ROW LINE
 - - - - - EXISTING LOT LINE
 - - - - - PROPOSED ROW-UP-WAY LINE
 - - - - - PROPOSED LOT LINE
 - - - - - PROPOSED STREET CENTERLINE
 - - - - - EXISTING EASEMENT TRACK
 - - - - - PROPOSED MEADOW



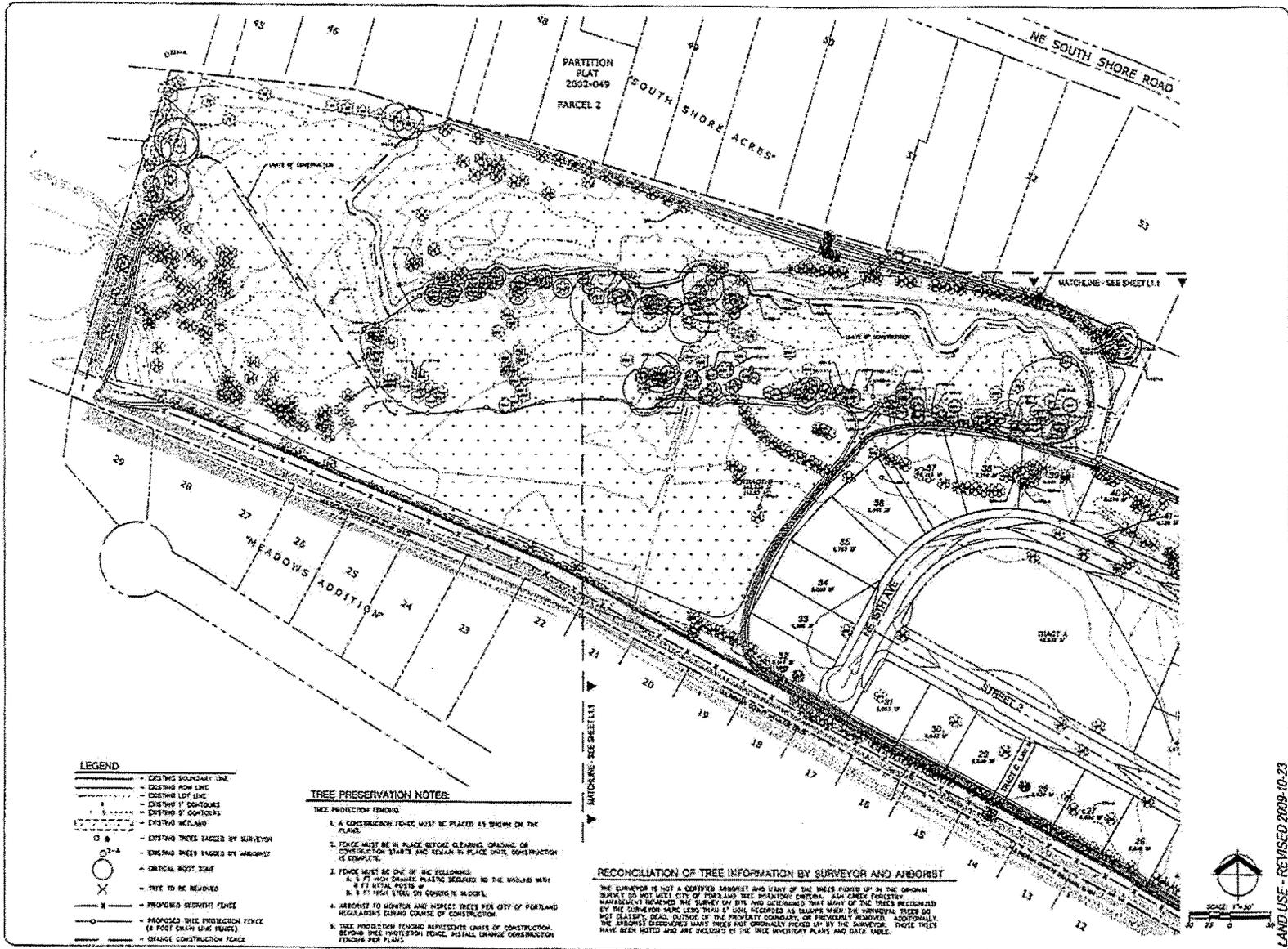
**PRELIMINARY PLAT PLAN
BRANDWEIN MEADOWS
A HOWARD BRANDWEIN DEVELOPMENT
PORTLAND, OREGON**

