



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

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MEMORANDUM

Date: July 13, 2017

To: Mayor Ted Wheeler
Commissioner Chloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman

From: Stephanie Beckman, Interim Supervising Planner, BDS Land Use Services
Stacey Castleberry, Senior City Planner, BDS Land Use Services

Subject: City Council Appeal Hearing on LU 16-159330 LDS EN, 5920 SW 48th Avenue

The purpose of this memorandum is to provide a brief response to testimony received at and following the June 22, 2017 City Council Appeal Hearing of the Everett Heights Subdivision.

Seeps and Springs Regulations of PCC 33.640

The June 22, 2017 Hayhurst Neighborhood Association's Memorandum claims that the Everett Heights Subdivision proposal violates the standards of PCC 33.640.200, which requires that seeps and springs be protected in a tract.

The Zoning Code in effect at the time the subject application was submitted defined seeps and springs as follows, "Seep or Spring. The point where an aquifer intersects with the ground surface and discharges water into a stream channel that flows into a wetland or other water body" (33.910.030 Definitions).

There is significant evidence in the record (including the LU 16-159330 LDS EN Hearings Officer's Decision) demonstrating that the Zoning Code definition of a seep or spring was not met by the features identified on the site because the water in question does not discharge into a stream channel. There is some question with regards to the presence of an aquifer in this area, however, without the existence of a defined stream channel, the Zoning Code definition is not met and the requirements in PCC 33.640 do not apply.

Testimony has also been provided asserting that the requirements of PCC 33.635 Clearing, Grading, and Land Suitability are not met because existing contours will be changed and drainage patterns may be affected by construction near these areas of seasonal ground-water emergence. Criterion 33.635.100 (A) requires existing contours and drainage patterns be left intact wherever practicable. Testimony presented by appellants, suggests that the proposal be revised to move construction activities farther away from these ground-water features.

The Hearings Officer made findings that "...it is not practicable to leave existing contours and drainage patterns intact and develop the site as proposed." In addition, the Hearings Officer found that the proposed changes in drainage patterns will not adversely impact adjacent properties (Page 22 and 23 of LU 16-159330 LDS EN Hearings Officer's Decision). However, the

Hearings Officer findings do not go into a detailed analysis of specific revisions to the grading plans which might move grading activities and the proposed retaining wall farther away from the wet areas mapped outside of the environmental zones. While this may be a possible means of keeping existing contours around the wet areas intact, it is not clear whether or not such a design change is practicable (“capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes” --PCC 33.910.030 Definitions).

Applicability of Environmental Zoning Regulations of PCC 33.430

The June 22, 2017 Hayhurst Neighborhood Association’s Memorandum (pages 3, 10, 11) states that PCC 33.430.250 A is not met by the project because the applicant could expand the protected environmental tract to include all seeps and springs, eliminate the Pendleton through street connection to preserve trees and reduce impervious surfaces, protect bicycle and pedestrian paths to ensure safety of the pedestrian route, and revise the stormwater plan to direct stormwater to wetlands on the site. The Memorandum further proposes reducing the number of lots to protect environmental resources.

It is important to recognize that the standards and criteria of the Environmental Zones (PCC 33.430), including the requirement for an alternatives analysis and for limiting and minimizing impacts on environmental resources, apply within the Environmental overlay zones as shown on the City’s official Zoning Map. They do not apply on areas of the subject site outside of the mapped Environmental Conservation overlay zone (PCC 33.430.060 Where These Regulations Apply).

The environmental tract as proposed by the applicant already covers the entire Environmental Conservation overlay zone, with the exception of the SW 48th Avenue improvements. The site area, trees, and other features described on page 3 of the Hayhurst Neighborhood Association’s Memorandum are outside of the City’s Environmental Conservation overlay zone, and PCC 33.430 does not apply there.

Lastly, PCC 33.430.250 provides, “...the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.” In this case, the only elements of the proposal that do not meet the environmental development standards are the City-required right of way improvements on SW 48th Avenue. Therefore, the Zoning Code specifically limits the application of the approval criteria to the City-required right of way improvements on SW 48th Avenue.

Preservation of Off-Site Street Tree

Concerns were raised in testimony about the removal of a 42-inch diameter Western Red Cedar tree in the existing SW Pendleton right-of-way (just east of the project site). The Hearings Officer Decision (page 51, condition B.1) requires that the applicant work with the Public Works and Urban Forestry staff to retain the tree if feasible. A final determination will be made as the public works plans progress, but the Public Works project manager has indicated that it appears feasible to do so.



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Nick Fish, Commissioner ■ Michael Jordan, Director

Memorandum

Date: July 13, 2017

To: Portland City Council

From: Jocelyn Tunnard, BES System Development
503-823-5780, Jocelyn.Tunnard@portlandoregon.gov
Rodney Krauter, BES Development Engineering

Case File: LU 16-159330 LDS EN

Location: 5920 SW 48TH AVE

BES has read the testimony provided to the Portland City Council for consideration. BES would like to provide additional comments in response to the testimony submitted by Al Iverson dated July 6, 2017, April 5, 2017 and March 16, 2017 (refer to Aug 9 Hayhurst testimony 7-6 Individuals under Pending Items). Mr. Iverson's testimony relates to the applicant's proposed stormwater management plan. The following additional comments are intended to assist City Council members with their review of this land division project:

1. The culvert under SW 48th Avenue was required to be upsized from 18 inches to 36 inches because BES stormwater management standards required it to be sized to accommodate flow rates from the 25-year design storm event and, with upstream improvements, BES determined that stormwater runoff would be sufficiently attenuated to meet BES requirements as identified in previous BES memos identifying there will be a reduction in the overall flow rate (despite the larger culvert). Note that Otak has proposed a rock grate structure on the upstream end of the culvert to prevent erosion.
2. Mr. Iverson proposes stormwater runoff from public right-of-way improvements and private properties be directed to the wetland located within the proposed environmental resource tract (Tract A) and for BES to purchase Tract A in order to manage the wetland as a public stormwater facility that contains a mix of public and private stormwater runoff. If directed by Council BES would need sufficient time to consider the proposal in detail, including whether this proposal would create additional system benefits that could justify the case of using ratepayer dollars in this way. Note that approval from State and Federal agencies would also be required.

In addition, information provided in previous BES memos sufficiently addresses concerns raised in the documents submitted to Portland City Council for review.

PBOT

PORTLAND BUREAU OF TRANSPORTATION

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Dan Saltzman Commissioner **Leah Treat** Director

July 11th, 2017

Council Clerk
City of Portland
1221 SW Fourth Avenue, Rm. 130
Portland OR 97204

FROM: Abra McNair, Safe Routes to School - Active Transportation & Safety

RE: Safe Routes to School Map for Hayhurst Elementary

The Safe Routes to School program maps are developed and used as an outreach tool to provide information for families using active transportation to get to school. The maps are intended to educate and promote the Safe Routes to School programs in the schools.

There are currently two maps in the record for Hayhurst Elementary. To the extent City Council considers a Safe Routes to School map relevant to this land use decision, PBOT recommends that Council consider the 2014 map as the most accurate map.

The 2014 map was created using a GIS pedestrian/walking layer. In February 2017, the Safe Routes to School maps were updated for all schools within the City. The purpose of the 2017 citywide update was to include school enrollment boundary information. The 2017 update used an existing GIS city bike map layer rather than the GIS pedestrian/walking layer, which was used in the 2014 map. This change in the existing data layer used on the map resulted in a change in routes shown on the map for Hayhurst Elementary between the 2014 and 2017 versions.

However, the 2014 map with the walking layer better reflects the recommended routes for walking to school.



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