

**IN THE CITY COUNCIL OF THE
CITY OF
PORTLAND OREGON**

**IN THE MATTER OF AN APPLICATION
BY RIVERVIEW ABBEY MAUSOLEUM COMPANY
FOR A TYPE III LAND DIVISION SUBDIVISION,
ENVIRONMENTAL REVIEW,
ENVIRONMENTAL MODIFICATIONS,
AND ENVIRONMENTAL VIOLATION**

vacant property adjacent to 0319 SW Taylors Ferry

LU 16-213734 LDS EN M EV

FINDINGS AND CONCLUSIONS

**ADOPTED BY THE CITY COUNCIL ON
February 14, 2018**

**(APPROVAL OF APPEAL in part and
DENIAL of a TYPE III LAND DIVISION SUBDIVISION, ENVIRONMENTAL REVIEW, AND ENVIRONMENTAL
MODIFICATIONS
with exception of
APPROVAL of the ENVIRONMENTAL VIOLATION REVIEW WITH CONDITIONS)**

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FINDINGS AND CONCLUSIONS

The findings and conclusions of the City Council in this matter are set forth below.

I. GENERAL INFORMATION

This matter concerns an appeal of Hearings Officer Decision 4170027, which approved a land division and environmental review with modifications for a 21-lot subdivision, and approved an environmental violation review for the vacant property located adjacent to 0319 SW Taylors Ferry Road (referred to herein as the “Application” or the “Project”). An Appeal of the Hearings Officer’s decision was filed by the South Burlingame Neighborhood Association.

II. INTRODUCTION AND PROCEDURAL HISTORY

Modified Proposal: The applicants made some changes to their proposal between the issuance of the Staff Recommendation (Exhibit H.1) and the initial public hearing. These changes are noted in the *italics* below:

The applicants modified their **Land Division-Subdivision** proposal to divide a 14.17-acre site into *21 lots* for detached single-dwelling residential homes, *instead of the 23 lot initially proposed*. The applicants *redesignated the site area originally identified as Lots 1 and 2 into a tract (Tract C)*, which is described in more detail below. The lot sizes are proposed to range from 5,000 to 7,924 square feet in area.

The proposal includes a new public dead-end street (Street A) and a new public pedestrian connection to serve the proposed lots, as well as the extension of and the widening of existing rights-of-way (SW Hume Street and SW Taylor’s Ferry Road) abutting the site.

Public water and sanitary sewer services will be extended to serve the proposed lots. Stormwater facilities are proposed throughout the site with final disposal to the onsite streams (Ruby Creek and Stephens Creek). Public and private easements are also proposed for utilities and a drainage reserve.

A total of 3 tracts are identified in the modified proposal: Tract A, an approximately 9.69-acre open space/environmental resource tract; an approximately 4,018 square foot Tract B, an open space/landscape buffer tract; and an approximately 13,987 square foot Tract C, identified as scenic resource tract (originally designated as Lots 1 and 2).

An **Environmental Review** was requested to allow the proposed lots, streets, utilities, and related development within the resource area of the Environmental Conservation zone; and to allow storm sewer and sanitary sewer construction within the Environmental Conservation and Environmental Protections zones.

Environmental Modifications were requested to allow for reductions to the minimum lot area in the R10 zone from 6,000 square feet to 5,000 square feet (*Lot 23 was added to the lot size modification request*); to reduce the minimum side building setback for each lot from 10 feet to 5 feet; and *the request to increase the percentage of paving on Lots 22 and 23 was withdrawn*.

Environmental Violation Review was requested to correct violations due to tree and shrub cutting and ground disturbance in the environmental zone.

Relevant Approval Criteria:

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

- PCC 33.660.120, Land Divisions in Open Space and Residential Zones
- PCC 33.430.250.A, Environmental Review
- PCC 33.430.280, Environmental Modifications
- PCC 33.430.250.G, Corrections to Violations

Procedural History:

The Applicant submitted an application for Land Division Subdivision, Environmental Review with Modifications, and Environmental Violation Review on August 3, 2016. The application was deemed complete at the applicant's request on January 30, 2017. The regulations in effect on August 3, 2016 govern review of the Application.

A Request for Response was mailed on February 1, 2017 to the South Burlingame, Collins View, and South Portland Neighborhood Associations. Notice of Public Hearing was posted on the site on September 7, 2017. A Notice of Public Hearing was mailed on September 25, 2017.

The Hearings Officer held an initial public hearing on October 16, 2017 and a continued public hearing on October 30, 2017. The record was held open until November 6, 2017, for new evidence and until November 13, 2017 for rebuttal of evidence and final argument. The Hearings Officer issued an Interim Order on November 20, 2017, which reopened the record until December 7, 2017, for new evidence consistent with Oregon Revised Statute (ORS) 197.763(7), and December 14, 2017, for the applicant's final argument. The record closed on December 14, 2017. The Hearings Officer's decision was mailed on December 29, 2017.

On January 12, 2018, the South Burlingame Neighborhood Association filed an appeal of the Hearings Officer's decision. The City mailed a Notice of Appeal Hearing on January 17, 2018.

The City Council held an on-the-record appeal hearing on February 7, 2018, and tentatively voted to grant the appeal in part and overturn the Hearings Officer's decision, thereby denying the application with the exception that Council approved of the Environmental Violation review with conditions.

The Council hearing was an on-the-record hearing. The following items of new evidence were specifically identified to Council, and Council hereby rejects them:

1. Portions of Stephen Griffith testimony (letter dated January 31, 2018 and oral testimony February 7, 2018) regarding appointment of hearings officer to circuit court (2nd sentence of 2nd paragraph).
2. Portions of Seth Dryden testimony (letter dated February 7, 2018, power point presentation and oral testimony February 7, 2018) regarding landslide and flooding (paragraphs 4, 5 and 6 of letter, 5th bullet point of power point).

The applicant submitted testimony to Council (letter from Chris Koback dated February 5, 2018) questioning the Council's jurisdiction to hear this appeal. Specifically, the applicant believes appellant South Burlingame Neighborhood Association was improperly granted an appeal fee waiver. He argues that their appeal, which was submitted before the appeal period ended but without an appeal fee, was invalid. PCC 33.750.020 provides that the Director of BDS determines the rules and procedures for waiver of fees. The Type III Decision Appeal Form, in the record, indicates that BDS staff waived the fee. Applicant's argument regarding validity of an appeal fee waiver is not properly before Council as Council has delegated authority to waive appeal fees to the BDS Director. BDS Administrative Rule ENB 13.25 provides that the decision of the Director of BDS to waive fees is final. BDS's decision is separate from Council's decision on the application that is the subject of these findings.

III. ANALYSIS

Site and Vicinity: The site is approximately 14.17 acres in size and consists of four tax accounts or portions thereof, which, in combination, have been demonstrated to be a separate lot of record from adjacent property in the same ownership. The site is undeveloped, heavily forested, and contains steep slopes with the presence of Stephens and Ruby Creek on the northern portion of the site. Ruby Creek is a tributary to Stephens Creek, and flows from the western property boundary northeast across the site to Stephens Creek, which runs from west to east at the northern end of the site. Several sanitary sewer lines are located in easements which run adjacent to the stream channels; and close to 6-acres of the northern portion of the site is occupied by a revegetation and mitigation program conducted by BES for a sewer repair project along Stephens Creek (LU 06-107286 EN).

The site borders the South Portland neighborhood to the north, which is developed with single family homes on lots that have an R5 zoning designation and are of a size consistent with that zone. A subdivision to the west and north of the site is in the South Burlingame neighborhood and is developed with single family homes, many are on larger lots that have an R10 zoning designation, though some are on smaller lots in the R5 zone. Property adjacent to the east is under the same ownership and developed with the Riverview Abbey Mausoleum, which is located on a lot of similar size to the project site and zoned Open Space.

Environmental Resources: The application of the environmental overlay zones is based on detailed studies that have been carried out within separate areas throughout the City. Environmental resources and functional values present in environmental zones are described in environmental inventory reports for these respective study areas.

The project site is mapped within the *Southwest Hills Resource Protection Plan* as Site 117: Stephens Creek/River View Cemetery. The habitat classifications found within Site 117 include: Upland Coniferous/Broadleaf Deciduous Forest; Riverine, Upper Perennial; and Palustrine, Forested Wetland.

Type of resources found within Site 117 include: perennial creek, groundwater, scenic, open space, wildlife habitat and corridor, forest, education and historic. Site 117 is noted for having vegetation and habitat that support over 60 bird and 30 mammal species, and the wildlife habitat interspersed with Tryon Creek State Park and surrounding forests is a significant feature.

The soils within Site 117 are prone to slides and slumps when saturated. Steep, sloped ravines are at particular risk and erosion caused by the failure of these slopes would negatively impact the habitat and water quality.

The *Scenic Resource Protection Plan* also identifies eight scenic corridors that are located within the boundaries of the *Southwest Hills Resource Protection Plan*. A scenic corridor is defined as a linear scenic resource that may include streets, bikeways, trails or waterways (rivers, creeks, sloughs) through parks, natural or urban areas. The corridor may include scenic views along it, but may also be valued for its intrinsic scenic qualities such as a winding road through a wooded area. In this case, the scenic resources affiliated with the subject site include: The tree-covered condition that contributes to the neighborhood character and Scenic Drive (SD 38-27, *Scenic Resources Protection Plan*), which includes a section of the subject site's SW Taylors Ferry Road frontage.

As outlined in the BES response, the site resources provide important watershed functions, described below:

Natural resources at this site were identified in the [City of Portland's Natural Resource Inventory](#), an inventory of locally significant riparian corridors and wildlife habitat. Specified resources and functions include the following:

Regionally Significant Riparian Corridors: Vegetated riparian corridors provide important natural watershed functions. Tree canopy shades streams, helping to keep streams cool. Riparian vegetation helps to stabilize stream banks, capture sediment in stormwater runoff, support the water cycle and the cycling of nutrients, and provide a source of woody materials to the streams.