LAND USE - REVISED 2009-10-23



PROJECT NO.	09-134484
S/V	HOWARD
ARCHITECT	SAPIN
ENGINEER	KLING
DRAWN BY	SL

**PRELIMINARY
PLAT PLAN
P1.0**



**TREE PRESERVATION PLAN WEST
 BRANDWEIN MEADOWS
 A HOWARD BRANDWEIN DEVELOPMENT
 PORTLAND, OREGON**

LAND USE - REVISED 2009-10-23



PROJECT NO:	BRAND-11
DATE:	10/20/09
DESIGNED BY:	AS/MS
DRAWN BY:	AS/MS
CHECKED BY:	MS

**TREE
 PLAN WEST
 L1.0**

CASE NO. 09-134484 LOS CV MD
 EXHIBIT 18

Inventory Point Number	Inventory Type	DBP#	Species	Comments	Preserved	Inventory Point Number	Inventory Type	DBP#	Species	Comments	Preserved	Inventory Point Number	Inventory Type	DBP#	Species	Comments	Preserved	Inventory Point Number	Inventory Type	DBP#	Species	Comments	Preserved
1	1	...	...	...	...	...	1	...	...	...	...	...	1	...	...	...	...	...

LEGEND
 PCTR - POPULUS TRICHOCarpa
 SALA - SALIX LASANDRA
 ALBA - ALNUS INCANA
 PHLA - FRAXINUS LAMINATA
 SAGO - SALIX BACCHARIFOLIA
 AOPS - ACER PSEUDOPLANICUM
 PSHI - PSEUDOTSUGA MICHXOXI
 QUPL - QUERCUS PUMILA
 QUOR - QUERCUS RUBRA
 AZCA - ACER VARSICORNIS
 POHI - POPULUS TRICHOCARPA