- **Microclimate and Shade:** Riparian vegetation helps lower soil, air, and stream temperatures. Stream temperature influences in-stream processes and can be a critical factor for the health and survival of aquatic organisms.
- **Streamflow Moderation and Flood Storage:** Stormwater runoff can cause erosion and sedimentation in rivers and streams. Vegetation intercepts, absorbs and stores rainfall before it reaches the stream channel. These areas can also help provide cool groundwater to streams during the dry season.
- **Water Quality:** Riparian vegetation can filter, trap and store excess nutrients such as nitrogen and phosphorus found in fertilizers, and pollutants such herbicides and industrial chemicals that are carried in surface water.
- **Large Wood and Channel Dynamics:** Riparian areas contribute woody debris that help to form channel features and provide in-stream cover for fish. Large in-channel wood also controls the routing of water and sediment, dissipates stream energy, protects stream banks, stabilizes streambeds, helps retain organic matter, and acts as a surface for biological activity.
- **Organic Inputs and Food Web:** Forest ecosystems adjacent to stream corridors provide over 99 percent of the energy and carbon sources in aquatic food cycles.
- **Wildlife Movement Corridor:** Riparian vegetation provides wildlife movement corridors and migration routes, food and forage, nesting and breeding sites, and cover.

Regionally Significant Wildlife Habitat: These resources provide important feeding, breeding, and rearing habitat for native wildlife. The wildlife resources on this site provide the following functions and values:

- **Habitat patch size:** Larger patches of undisturbed land provide critical habitat for aquatic and terrestrial species. These large patches provide greater opportunity for foraging, breeding, and rearing to a larger number and greater diversity of species. Small patches of land that are well-connected to other patches also provide important functions for wildlife.
- **Interior habitat area:** Large areas of habitat protect wildlife from excessive disturbance, while the edge effect of residential development negatively affects at-risk wildlife.
- **Connectivity:** As cities and neighborhoods grow, the areas animals need to survive become smaller and isolated. Connections between various aquatic and terrestrial habitat types (such as rivers, streams, wetlands, forests, and meadows) are important to the survival of many wildlife species.

Additionally, as outlined in the BES responses: Stephens Creek is one of the few remaining open stream channels in Portland, and the confluence of Stephens Creek and the Willamette River (off site to the east) provides critical off-channel rearing and refuge habitat for native, ESA-listed Chinook and coho salmon and steelhead trout, as well as rainbow and cutthroat trout, and Pacific and brook lamprey.

Infrastructure:

- **Streets:** The site has frontage on SW Taylors Ferry Road, SW Hume Street, SW Ruby Terrace, SW Front Street, SW Canby Street, and SW Brier Place. Only SW Taylors Ferry Road and SW Ruby Terrace are improved along the site's frontage. At this location, all of the above streets are classified as Local Service Streets for all modes in the Transportation System Plan (TSP) with the exception of SW Taylors Ferry Road, which is classified as a District Collector. Tri-Met provides transit service along the site's SW Taylors Ferry frontage via Bus #43.
- **Water Service:** There is an existing 6-inch DI water main in both SW Ruby Terrace and SW Taylors Ferry Road.

- **Sanitary Sewer:** The following sanitary sewer infrastructure is located on or in the vicinity of the project site:
 1. There is an 8-inch CSP public sanitary-only sewer on the subject property that runs northeast from SW Ruby Terrace (BES project # 20501). This sewer is within or next to Ruby Creek, a tributary of Stephens Creek. Most of the sewer appears to be within the Environmental Protection Zone. This sewer is within a 10-foot wide City of Portland easement (Ordinance 104182). There are several short stretches on this line where the sewer has been exposed by erosion.
 2. There is an 8-inch concrete sanitary-only sewer in SW Hume (BES project # 2175). According to City mapping there are two private pressure lines in the SW Hume right-of-way serving the homes at 11 and 17 SW Taylors Ferry Road.
 3. The 36-inch Burlingame Sanitary Trunk runs east west on the subject property and is parallel to Stephens Creek. The sewer was rehabbed in 2007 under BES project # 8227. The sewer continues north in SW Taylors Ferry. The sewer is within a permanent sewer easement (County document 2007-201954, BES tracking number 7042).
 4. There is an 8-inch sanitary-only sewer between the SW Kelly right-of-way and the Burlingame Trunk (BES project # 3830). The sewer is within a 20-foot sewer easement (Ordinance # 151656).
- **Stormwater Disposal:** The following stormwater infrastructure is located on or in the vicinity of the project site:
 1. There is a storm culvert that crosses Ruby Terrace near the proposed pedestrian dedication that discharges to Ruby Creek which is a tributary of Stephens Creek. The culvert and outfall are not owned or maintained by the City of Portland. The Ruby Terrace inlets in the right-of-way and the private lots to the west drain to the culvert. The outfall at the head of Ruby Creek is damaged and it has been noted to potentially threaten the structural integrity of the adjacent sanitary sewer.
 2. There is a mapped ditch along the north side of Taylors Ferry with an inlet on the east edge of the proposed street improvements that drains to a shallow 12-inch HDPE crossing of Taylors Ferry. The HDPE discharges to a 12-inch corrugated ADS line that is pinned to the surface. The ADS is partially connected to a large CMP at the base of the ravine. Based on the BES site visit on 2/23/17 the drainage system south of Taylors Ferry is deficient for the existing and proposed flows.
 3. There is a 12-inch CSP public storm-only sewer south of the SW Kelly right-of-way that discharges directly to Stephens Creek (BES project # 3830). The sewer is within a 20-foot sewer easement (Ordinance # 151656).

Zoning: The R10 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Environmental overlay zones ("c" or "p") protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to preserve the site's protected resources. They protect the most important environmental features and resources while allowing environmentally sensitive urban development where resources are less significant. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

Land Use History: City records indicate the following prior land use reviews for this site:

- **LU 06-107286 EN:** Approval of an Environmental Review to repair, replace, and protect approximately 4,300 feet of the 36-inch diameter Burlingame Trunk Sewer between SW Taylors Ferry and Interstate-5. There is also an existing 12-inch pipe parallel to the 36-inch pipe; it will be removed or abandoned in place along its entire length. The trunk sewer is along Stephens Creek.
- **LU 14-235643 LDS EN M AD:** Proposal to subdivide the site into 46-lots for single dwelling homes including new public and private streets (common greens) and alleys, as well as extensions of existing rights-of-way. A concurrent Environmental Review was requested to allow the proposed lots, streets, alley, trails, and related

development within the resource area of the Environmental Conservation zone; and to allow storm sewer and sanitary sewer construction within the Environmental Conservation and Environmental Protections zones. Environmental Modifications are also requested to allow for reductions to the minimum lot dimensions for the R10 zone and to reduce the minimum side building setback from 10 feet to 4 feet. The applicant has also requested Adjustments to Tree Preservation and Recreation Area Tract requirements. *This application was withdrawn.*

- **LU 17-109933 EN:** Approval of an Environmental Review for repairing and improving stormwater outfalls at three sites in Stephens Creek Watershed. The outfalls that were repaired on or in the vicinity of this land division site were located adjacent to the intersection of SW Canby Street and SW Brier Place.

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: The South Burlingame Neighborhood Association, the Collins View Neighborhood Association and 56 people submitted 82 comments on the Project before it was approved by the Hearings Officer. After approval, the South Burlingame Neighborhood Association filed an Appeal. Responses to the issues raised by South Burlingame Neighborhood Association and other opponents are summarized under the relevant approval criteria below.

IV. ZONING CODE APPROVAL CRITERIA AND FINDINGS

This proposal must satisfy the approval criteria for each of the requested reviews. Findings for the following reviews are provided below:

Part A: Environmental Review, Environmental Modifications, and Environmental Violation

Part B: Land Division

PART A.

ENVIRONMENTAL REVIEW

33.430.250 Approval Criteria for Environmental Review

An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .190, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

Findings: The proposed subdivision does not meet the following development standards, due to the proposed lot and street layout, and the stormwater disposal methods:

- 33.430.160.A – development in protection zone
- 33.430.160.D – disturbance area
- 33.430.160.F – tree removal
- 33.430.160.G – setback from protection zone and water body (33.430.140.B and C)
- 33.430.160.G – all planting in the resource area must be native (33.430.140.K, L and M)
- 33.430.160.G – nuisance plants (33.430.140.L)
- 33.430.160.G – tree replacement (33.430.140.M)
- 33.430.160.H – setbacks from waterbody
- 33.430.160.I – maximum right-of-way widths
- 33.430.160.J – utility construction

The approval criteria which apply to the proposed subdivision are found in Section 33.430.250.A. The criteria in 33.430.250.A.2 are not applicable, since the proposal does not include a public safety facility. The relevant criteria in A.1, A.3 and A.4 are addressed below.

A. Public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments.

1. *General criteria for public safety facilities, rights-of-way, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit 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.*

Findings: Council finds that to satisfy 33.430.250.A.1, the application must:

- identify the environmental resources and functional values on the entire site, taking into account the values and objectives identified in the *Southwest Hills Resource Protection Plan*;
- present significantly different and practicable design alternatives that avoid and limit detrimental impacts to those identified environmental features and demonstrate that the preferred alternative would be less detrimental to the identified resources and functional values than other alternatives;
- provide measures to protect resources outside of the proposed disturbance area from impacts related to the proposal, such as damage to vegetation, erosion of soils off the site, and downstream impacts to water quality and fish habitat from increased stormwater runoff and erosion off the site; and
- assess unavoidable impacts and propose mitigation that is proportional to the impacts, as well as sufficient in character and quantity to replace all lost resource functions and values.

33.430.250.A.1.a

Criterion A.1.a requires that the applicants demonstrate they have considered design alternatives, including those outside the environmental resource area, and shown that their preferred *development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values.*

33.430.050 describes the subareas of Environmental Zones as follows: *Environmental overlay zones contain resource areas and transition areas. Resource areas contain significant resources and functional values. Transition areas surround the resource areas. Resources and functional values within transition areas are not significant, but they provide a buffer for the significant resources and functional values within the resource area. The transition area is measured as the first 25 feet inward from an environmental zone boundary. The remaining area is the resource area.*

To address this criterion and identify how the lots, tracts, streets, and utilities were configured to minimize disturbances to the *resource areas* on the site, the applicants' provided an assessment of the site's environmental resources and an "alternatives analysis", containing 12 options. The requirement in *Criterion 33.430.250.A.1.a* that the applicant evaluate significantly different and practicable alternatives and demonstrate the least significant detrimental impact is equivalent to the similar language reflected in *Criterion 33.430.250.A.4.c*. As a result, details about the alternatives the applicants presented for the land division are evaluated in the findings for *Criterion 33.430.250.A.4* (land division), below. Likewise, details about the alternatives the applicants presented regarding the outfalls and utilities in the environmental protection zone are provided in the findings for *Criterion 33.430.250.A.3* (outfalls and utilities), below.

To meet this criterion, and *Criterion 33.430.250.A.4.c.* and *Criterion 33.430.250.A.3*, requires an applicant to clearly delineate the disturbance areas for the development alternatives and show the extent of the detrimental impacts of each alternative.

City staff identified concerns about the extent and location of disturbance areas throughout the hearing process (Exhibits E.1, E.2, E.5, G.2. H.1, and H.94). While the applicant argued before the Hearings Officer that the disturbance area issues are resolved, Council finds, and discusses throughout these findings, inconsistencies among plans and narratives submitted by the applicant, and the lack of BES approval of storm and sanitary systems.

As outlined in the neighborhood's appeal statement (Exhibits I.1, I.38), details are absent or incomplete to explain how the applicant's preferred alternative (Alternative 4A) is *significantly* different from other practicable alternatives or how it creates the fewest detrimental impacts as compared to the other alternatives.

The neighborhood objected to the applicant's focus primarily on quantitative analysis (percentage of site being disturbed rather than a qualitative analysis based upon preservation of highest valued resources and functions on the site). While comparison of tree removal was made, considerations of the unique resources within the southern portion of the site, such as the scenic corridor or other significant groves of native trees contiguous to the larger proposed resources areas, were not presented.

City Council agrees that *33.430.250.A.1, 3 and 4* do not permit a comparison of alternatives solely on the basis of amount of disturbance area. Determining the least amount of detrimental impact requires both quantitative and qualitative elements of analysis.

Applicants' focus on the percentage of disturbance area resulted in alternatives that were similar in amount and location of disturbance area. While the applicants considered different numbers of single-family lots with a range of lot sizes, the alternatives did not include different housing types, such as exploration of clustered development or groupings of homes on a single lot. Nor, as the appellants suggested (Exhibit I.38) did the applicants' present an alternative that focuses development more fully within the *transition area*, which could limit the amount of grading needed for new rights-of-way by placing the new lots closer to existing developed rights-of-way and reduce the amount of disturbance area in the *resource area*. All of this must be done with a focus on retaining the quality and character of the existing environmental benefits. It is possible that the applicants' Alternative 4A may still have had the least detrimental impact, but without developing details about significantly different options, the Council cannot find that this criterion is met.

Council notes other problems with the application, including: the lack of concept approval to demonstrate the technical feasibility for the design and construction of the storm and sanitary utilities and the proposed outfalls in Ruby Creek (Exhibits E.1, H.94); the lack of design and construction alternatives for the SW Hume Street extension to evaluate alignments or layouts that could retain and protect a 54-inch diameter Douglas fir and other nearby large diameter native trees within a scenic corridor (Exhibit E.5, H.94); the lack of design and construction alternatives for the proposed retaining walls in and adjacent to the rights-of-way and for the upstream outfall in Ruby Creek to reduce the amount of tree removal and grading necessary for the installation of those elements; the lack of justification for or construction alternatives for 60-foot wide construction area identified for the sewer and storm line work between the end of the cul-de-sac and Ruby Creek. These short-comings undermined the calculation of the overall disturbance area and further compromised an alternative an analysis focused solely on the disturbed area.

After the continued hearing before the Hearings Officer, the applicants proposed that conditions be applied to allow for those details to be provided at such time that they sought permits for the public infrastructure (Exhibit H.120). The Hearings Officer found regarding both sanitary and storm sewer: "Potential issues exist with a final determination on proposed disturbance area". Yet, the Hearings Officer accepted the applicants' proposal to demonstrate that those requirements could be met in the future (Exhibit I.3). The Council disagrees with the Hearings Officer that these issues are appropriately addressed by conditions of approval.

Rather, the Council finds that the lack of clear delineation of the disturbance area for the preferred development alternative does not allow appropriate evaluation of alternatives and impacts to environmental features or identification of appropriate mitigation.

The City Council disagrees with the Hearings Officer's conclusions and finds that a determination of feasibility and compliance with the criterion may not be deferred to the final plat stage. Rather, these details must be settled to allow the Council to make a determination of least significant detrimental impact.

City Council agrees with the position of the Neighborhood Association's counsel (Carrie Richter, February 5, 2018 memo, Exhibit I.38) that the applicants must demonstrate that the approval criteria are met at the time of the land use review.

Based on the findings of deficiencies in the identification of environmental resources and the alternatives analysis, as described further under *Criteria 33.430.250.A.3 and 33.430.250.A.4*, Council finds that *Criterion A.1.a* is not met.

33.430.250.A.1.b and c

The measures the applicants presented to demonstrate the protection of the resources *in areas designated to be left undisturbed* are addressed in the *Construction Management* section below. Following that, findings regarding the measures proposed to compensate for *significant detrimental impacts* are included in the *Unavoidable Impacts and Mitigation* section.

Construction Management: After the initial hearing, the applicants provided several revised Construction Management Plans (Exhibits H.107.o(3) and H.107.bb) to demonstrate how impacts to identified resources and functional values designated to be left undisturbed will be minimized. The proposed techniques include:

- Work area isolation, erosion controls and stormwater management to minimize erosion and protect slope and water quality.
- Consideration of bird breeding seasons when scheduling tree removal to avoid impacts to occupied nests.
- Tree protection fencing.

The revised Construction Management Plan (Exhibit H.107.bb-Sheet 14 of 25) shows a construction entrance on SW Taylors Ferry Road; staging and stockpile areas on proposed Lots 3-8; a "disturbance limit"; and two temporary disturbance areas in Tract A. That plan also indicates the location of sediment fencing and tree protection fencing near or adjacent to the "disturbance limit".

However, as noted in the Staff Recommendation, no specific root protection zones have been designated for trees at the edge of the grading disturbance, or for trees on adjacent properties. Further, there continue to be discrepancies between the "disturbance limits" and the areas noted for tree removal and grading. For example, the revised Construction Management Plan (Exhibit H.107.bb) includes tree protection areas and tree removal outside of the "disturbance limits", which differ from the revised Construction Management Plan [Exhibit H.107.o(3)], which does not identify tree protection areas. Additionally, the location of the trees proposed for removal on those plans differs from the tree removal locations shown on the Tree Removal and Preservation Plan (Exhibit H.107.bb-Sheets 15, 16 and 18 of 25), most notable on Tract C and along the east lot lines of Lots 15-23. Sheet 17 is missing from either submittal, so no evaluation of the tree information on that sheet can be made.

Additionally, as noted below, the details about the methods and extent of the work proposed within Ruby Creek to avoid impacts to the water resources and surrounding vegetation are inconsistent or missing.

The applicants bear a significant burden under this criterion. They must demonstrate there will be **no** significant detrimental impact on resources and functional values outside the disturbance area. Without

specific and consistent details and approved methods of protection, and given the conflicting information submitted by the applicants, City Council finds that the applicants have not met the burden to show trees, waterways and other resources outside of the disturbance area(s) will be effectively protected. As a result, Council cannot determine there will be no significant impact. *Criterion A.1.b* is not met.

Unavoidable Impacts and Mitigation Measures: Impacts resulting from this proposal include the permanent development of streets, lots, stormwater facilities, and utilities on an approximately 4-acre area of the site. The applicants' narrative (Exhibit H.100.b, H.105.h) acknowledges the proposal will have significant unavoidable impacts to the environmental resources on the site, including the following:

- Permanent Disturbance: removal of upland forest, grading, and the construction of impervious development over 4-acres in c-zone
- Temporary Disturbance: tree removal, grading and construction impacts to 15,014 square feet of the resource area
- Tree Removal: removal of 505 trees, including 478 native or non-nuisance trees and 27 nuisance trees

To mitigate for these permanent impacts, the applicant proposes

- Removal of invasive plant species and installation of native trees, shrubs and groundcover within the stream channels to enhance the upland forest and riparian habitat.
- Rebuilding a public stormwater outfall in Ruby Creek.
- Re-route a portion of a public sewer line within the Ruby Creek drainageway to eliminate a potential failure of sewage into the creek. The applicants note this will provide a significant public improvement to the site.

To ensure success of the mitigation plantings, the applicant propose to install the plantings in the winter following start of construction; and maintain the plantings in accordance with 33.248.090, Mitigation and Restoration Plantings. Also, since the mitigation is proposed in Tracts A, B and C, the applicant would need to provide appropriate legal documents that specifies the maintenance and monitoring responsibilities of the owners of those tracts.

The Proposed Development Site Plan (Exhibit C.13) designates different planting areas as "upland enhancement area" and "riparian enhancement area" (in addition to "violation mitigation areas" discussed in the Environmental Violation Review findings below), several memos from Schott & Associates (Exhibits A.3.g, H.100.b, H.105.h) provide "representative planting details" with upland, middle, riparian, and buffer planting details. The "representative planting details" identify the type and size of species to be installed within a "typical" 40-foot by 40-foot planting area. The applicants have indicated that the boundary of the approximately 3-acre mitigation area in Tract A is intended to align with the boundary of a BES revegetation project (noted on Exhibit C.13) associated with a prior sewer repair project along Stephens Creek (LU 06-107286 EN). However, as noted in the BES response, the planting area boundaries are not identified in the field and the applicant should do so as part of the mitigation.