TREE PRESERVATION NOTES
BRANDWEIN MEADOWS
 A HOWARD BRANDWEIN DEVELOPMENT
 PORTLAND, OREGON

LAND USE - REVISED 2009-10-23

PROJECT NO: 090401
 DATE: 06/20/09
 DRAWN BY: LSP
 CHECKED BY: JLS

TREE NOTES I
 L20

NOTE: GRADED ROW DEVICES MOUNTAIN

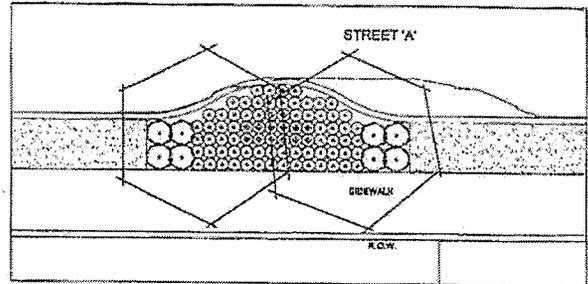
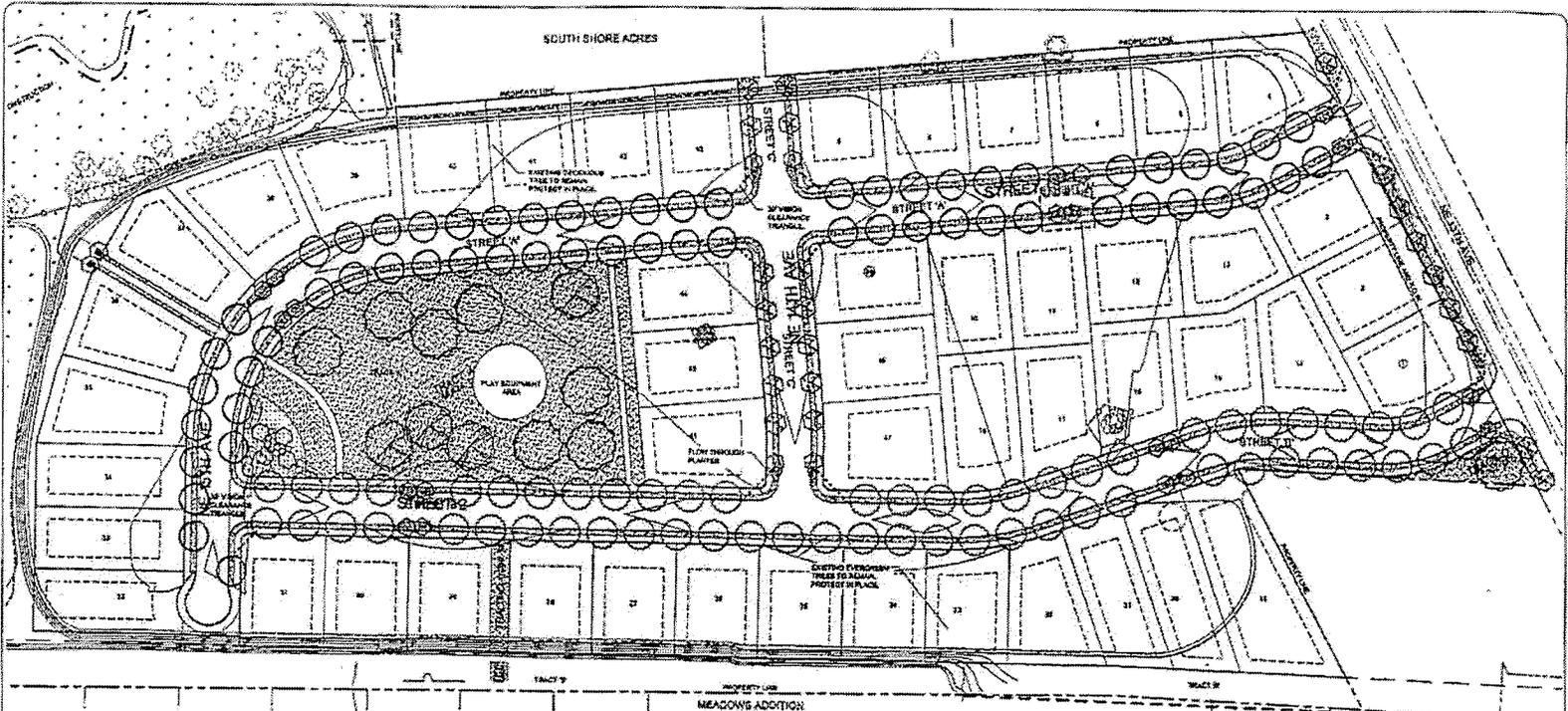


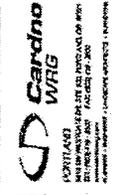
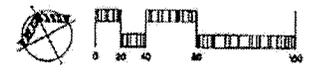
EXHIBIT 'A' - TYPICAL FLOW THROUGH PLANTER
SCALE: 1/4" = 1'-0"

MEADOWS ADDITION
PLANT SCHEDULE

TREES	SIZE	DESIGN	SPECIES	SIZE (FEET)
25	12"	PLANT MAPLE	ACER GRINIA 'PLUM'	1" CAL. 18" O.C.
20	12"	PAPERBARK MAPLE	ACER GRINIA	1" CAL. 18" O.C.
41	12"	WATERHOLE BEECHES	FRAXINUS PRINX, FRAXINUS PRINX, FRAXINUS PRINX	1" CAL. 18" O.C.
8	12"	AMERICAN HORNWOOD	DIQUETIA VANDERKAM	1" CAL. 18" O.C.
3	12"	OREGON SHAW	QUERCUS GRANTIANA	1" CAL. 18" O.C.
4	12"	JUNIPER	QUERCUS MACROCARPA	1" CAL. 18" O.C.
SHRUBS	SIZE	DESIGN	SPECIES <td>SIZE (FEET)</td>	SIZE (FEET)
17	12"	BANANA BUSH	CANDELLA PATA	1" CAL. 18" O.C.
17	12"	POINSETT ALUM	JACQUIS TENDRIS	1" CAL. 18" O.C.
24	12"	OREGON GRAPE	MAHONIA AUROPURPUREA	1" CAL. 18" O.C.
7	12"	WILD YEW	PAUS SARD	1" CAL. 18" O.C.
GROUND COVERS	SIZE	DESIGN	SPECIES <td>SIZE (FEET)</td>	SIZE (FEET)
119	12"	SEA DREAM RAFFER	AMPHICAR CHINENSIS SEA WREST	1" CAL. 18" O.C.
118	12"	PRODIGEON JUNPER	JUNIPERUS BARBAT 'BIRCHWOOD'	1" CAL. 18" O.C.
GRASS	SIZE	DESIGN	SPECIES <td>SIZE (FEET)</td>	SIZE (FEET)
MIXTURE OF PERENNIALS	SIZE	DESIGN	SPECIES <td>SIZE (FEET)</td>	SIZE (FEET)
			HOBBES & HOPKINS - PORTLAND, OR	SEED