The type and size of the mitigation plantings are representative of species and plant sizes that are appropriate for the forested slopes and creek channels where the plantings are proposed to be installed. After the initial hearing, the applicants revised the planting scheme in response to BES concerns about the high quantities of Douglas fir, which are the least shade tolerant conifers, and modified the planting schedule to include more shade tolerant conifers in the interior, heavily forested areas in Tract A and to plant Douglas fir in a buffer along the edge of Tract A and throughout Tracts B and C. The applicants also proposed a more diverse shrub palette and replaced the quantities of salal, which BES has found to be difficult to establish with other shrubs, such as Vine Maple, Bald-hip Rose, and Indian Plum. BDS staff concurred that a more diverse selection of plant material would be more suited to the site conditions and could help to better ensure success of the planting objectives and noted a condition, which requires

a minimum number of different tree, shrub and groundcover species that may need to be applied to accomplish this.

However, as noted in the Staff Recommendation, it is difficult to distinguish the boundaries of the planting areas depicted on the site plan (Exhibit C.13) and it is unclear where the “middle” planting area would apply. Also, the “representative planting details” must be provided directly on the project plans to ensure clarity about the location, type, and size of the mitigation plantings.

The narrative indicates the goal of the mitigation is to move the resource area towards a more mature coniferous forest to provide greater ecological function, including erosion control, interception of water and habitat value. The proposed nuisance plant removal and replanting efforts, if effectively conducted, should help to achieve that objective and will help to improve the health and habitat values of the Ruby Creek stream channel.

As acknowledged by the applicants, the number of tree species proposed for the mitigation plantings is considerably lower than that otherwise required by the Environmental Standards. To address this, the applicants propose a higher density for the shrub species within the understory of the existing trees. BDS staff found that could help to offset the smaller number of trees.

However, as noted in the neighborhood’s appeal and the public testimony in support of the appeal, the applicant’s analysis did not identify the upland forest portion of the site as a significant resource impacted by the proposal to be mitigated under this criterion. Urban Forestry also identified a 54 inch Douglas Fir in the undeveloped portion of the Hume Street right of way that “warrants effort to preserve.” City Council finds additional measures are warranted to mitigate for the removal and loss of the upland forest trees and other vegetation within the proposed 4-acre development area, that provide significant wildlife habitat and also secure slopes that are prone to slide. This may include reducing the development area to create fewer impacts, further steps to secure the hillside or proposing additional options for mitigation.

In addition, City Council finds that the extent and configuration of the proposed lots, rights-of-way and utilities is unresolved, as discussed further in the findings regarding A.3 and A.4. At this time, it is not possible to conclude that the scale and scope of the proposed mitigation is sufficient.

Council rejects the Hearings Officer’s conclusion and find that Criterion A.1.c-e are not met.

As discussed here and in response to 33.430.250.A.4, due to missing, incomplete, or conflicting reports and plans, the City Council agrees with the *South Burlingame Neighborhood Association* (appellants) that the applicants have not met the burden to:

- demonstrate that all the resources and functional values on the site have been adequately identified or considered in the design alternatives;
- that significantly different alternatives have been presented or shown how the applicants modified preferred alternative (Alternative 4A) has the fewest detrimental impacts to the identified resources; or
- that the resources outside of the disturbance area will be effectively protected from impacts related to the proposal; or that unavoidable impacts will be sufficiently mitigated.

The applicants have the burden to demonstrate that their proposal will have the least amount of detrimental impact on the identified resources and functional values of other practicable and significantly different alternatives. Based on the foregoing, the City Council finds the applicants have not yet met that burden.

3. *Rights-of-way, 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.*

Findings: The work proposed within the environmental protection zone consists of outfalls and storm and sanitary sewer facilities in and adjacent to Ruby Creek. These features are proposed to be located within Tract A, and are evaluated in more detail below:

New public storm sewer lines and outfall: Stormwater from the majority of the proposed lots and rights-of-way will discharge via storm lines north of the proposed cul-de-sac to a new public outfall in Ruby Creek (near the confluence with Stephens Creek). The storm lines and outfall are proposed to be located within a 30-foot wide Storm and Sanitary Sewer Easement to the City of Portland [Exhibit H.107.0(2)], Preliminary Plat) within Tract A.

Given the steep terrain and presence of fine grained silty soils with high natural moisture content, and the geotechnical evaluation that indicates “there should be no onsite infiltration” (Exhibit A.2, Geo Consultants Northwest, January 30, 2017, page 13), onsite infiltration of stormwater on portions of the site outside of the environmental protection zone was not considered a viable disposal option. Therefore, directing stormwater runoff to the stream, which is within the environmental protection zone, was determined to be a potentially feasible option, provided the applicant presented an alternatives analysis that demonstrated that their preferred location, design and construction methods for the storm lines and outfall would have *the least significant detrimental impact to the identified resources and functional values* (BES memo, March 20, 2017, Exhibit E.1).

In that same memo (Exhibit E.1) BES noted specific outfall design and construction measures that the applicant could employ to avoid endangering slope stability and to minimize disturbance to the protected resources: *The applicant is proposing a new outfall to Ruby Creek. To minimize erosion and protect stream stability, the applicant should use a piped outfall to deliver stormwater as near as possible to Ruby Creek. The outfall should be constructed using handheld equipment to the extent possible to minimize disturbance, should be designed so as to not endanger slope stability or cause erosion, and should not endanger any nearby sanitary sewer pipes. Appendix B of the SWMM provides technical design guidance, including when open channel and piped outfalls are appropriate.*

In response to staff comments, the applicants provided an alternatives analysis with 2 options for the alignment of the storm lines and outfall (Exhibit C.26). However, details about the differences in each alternative (impacted resources, amount of disturbance area, construction methods, mitigation measures) were not provided.

After the initial public hearing on October 16, 2017, the applicant provided information about the construction equipment and methods that are proposed for the construction of these facilities (Exhibits H.94, H107.j). As noted in a November 6, 2017 staff memo to the Hearings Officer (Exhibit H.94), there were insufficient and conflicting details in the applicant’s materials. For instance, the applicant’s construction consultant (MEI) identified the equipment needed for the construction and indicated a 60-foot wide construction area would be needed to install the storm line, outfall, and sanitary sewer (Exhibit H.107.j); however, the applicants’ final plan submittal (Exhibit H.107.bb) continues to show a 30-foot wide disturbance area. A 60-foot wide construction corridor is wider than typical, and the applicants did not justify the rationale for that width or explain if other options (such as smaller equipment or hand-digging) were explored which could have less impact. By way of comparison, the Environmental Standards would allow a 15-foot wide corridor for an upgrade to an existing public line, which would result in a 30-foot wide disturbance area for the two lines (storm and sanitary). Several memos from the applicant’s environmental consultants (Schott and Associates) describe the expanded disturbance area and associated tree removal and resource impacts, as well as proposed mitigation measures (Exhibits H.100.b, H.105.h) for the utility construction, but the plans and narrative are inconsistent.

Additionally, as discussed in more detail in the Land Division Criterion L, Services, throughout the course of the review process, BES found that insufficient information had been submitted to demonstrate that the stormwater management system for the project, including the storm lines and outfall elements, satisfied the requirements of PZC 33.653. The lack of a BES determination of feasibility for the stormwater management system has a trickle-down effect on findings of compliance under this criterion. That is, it is not possible to determine that a proposal has the least significant detrimental impact if it the proposal may change. Despite the applicants' assurances that any changes will be "insignificant," the most recent comments in the record from BES indicate that BES "cannot recommend approval" in part due to possible changes in disturbance limits.

The purpose of the stormwater management regulations is as follows: *These regulations provide for the efficient and flexible placement of stormwater facilities serving a variety of development configurations. The standards and criteria of this chapter recognize that on-site stormwater facilities may be land intensive and site specific, consequently affecting the arrangement of lots and streets. These regulations ensure that the land division site has an adequate area and an appropriate location for stormwater facilities. The approval criteria ensure that it is feasible to develop a stormwater system that will have adequate capacity for the developed site.*

Due to late changes in plans by the applicant and other discrepancies in their materials, the applicants did not sufficiently demonstrate the extent of the detrimental impacts that the *location, design, and construction method* of either of their storm line and outfall alternatives would have the resources within the environmental protection zone. Absent those details about limits of disturbance, tree removal, facility design, the applicant also did not show what effect either alternative would have on Stephens Creek, which is a waterbody used *for the migration, rearing, feeding, or spawning of fish*, and downstream from Ruby Creek near the proposed outfall. As such, the applicant did not meet the burden of demonstrating how this criterion is met. Accordingly, Council finds it is not met.

New public sanitary sewer lines: There are presently sewer lines located within the Ruby Creek and Stephens Creek drainageways which are within the environmental protection zone. The proposal includes re-routing a section of the sewer currently located within Ruby Creek with a new sanitary line located outside of the Ruby Creek drainageway and within the proposed public pedestrian corridor. At the east end of the pedestrian corridor the sewer line is then to be routed to a new connection within the proposed new road (Street A) and then downslope to a connection with the existing sanitary line near the confluence of Ruby Creek and Stephens Creek, within the Storm and Sanitary Sewer Easement, noted above.

City staff recognize the value of rerouting the sanitary line to avoid potential impacts to Ruby Creek. However, as with the storm line and outfall options described above, the applicant did not provide sufficient details or conclusive plans to demonstrate that the proposed utility layout will have the least significant detrimental impact to identified resources and functional values as other practicable and significantly different alternatives.

As the Hearings Officer found (Exhibit I.3, Conclusions): "*As discussed in this Decision, due to pending approvals from BES, PBOT, and Urban Forestry, the final disturbance area has not been determined*". The Hearings Officer accepted the applicants' argument that conditions could be applied to require the approval of those review groups and thus the Environmental Review approval criteria would be met.

However, Council finds that a condition cannot be applied to defer the establishment of the disturbance limits. Council finds establishing the disturbance limits, based on all the related elements that inform those limits (including the design and construction of storm and sanitary sewer facilities; the design and construction of the streets and associated retaining walls and transit facilities; and the preservation or mitigation for impacts to public trees) is fundamental to confirming the proposal will have *the least significant detrimental impact to the identified resources and functional values of other practicable alternatives*; and essential to demonstrating the approval criteria are met.

Similar to the issues noted regarding the inconsistencies between the construction plans (Exhibit H.107.bb) and lack of justification for the 60-foot wide construction corridor (Exhibit H.94) for the storm lines and

outfall, above, potential issues exist with a final determination on proposed disturbance area for the sanitary sewer work.

The applicant has the burden to demonstrate that their proposal will have the least amount of detrimental impact on the identified resources and functional values as compared to other practicable alternatives. Based on the foregoing, the applicants have not met that burden.

New storm outfall: A new storm outfall is proposed on the west side of the project site where Ruby Creek enters the subject property (near the SW Ruby Terrace frontage) to help mitigate for the stream impacts of the proposed project and to reduce erosion in the stream channel.

BES is generally supportive of a new outfall where Ruby Creek enters the site, and expects it will help to temper erosion of the stream channel as anticipated by the applicants (Exhibit E.1). However, as noted in the BDS-Staff Recommendation (Exhibit H.1) and the Hearings Officer Decision (Exhibit I.3) few details have been provided to explain how the configuration and construction of the proposed outfall will be limited to minimize impacts to Ruby Creek. The Public Works Review of the outfall designs was still pending at the time of the Hearings Officer and City Council hearings. Site Development noted that the area of disturbance for the rockery retaining wall associated with the outfall does not appear adequate for construction, and the wall design must demonstrate adequate safety for stability; Site Development also noted that the outfall appears to be located within the floodway and a no-rise analysis must be reviewed to confirm that no changes to the design are required (Exhibit H.94).

As discussed in the findings for *Criterion A.1*, the Hearings Officer accepted the applicants' proposal to demonstrate that those requirements could be met in the future (Exhibit H.120). The City Council disagrees with the Hearings Officer's conclusions and finds that a determination of feasibility and compliance with the criterion may not be deferred to the final plat stage. Rather, these details must be settled to allow the Council to make a determination that the applicants' preferred alternative will have the *least significant detrimental impact*.

Council finds Criterion A.3.a-c are not met.

4. *Land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments:*
 - a. *Proposed uses and development must be outside the resource area of the Environmental Protection zone except as provided under Paragraph A.3 above. Other resource areas of Environmental Protection zones must be in environmental resource tracts;*
 - b. *There are no practicable arrangements for the proposed lots, tracts, roads, or parcels within the same site, that would allow for the provision of significantly more of the building sites, vehicular access, utility service areas, and other development on lands outside resource areas of a conservation zone; and*
 - c. *Development, including building sites, vehicular access and utilities, within the resource area of a conservation zone must have the least amount of detrimental impact on identified resources and functional values as is practicable. Significantly different but practicable development alternatives, including alternative housing types or a reduction in the number of proposed or required units or lots, may be required if the alternative will have less impact on the identified resources and functional values than the proposed development.*

Findings: To address this criterion and identify how the lots, tracts, streets, and utilities were configured to minimize disturbances to the *resource areas* on the site, the applicants' provided an assessment of the site's environmental resources and an "alternatives analysis", described in more detail below. The applicants indicate that their "alternatives analysis" evaluation process took into account site opportunities and constraints, input from the neighborhood, development requirements of the City, and market factors. The applicants' narrative indicates they seek to maximize preservation and enhancement of the environmental resource areas while allowing single family residential lots to be built at a density that is acceptable to the surrounding neighborhood.

Environmental Resources: In order to demonstrate what bearing each of their alternatives would have on the environmental resources, the applicants' identified the onsite environmental features (Schott and Associates Impact Evaluation, Exhibits A.2, A.3.g), as follows:

- The subject site consists primarily of forested vacant land surrounding a perennial drainage (Ruby Creek) and the main stem of Stephens Creek (which connects to the Willamette River to the east of the subject site).
- The canopy consists of a mid-successional stage forest community dominated by big leaf maple, and a few Douglas fir, sweet cherry and birch. The understory is dominated by invasive English ivy and some sword fern. Some Oregon ash and red alder trees, as well as common horsetail and impatiens were noted along the creeks. During several visits to the site, city staff also noted non-native Himalayan blackberry, English laurel, English holly, as well as the native snowberry within the understory.

Schott and Associates indicate the climax community would be a mixed forest with Douglas fir as the dominant species and big-leaf maple and western red cedars as sub-dominants, with Oregon ash and red alder on the slopes of the stream channels.

Schott and Associates identified the following resources and functional values onsite: perennial creeks and two associated wetland areas, open space, forest, wildlife habitat and corridor, groundwater recharge and scenic.

The Schott and Associates report indicates the significant resources on the site include: contiguous wildlife habitat, regionally significant riparian corridors, and regionally significant wildlife habitat.

In response to city staff inquiries about an area of ponding noted near proposed Lot 6, which was identified as an area of seasonal ponding and overland stormwater flow in the geotechnical report (Exhibit A.2), the Schott and Associates report (Page 4, Exhibit A.3.g) describes the area as a small depression hand dug by an adjacent property owner. The report further indicates that a ditch was observed draining the ponding area, so it did not hold water. The report also concludes that the feature was not identified as a natural resource to be protected, since the wetland criteria were not met.

Following the initial hearing, subsequent memos were provided from Schott and Associates (Exhibits H.100.b, H.105.h), which identify additional resources in the *transition area* on the west side of proposed Lots 3-8, including 6 large native trees: a 25-inch diameter Oregon White Oak; 5 Western Red Cedars, and 2 Douglas fir trees. The applicant noted that these resources are significant, even if they are not in the environmental resource area, and offered to protect these features with a deed restriction.

The applicant also proposed to replace Lot 1 and 2 with a scenic resource tract (Tract C), in response to staff comments (Exhibit H.1) about the lack of assessment of the grove of large Douglas fir and cedar trees that extend over Lots 1 and 2 (Exhibit C.15, Tree Removal and Protection Plan), which provide scenic and resource values along SW Taylors Ferry Road and add to the scenic character of the residential area; and the need to address the scenic resources provided on those lots, as outlined in PZC 33.480.060, Scenic Resources; Relationship to Environmental Zones: *When an environmental zone has been applied at the location of a designated scenic resource, the environmental review must include consideration of the scenic qualities of the resource as identified in the ESEE Analysis for Scenic Resources. The development standards of this Chapter must be considered as part of that review.* In addition to being part of the scenic corridor on SW Taylors Ferry, the large trees in the grove intercept precipitation that falls on the canopy, filter stormwater, help prevent erosion, and provide shade which cools the air and stormwater runoff.

Yet, even in the applicant's modified proposal (Alternative 4A) nearly all the trees on Tract B (a proposed landscape tract within the scenic corridor) and Tract C are proposed for removal and significant grading is proposed over the majority of these tracts. The applicant indicated the tree removal and grading is necessary for the proposed street improvements, but neglected to provide details about the proposed retaining walls to

demonstrate that other options with fewer impacts were not feasible. Without information regarding the retaining walls for the right of way, Council cannot determine whether this alternative has the least significant detrimental impact on resources and functional values; or if further mitigation for tree removal is warranted. It can be difficult to mitigate for the removal of mature trees as it can take decades for new trees to provide equivalent benefits.

Throughout the applicants' materials, the southern section of the site is described as having lower resource and habitat values than the stream channels in the northern area. As noted in the final memo from the applicants' environmental consultants (Exhibit H.107.m): *The forest resource through the entire southern section of the subject property generally consists of a low level predominantly maple canopy with mostly invasive English ivy understory.*

The *South Burlingame Neighborhood Association* cites this dismissal of the value of the upland forest on the south end of the site as a significant shortcoming of the applicants' proposal and a basis for their appeal. The neighborhood association indicates the upland forest is noted for providing high quality habitat for wildlife in the *Southwest Hills Resource Protection Plan*. Council agrees the applicants' materials do not sufficiently address the values of the upland forest or provide adequate assessment of measures to limit or mitigate for impacts to those resources.

Alternatives Analysis: By the close of the record, the applicant had identified a total of 12 alternatives (Exhibit H.107.n), but the HO determined (Exhibit I.3, page 14), and Council agrees that only five of them were adequately developed for review. After the first public hearing, and in response to the deficiencies noted in the Staff Recommendation of denial, and the neighborhood's concerns regarding the lack of significantly difference alternatives and the extent of the impacts on the environmental resources (as well as concerns about landslide hazards and transportation safety, which are discussed in the Land Division findings for Criterion D and Criterion K, below), the applicant presented a modified preferred alternative, noted as Alternative 4A.