GENERAL NOTES: LANDSCAPE PLAN

- LANDSCAPE PLANTING SHALL CONFORM TO THE STANDARDS ESTABLISHED UNDER THE CITY OF PORTLAND PLANNING DEPT. AND BUREAU OF ENGINEERING SERVICES.
- ALL PLANT BEDS SHALL HAVE A 2" DEPTH OF BANK MOLD.
- LANDSCAPE AREAS SHALL HAVE A COMPLETE UNDERGROUND AUTOMATIC IRRIGATION SYSTEM WITH PUMP HEAD TO HEAD OVERHEAD.
- ALL PLANT MATERIAL DELIVERED TO THE SITE SHALL MEET THE AMERICAN NURSERYMAN'S ASSOCIATION STANDARDS.
- CONTRACTOR SHALL OBTAIN WRITTEN APPROVAL FOR ALL PLANT MATERIAL SUBSTITUTION FROM THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. PLANT SUBSTITUTIONS WITHOUT PRIOR WRITTEN APPROVAL SHALL CONFLICT WITH THE CONTRACT AND SPECIFICATIONS AND BE REJECTED BY THE LANDSCAPE ARCHITECT AT NO COST TO THE OWNER. THESE PLANTS MAY BE REQUIRED TO BE REPLACED WITH PLANT MATERIALS THAT ARE IN COMPLIANCE WITH THE CONTRACT.



PLANTING PLAN - LANDSCAPE
BRANDWEIN MEADOWS
A HOWARD BRANDWEIN DEVELOPMENT
PORTLAND, OREGON

PROJECT NO.	09-134484
DATE	08/20/09
DRAWN BY	PS
CHECKED BY	PS
DATE	08/20/09

PLANTING PLAN
L3.0

**GENERAL EXPLANATION OF CITY COUNCIL APPEAL HEARING PROCESS FOR
ON-THE-RECORD APPEALS**

1. SUBMISSION OF LEGAL ARGUMENT

- a. On-the record appeals are limited to legal argument only. The only evidence that will be considered by the City Council is the evidence that was submitted to the Hearings Officer prior to the date the Hearings Officer closed the evidentiary record. Parties may refer to and criticize or make arguments in support of the validity of evidence received by the Hearings Officer. However, parties may not submit new evidence to supplement or rebut the evidence received by the Hearings Officer.
- b. Legal argument may be mailed to the Council Clerk, 1221 SW Fourth Avenue, Room 140, Portland, OR 97204. Written legal argument must be received by the time of the hearing and should include the case file number.
- c. Legal argument may be submitted orally (see below).

2. COUNCIL REVIEW

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

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

- b. The applicant has the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied. If the applicant is the appellant, the applicant may also argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied or additional approval criteria should be applied.
- c. In order to prevail, the opponents of the applicant must persuade the City Council to find that the applicant has not carried the burden of proof to show that the evidentiary record compiled by the Hearings Officer demonstrates that each and every element of the approval criteria is satisfied. The opponents may wish to argue the criteria are being incorrectly applied, the wrong approval criteria are being applied or additional approval criteria should be applied.

3. OTHER INFORMATION

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

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