The applicants assert that Alternative 4A results in the *least amount of detrimental impact on identified resources and functional values as is practicable*, as compared to the other significantly different but practicable development alternatives presented previously. A brief description of the alternatives is provided below:

- **Alternative 1:** This alternative includes 37 lots with an average size of 6,498 square feet for detached single dwelling houses, new public road with arch culvert or bridge over Ruby Creek, improvements to existing SW Hume and SW Taylors Ferry, 3.78-acre open space tract (Tract A), and two other tracts for unidentified purposes (Tracts B and C).
- **Alternative 2:** The alternative proposes 23 lots with an average size of 6,796 square feet for detached single dwelling houses, new public road and improvements to existing SW Hume and SW Taylors Ferry, 8.91-acre open space tract (Tract A), 2 tracts for unidentified purposes (Exhibit C.27.b).
- **Alternative 3:** Proposes 38 lots with an average size of 3,480 square feet for detached single dwelling houses; new public road and alley and improvements to an existing undeveloped (unnamed) right-of-way and SW Hume and SW Taylors Ferry; an 8.27-acre open space tract; and other tracts for access and drainageways (Exhibit C.27.c).
- **Alternative 4 (applicants' initial preferred alternative):** Based on information in Exhibit A.2 and Exhibit C.27.d, Alternative 4 is understood to consist of an approximately 4.6-acre development area for 23 lots with an average size of 5,331 square feet for detached single dwelling houses, new public road and improvements to existing SW Hume and SW Taylors Ferry, a 9.65-acre open space tract (Tract A), and a tract for a landscape buffer (Tract B).
- **Alternative 4A (applicants' modified final preferred alternative):** This alternative identifies an approximately 4-acre development area for 21 lots with an average size of less than 6,000 square feet for detached single dwelling houses; a new public road and pedestrian connection; improvements to

existing SW Hume and SW Taylors Ferry; and 3 open space tracts (Tracts A, B and C). Tract A, an approximately 9.69-acre open space/environmental resource tract; an approximately 4,018 square foot Tract B, an open space/landscape buffer tract; and *an approximately 13,987 square foot Tract C, identified as scenic resource tract (originally designated as Lots 1 and 2).*

In general, each of the applicants' alternatives creates fewer lots, and in some instances, smaller lots, than are allowed in the R10 zone. Overall, the applicants indicate that the primary intent in their final preferred alternative (Alternative 4A) is to reduce the maximum density of 52 lots, locate development on 21 lots away from the streams and steep slopes on the site, protect a majority of the site in an environmental resource tract (Tract A), and provide 2 additional tracts (Tracts B and C) as additional planting areas to mitigate for the project impacts. All portions of the site within the environmental protection zone will be placed within an environmental resource tract (Tract A), and the only development proposed within that area includes the outfalls and utilities, discussed in the findings for *Criterion 33.430.250.A.3*, above, and the mitigation and remediation planting measures, discussed in *Criterion 33.430.250.A.1*, above.

Fundamentally, the applicants' approach to the alternatives trends toward the intent of the environmental standards, which encourage smaller development areas in environmental zones than in other areas of the city (33.430.160) and require new lots to be only as large as the development footprint for the typical house, garage, driveway, and a moderate yard, in addition to requiring that remaining areas must be protected in commonly owned environmental resource tracts. (33.430.160 D. and E). This approach allows for development to be consolidated into a smaller portion of the resource area, which can help to limit the overall area of disturbance and which can also help to reduce the cost of roads and water and sewer lines.

As explained in the neighborhood's appeal statement (Exhibit I.38), details are absent or incomplete to explain how the applicant's preferred alternative (Alternative 4A) is *significantly* different from other practicable alternatives or how it creates the fewest detrimental impacts as compared to the other alternatives:

"Even the more detailed alternatives include nothing more than a calculation of the number of lots and the percentage of ground disturbance. Only one of the alternatives considered a housing configuration other than a single family residential development - an 8 single family lots and 42 duplex proposal. Although the disturbance area for this multi-unit proposal is not provided, visually it appears to be the most land-intensive alternative. None of the alternatives considered a disturbance area that did not include the subject 4-acre development site. All of them included access provided primarily by a single road in approximately the same location terminating around the edge of the Stephens Creek riparian corridor. The range in the overall site disturbance varied between 29.5% to 59.3%. The minimum number of units was never below 23, as currently proposed.

No analysis was provided about which alternative retained the most trees, the biggest trees or the highest quality upland resources. None of the alternatives analyzed multi-family options that could have a disturbance area of less than 29.5% of the property (or protected a greater number of trees). No large lot alternatives were provided that could similarly reduce the disturbance area. No alternative infrastructure designs or innovative construction solutions were identified. For example, presumably there are construction methods that could reduce the risk of landslide but those alternatives were never considered. No design alternatives were considered to protect identified significant natural resources, such a 54-inch Douglas fir tree, that will be eliminated as part of this proposal."

The applicant bears the burden of providing "significantly different alternatives." PCC 33.800.060. Neither staff, nor the appellant South Burlingame Neighborhood Association were under any obligation to identify or analyze any other alternatives.

As described in the findings for *Criterion 33.430.250.A.1*, above, City Council disagrees with the Hearings Officer's conclusion and finds that the applicants have not adequately developed significantly different

alternatives, of particular note is the failure to evaluate alternative housing types, or provided sufficient details about the identified alternatives to demonstrate that the proposed lot and street and utility layout will have the least significant detrimental impact to identified resources and functional values as other practicable and significantly different alternatives.

Council finds Criterion 33.430.250.A.4.a-c are not met.

ENVIRONMENTAL MODIFICATIONS

33.430.280 Modifications Which Will Better Meet Environmental Review Requirements

The review body may consider modifications for lot dimension standards or site-related development standards as part of the environmental review process. These modifications are done as part of the environmental review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.

Findings: The applicant initially requested Environmental Modifications to three standards: minimum lot area; minimum side building setback; and paving. Subsequently, at the initial Hearing Officer hearing, the applicants changed their preferred Alternative 4 to 4A, and withdrew the modification to the paving provisions (Exhibit H-51, page 7), and added an additional lot (Lot 23) to the minimum lot area modification request.

The revised modification requests are considered below.

Minimum Lot Area:

The applicant has requested reductions to the minimum lot area in the R10 zone from 6,000 square feet to 5,000 square feet for Lots 9-23.

The purpose of the lot dimensions is as follows:

33.610.200 Lot Dimension Regulations

Lots in the RF through R5 zones must meet the lot dimension regulations of this section.

A. Purpose. *The lot dimension regulations ensure that:*

- Each lot has enough room for a reasonably-sized house and garage;*
- Lots are of a size and shape that development on each lot can meet the development standards of the zoning code;*
- Lots are not so large that they seem to be able to be further divided to exceed the maximum allowed density of the site in the future;*
- Each lot has room for at least a small, private outdoor area;*
- Lots are compatible with existing lots;*
- Lots are wide enough to allow development to orient toward the street;*
- Lots don't narrow to an unbuildable width close to the street*
- Each lot has adequate access from the street;*
- Each lot has access for utilities and services;*
- Lots are not landlocked; and*
- Lots are regularly shaped.*

The following excerpt from Table 610-2 (33.110) identifies the minimum lot dimensions required for the R10 through R5 zones, and will be referenced throughout these findings.

Table 610-2 / Lot Dimension Standards			
	R10	R7	R5
<i>Minimum Lot Area</i>	<i>6,000 sq. ft.</i>	<i>4,200 sq. ft.</i>	<i>3,000 sq. ft.</i>

Maximum Lot Area	17,000 sq. ft.	12,000 sq. ft.	8,500 sq. ft.
Minimum Lot Width	50 ft. [1]	40 ft.[1]	36 ft.[1]
Minimum Front Lot Line	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	55 ft.	50 ft.

Notes: [1] See 33.930.100.A for how lot width is measured.

The narrative indicates the applicant proposes smaller lot sizes in order to afford more protection of the environmental resources and to compliment a denser lot pattern found in the nearby residential areas.

Lots 9-23 are proposed to meet or exceed each of the other minimum lot dimensions (lot width, front lot line, and lot depth) for the R10 zone; and none are landlocked. Generally, the lots are regularly shaped, except where the fronts of the lots curve to follow the road alignment (Lots 11, 13, 14, and 20-23) or where the back of the lot is angled to maintain a minimum distance from the p-zone and Ruby Creek (Lot 11).

The Preliminary Site Plan for the modified proposal [Exhibit 107.o(1)] shows an approximately 40-foot x 40-foot area for a house on each lot, regardless of the size of the proposed lots. So, the smaller lots are expected to provide sufficient room for a reasonably-sized house and garage and outdoor area. The proposed development is oriented toward the street where access, services, and utilities are proposed to be provided. The lots would not be further dividable to exceed maximum density currently allowed in the R10 zone.

Based on these factors, the size of Lots 9-22 will remain consistent with the purpose of the lot dimension standards.

The applicant also notes the smaller lots will be “more in keeping with the minimum dimensions on the number of nearby properties in the R5 zone” and will allow “a greater area to be placed in the permanent protection resource tract” (Page 50, Exhibit A.3.a).

The neighborhood raised objections to the lot size modifications, since the nearest abutting lots are in the R10 zone and are appreciably larger than the proposed lots. However, the City Council finds that the smaller lots can help to afford greater protection of the resources and functional values on the site by localizing disturbance and impacts into a smaller portion of the environmental resource area. Additionally, City Council finds the smaller lot size will not detract from the livability or appearance of nearby properties, since the proposed lots will be suitable for the scale of development that is allowable in the R10 zone.

Accordingly, City Council finds that the modification to the lot dimensions for Lots 9-23 could satisfy this criterion. However, since the lot configuration for the overall land division proposal is unresolved, it is not possible to fully assess the potential impacts of the Environmental Review or the associated Modifications. Therefore, this criterion is not met.

Side Setbacks:

Under 33.110.220.D.3, the single dwelling zones automatically allows for front building and garage entrance setbacks and side setbacks along a street lot line to be reduced to zero. It provides: *The front building and garage entrance setback may be reduced to zero where any portion of the site is in an environmental overlay zone. Where a side lot line is also a street lot line the side building and garage entrance setback may be reduced to zero. All other provisions of this Title apply to the building and garage entrance.*

In this case, in addition to applying the noted base zone and overlay zone setback allowances, the applicant requests a reduction in the side building setbacks. Instead of providing the 10-foot wide setback required in the R10 zone, the applicant requests that 5-foot side setbacks be allowed to align with the minimum side setback standard for the R5 zones.

The purpose of the setback standards is as follows:

33.110.220 Setbacks

- A. Purpose.** *The setback regulations for buildings and garage entrances serve several purposes:*
- They maintain light, air, separation for fire protection, and access for fire fighting;*
 - They reflect the general building scale and placement of houses in the city's neighborhoods;*
 - They promote a reasonable physical relationship between residences;*
 - They promote options for privacy for neighboring properties;*
 - They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;*
 - They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and*
 - They provide room for a car to park in front of a garage door without overhanging the street or sidewalk, and they enhance driver visibility when backing onto the street.*

As discussed above, the applicants indicate that smaller lots are proposed for Lots 9-23, in order to reflect the R5 lot size standard on nearby lots to the north and southwest of the site and to reduce impacts to environmental resources from the overall project. The applicants assert that reducing the side building setbacks on all of the lots (3-23) is also necessary to fit the scale of development otherwise allowed in the R10 zone.

The narrative describes that 5-foot setbacks are necessary to place a “normal-sized house” and “normal back yard” on the lot and to be in keeping with the livability and appearance of the area (Page 51, Exhibit A.3.a, revised narrative). The proposal also includes a Preliminary Site Plan [Exhibit H.107.o(1)] showing similar “Building Footprints” on each of the proposed lots.

As noted in the Staff Recommendation and the Hearings Officer Decision, the smaller lots (Lots 9-22) are expected to be more protective of the environmental resources on the property, so reduced side setbacks for those lots are expected to help to provide flexibility to fit development that is compatible with the neighborhood. Accordingly, a Modification to the side setback for Lots 9-22 could be approvable, if it could be shown that the reduced side setbacks for Lots 3-8 would afford greater protection for environmental resources.

Whereas, as noted in the Staff Recommendation, staff found that the applicants did not demonstrate how reduced side setbacks for the standards sized lots (Lots 3-8) would afford greater protection of the environmental resources. As outlined in the Hearings Officer’s Decision, the applicants modified their preferred alternative (Alternative 4A) to include a deed restriction over the western 20 feet of standard sized lot. The applicants described that there are significant trees in the *transition area* of those proposed lots, and retaining the functions and values of those trees will provide a buffer between the proposed lots, which will reduce the amount of site area available for the residential development [Exhibit H.107.o(1)]. The applicants may certainly propose to retain those trees as a mitigating measure for those proposal, but it does not follow that the retention of those trees can also be applied as a rationale to justify a reduction to the side setbacks

In any event, City Council finds that the lot configuration for the overall proposal is unresolved, so it is not possible to fully assess the potential impacts of the requested Modifications. As such, it is not possible to affirm that the Modifications satisfy these criteria.

Criterion 33.430.280 is not met.

ENVIRONMENTAL VIOLATION

33.430.250.G. Corrections to violations. For corrections to violations of this Chapter the application must meet all applicable approval criteria stated in subsections A through F above, and paragraphs 1, 2.b and 2.c, below. If these criteria cannot be met, then the applicant’s remediation plan must demonstrate that all of the following are met:

1. The remediation is done in the same area as the violation; and

2. The remediation plan demonstrates that after its implementation there will be:
 - a. No permanent loss of any type of resource or functional value;
 - b. A significant improvement of a least one functional value; and
 - c. There will be minimal loss of resources and functional values during remediation until the full remediation program is established.

Findings: The Neighborhood Association’s appeal did not cite objections to findings that these criteria are met, as outlined in the Staff Recommendation (Exhibit H.1) or the Hearings Officer’s Decision (Exhibit I.3). City Council also agrees these criteria are met and adopts the findings from the Staff Recommendation, as follows:

The applicant’s narrative (Exhibit A.2, Schott and Associates Report) indicates the approval criteria in subsections 33.430.250.A through F cannot be met; therefore, the applicant proposes to meet Criterion G.1 and 2, above.

Based on city records, 2 violations occurred during the past 3 years, as described below. The applicant asserts that the impacts from the vegetation cutting and removal did not result in an appreciable loss of resources or functional values at the time the violations occurred. Nonetheless, the applicant proposes to remediate for the violations and indicates that the loss of resources during the remediation will be minimal as well.

- Violation 1: Trees and shrubs topped, cut, and pruned within the environmental conservation and protection overlays planted along Stephens Creek as mitigation for LU 06-107286 EN.

The applicant indicates no further work proposed in this area. To remediate Violation 1, the applicant proposes to retain topped trees on bank of Stephens Creek, and to add new riparian plantings in the Ruby Creek corridor. Specifically, the applicant proposes to install 100 alder trees and 400 salmonberry plantings in a 10,000 square foot area noted as “Riparian Mitigation Area” on Exhibit C.13.

- Violation 2: Ground disturbance (survey work with track machine off SW Hume Street) within the resource area of the Environmental Conservation Zone without the required review.

This involved approximately 12,727 square feet of groundcover disturbance, characterized as ivy removal within the right-of-way and proposed development area for Lots 3-23.

The applicant indicates onsite remediation is proposed within same forest resource, though not the exact area of the violations. Remediation is not proposed within the area of the violation, since that is where the new lots and streets are proposed.

To remediate Violation 2, the applicant proposes to remove invasive species from an area of the site equivalent to the area of ground disturbance impact and replant the area with native species. Specific plantings are proposed to include 38 trees, 90 shrubs, and 50 groundcover consisting of Douglas fir, Indian plum, service berry, snowberry, Oregon grape. The native species are proposed to be installed in a 12,727 square foot area labeled as “Upland Mitigation Area” on Exhibit C.13.

The narrative indicates the plantings will increase habitat and habitat values for birds and mammals that reside in the forest habitat by providing seeds, fruit, buds, needles, bark, foliage, and twigs. If successfully installed and maintained, the new vegetation is expected to improve plant diversity and cover.

The narrative indicates the new plantings will be installed “after clearing”; however, no details about the “clearing” are provided; nor is there any information about the timing for the clearing.

In order to ensure there is no further diminishment of the impacted upland and riparian habitat and that a significant improvement to at least one functional value will be realized, the remediation measures must be implemented in a timely manner. Remediation plantings should be installed during the next available planting season: October 1, 2018 – March 31, 2019.

To accomplish this, a condition will be applied which requires the following:

A BDS Zoning Permit is required to be finalized by March 31, 2019 for inspection and approval of remediation plantings. Copies of Exhibit C.13 from LU 16-213734 and conditions limits below shall be included within all plan sets submitted for permits (Zoning Permits). These exhibits shall include the following statement, “Any field changes must be in substantial conformance with approved Exhibit C.13 from LU 16-213734”. To obtain the permit, the applicant must submit a Remediation Planting Plan which provides the following:

- removal of all non-native nuisance vegetation from the “upland and riparian remediation areas” shown on Exhibit C.13,
- installation of native species within the 12,727 square foot “upland remediation area” at the following rate: 1 tree, 1 shrub, and 5 groundcover plants for every 50 square feet of planting area.
- installation of native species within the 10,000 square foot “riparian remediation area” at the following rate: 1 tree, 1 shrub, and 5 groundcover plants for every 50 square feet of planting area.
- Plants must be native and selected from the *Portland Plant List*. A minimum of 3 different tree species, 5 different shrub species; and 5 different groundcover species must be provided in each remediation area.
- All nuisance plant removal and plant installation work must be conducted with hand-held equipment.
- All remediation trees and shrubs 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.

The land owner shall maintain the required planting for two years to ensure survival and replacement. The land owner is responsible for the ongoing survival of the required plantings during and beyond the designated 2-year monitoring period. At the end of the 2-year maintenance and monitoring period, the land owner shall obtain a second (final) Zoning Permit for a final inspection of the remediation plantings for the purpose of ensuring the required plantings remain. The permit must be finalized no later than 2 years from the final inspection of the initial installation of the remediation plantings. Any required plantings that have not survived must be replaced.

With the implementation of this condition, *Criterion 33.430.250.G.1 and G.2* are met.

PART B.

LAND DIVISION

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 site is not within the flood hazard area.
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.
I	33.639 - Solar Access	It is not practicable to meet both the approval criteria of this chapter and the standards and approval criteria of other chapters in the 600's (33.610.200 supercedes 33.639).
J	33.640 - Streams, Springs, and Seeps	No streams, springs, or seeps are evident on the site outside of environmental zones.
	33.654.110.B.3 - Pedestrian connections in the I zones	The 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.
	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: City Council finds that Chapter 33.610 contains the density and lot dimension requirements applicable in the RF through R5 zones. The maximum allowed density in the R10 zone is one unit per 10,000 square feet. A new street is proposed; therefore the maximum allowed density is based on 85 percent of the site area. Because the site is within the potential landslide hazard area there is no minimum required density. Based on the applicant’s survey, the site area is Approximately 14.17 acres (617,245 square feet). Therefore, the site has a maximum allowed density of 52 units and no minimum required density. The applicant is proposing 21 single dwelling lots. City Council finds the density standards are therefore met.

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)
R10 Zone	6,000	17,000	50	60	30
Lot 3	7,924		50.5	150	42
Lot 4	7,500		50	150	50
Lot 5	7,500		50	150	50
Lot 6	7,500		50	150	50
Lot 7	7,500		50	150	50
Lot 8	7,500		50	150	50
Lot 9	5,000		50	50	50
Lot 10	5,000		50	50	50
Lot 11	5,043		53	98	55
Lot 12	5,001		54	93	54
Lot 13	5,822		54	119	56
Lot 14	5,595		59	100	56.5
Lot 15	5,000		50	100	50
Lot 16	5,000		50	100	50
Lot 17	5,000		50	100	50
Lot 18	5,000		50	100	50
Lot 19	5,010		60	84	60
Lot 20	5,020		50	101	59
Lot 21	5,000		50	116	58
Lot 22	5,119		50	102	33
Lot 23	5,734		39	116	30

* 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.

As shown above, City Council finds that Lots 3 through 8 meet the lot dimension standards of the R10 zone.

City Council finds that Lot 23 is 39-feet wide, which is narrower than the minimum width of the R10 zone, as shown in the table above. The Zoning Code allows the minimum lot width to be reduced below the dimension stated above if the regulations of 33.610.200.D are met. The applicant provided findings to address this criterion (Exhibit H.107.i). City Council finds Lot 23 meets this criterion and may be reduced below the minimum width requirement of the zone.

City Council finds the applicant requested Modifications via Environmental Review (33.430.280) to the minimum lot area of the R10 zone from 6,000 to 5,000 square feet for Lots 9-23. As addressed elsewhere in this report, City Council finds the requested modifications meet applicable criteria and could be approved. However, Council

finds that the overall Environmental Review does not meet applicable criteria and therefore cannot be approved, in which case the modification to minimum lot area is also not approved. Absent the approved modification to minimum lot area, Council finds the lot dimension standards are not met. Therefore, City Council finds this criterion is not met.

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

Findings: City Council finds that proposals to divide sites that are partially within an environmental overlay zone and include a concurrent environmental review are not subject to the tree preservation standards of Section 33.630.100. However, the tree preservation approval criteria in 33.630.200 apply to these proposals. This proposal includes a concurrent environmental review, therefore only the tree preservation approval criterion will apply.

PCC 33.630.200 Tree Preservation Approval Criteria

Applicants must demonstrate how the proposed tree plan will meet the following tree preservation criteria. In meeting these criteria, applicants may use options available in this and other chapters of this Title to modify development standards and minimum density in order to preserve trees.

- A. To the extent practicable, trees proposed for preservation provide the greatest benefits as identified in the purpose of this chapter. In general, healthy, native or non-nuisance trees that are 20 or more inches in diameter and tree groves, are the highest priority for preservation. However, specific characteristics of the trees, site and surrounding area should be considered and may call for different priorities, such as native tree growth rates and priority tree sizes as described in the Portland Plant List, buffering natural resources, preventing erosion or slope destabilization and limiting impacts on adjacent sites;**
- B. Trees proposed for preservation are suitable based on their health, overall condition and potential for long-term viability, considering the anticipated impact of development and tolerance typical for the tree species;**
- C. Tree preservation is maximized to the extent practicable while allowing for reasonable development of the site, considering the following:**
 - 1. The specific development proposed;**
 - 2. The uses and intensity of development expected in the zone and the area in which the site is located;**
 - 3. Requirements to provide services to the site under Chapters 33.651 through 33.654, including street connectivity and street plan requirements. Options to limit impacts on trees while meeting these service requirements must be evaluated;**
 - 4. Requirements to protect resources in Environmental, Pleasant Valley Natural Resources, or Greenway Natural, Water Quality, and River Environmental overlay zones. Protection of environmental resources and retention of benefits from trees should be maximized for the site as a whole; and**
 - 5. Other site constraints that may conflict with tree preservation, such as small or oddly shaped sites or trees located in existing utility easements.**
- D. Mitigation. Where the minimum tree preservation standards of PCC 33.630.100 cannot be fully met, as determined by evaluating the above criteria, or when there is a concurrent Environmental Review and the minimum tree preservation standards do not apply, mitigation must be provided as needed to replace the functions of trees removed from the site. Options for mitigation may include preservation of smaller diameter or native trees, permanent preservation of trees within a tree preservation or environmental resource tract, tree planting, payment into the City's Tree Planting and Preservation Fund, or other options that are consistent with the purpose of this chapter.**

The City Council finds that regulations of Chapter 33.630 require that trees be considered early in the design process with the goal of preserving high value trees and, when necessary, mitigating for the loss of trees.

To satisfy these requirements, the applicant must provide a tree plan that demonstrates, to the greatest extent practicable, the trees to be preserved provide the greatest environmental and aesthetic benefits for the site and the surrounding area. The tree plan must also show that trees are suitable for preservation, considering the health and condition of the tree and development impacts anticipated. Tree preservation must be maximized, to the extent practicable, while allowing for reasonable development considering the intensity of development allowed in the zone and site constraints, including existing utility easements and requirements for services and streets.

Trees that are healthy, native and non-nuisance species, 20 or more inches in diameter and in tree groves are the highest priority for preservation. Additional considerations include trees that are slower growing native species, buffering natural resources, preventing erosion and slope destabilization and limiting impacts on adjacent sites.

The majority of the site is located within an environmental overlay zone (c or p). The applicant indicates there are two small portions of the site that are located outside of the environmental overlay zone, which include an approximately 3,222 square foot area at the southwest corner of Proposed Lots 3 and 4 and an approximately 700 square foot area to the north of property addressed 7827 SW Ruby Terrace in the area of the proposed public pedestrian connection. The applicant also indicates that approximately 70 percent of the site's forest canopy will be retained and trees that will be removed will be adequately mitigated for. The Tree Preservation approval criteria prioritizes protection of environmental resources and indicates the retention of benefits from trees should be maximized for the site as a whole.

This criterion was appealed by the South Burlingame Neighborhood Association (SBNA) based on the applicant not demonstrating that tree preservation is maximized to the extent practicable. The Hearings Officer found that substantial evidence supports the determination that this criterion can be met with conditions, including requirements that tree removal be subject to the approval of Urban Forestry and the City Engineer (Exhibit I.3, pg. 56).

City Council finds that this criterion could be met if all of the related issues with the Environmental Review are resolved. As described under findings associated with the Environmental review approval criteria, there are a number of unresolved tree preservation issues, including the extent of tree removal within the scenic corridor overlay along SW Taylors Ferry Road, removal of a 54-inch Douglas fir within the SW Hume Street right-of-way, tree removal shown outside of the limits of disturbance, discrepancies in disturbance area associated with existing and proposed stormwater outfalls and sanitary and storm sewer sewer utility corridor that may impact tree removal. Therefore, it is not possible at this time to determine that tree preservation is maximized to the extent practicable. For these reasons, City Council finds this criterion is not 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.

PCC 33.632.100 Landslide Hazard Area Approval Criterion

The following approval criterion must be met: Locate the lots, buildings, services and utilities on parts of the site that are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site.

Determination of whether the proposed layout and design reasonably limits the risk of a landslide will include evaluation of the Landslide Hazard Study and will take into consideration accepted industry standards for factor of safety. Specific improvements, engineering requirements, techniques or systems, or alternative development options, including alternative housing types and reduced density (minimum or maximum), may be required in order to facilitate a suitable development that limits the risk to a reasonable level. Reductions to minimum or maximum density are done as part of the land division review, and do not require an adjustment.

Findings: City Council finds the entire site is located within the Potential Landslide Hazard Area. In order to evaluate the proposal against this criterion, the applicant has submitted the following technical documents:

January 30, 2017 GEO Consultants Northwest, *Geotechnical Evaluation, Macadam Ridge Planned Development, GCN Project 1161* (Exhibit A.2)

January 30, 2017 GEO Consultants Northwest, *Landslide Hazard Study, Macadam Ridge Planned Development, GCN Project 1161* (Exhibit A.2)

March 9, 2017 GEO Consultants Northwest, *Macadam Ridge Subdivision, Site Conditions Following February 2017 Rainfall Events*. (Exhibit A.5)

July 17, 2017 GEO Consultants Northwest, *Landslide Hazard Report Addendum, Site Development Request for Additional Information, Macadam Ridge Subdivision, Case File: LU 16-213734, GCN Project 1161-03*. (Exhibit A.3.d)

October 14, 2017 GEO Consultants Northwest, *Seismic Slope Stability Analysis, Macadam Ridge Subdivision, Case File: LU 16-213734, GCN Project 1161-03*.

Site Development, the division of Development Services that makes determinations regarding soil stability, has evaluated these documents and provided the following findings (Site Development Revised Land Use Response – 11/3/17, Exhibit H.94):

The LHS concludes that *the proposed development can be constructed as envisioned and will not adversely impact the Stephens Creek watershed or produce hazards to life safety related to the planned improvements*. Further, it concludes that the proposed locations of the lots, buildings, services, and utilities are suitable for development in a manner that reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across the street.

The report recommends buildings on Lots 11 and 23 be set back 20 feet from the top-of-slope or the building foundations should be deepened or pile supported to carry loads to a distance of 20 feet from the slope face.

Additional information regarding the seismic slope stability of the site was presented in the October 14, 2017 report. The report summarizes pseudo-static slope stability analyses for three cross sections at the site. The analyses demonstrate adequate factors of safety under earthquake loading.

A revised site grading plan, dated October 26, 2017, was submitted on October 27, 2017. The plan shows Tract C (Scenic Resource) where Lots 1 and 2 had been located. The new plan shows a rockery retaining wall along the property lines with SW Taylors Ferry Road and the proposed extension of SW Hume Street. The wall supports a tall cut slope. The proposed grades are difficult to interpret.

It does not appear the LHS was updated to include a review of the proposed changes. However, the proposed retaining wall and grading appears to be located within the limits of disturbance identified in the August 23, 2017 plans. In addition, the proposed grading for Tract C is similar to the original plan.

Site Development would prefer that the LHS include a review of the proposed grading. However, we can find the LHS satisfies the approval criteria of PCC [33.632](#) and [33.730.060.D.1.f](#) with the understanding that a rigorous slope stability analysis will accompany the retaining wall calculations which will be submitted at the time of Site Development permit for mass grading. The

analyses must demonstrate adequate factors of safety under static and earthquake loading.

The Hearings Officer found “Potential issues exist with a final determination on proposed disturbance area. Based on the findings of Site Development, therefore, the Hearings Officer finds that this criterion can be met with conditions.” (Exhibit I.3, page 57).

This criterion was appealed by the South Burlingame Neighborhood Association (SBNA) as they contend the site is not suitable for development in a manner that reasonably limits the risk of a landslide affecting the site and adjacent sites based on the presence of a historic landslide. Significant evidence and testimony was submitted into the record to this effect (SBNA Presentation, Exhibit I.193). Following are some of the concerns SBNA expressed regarding the proposals ability to meet this approval criterion:

- Subdivision lies completely within a known ancient landslide;
- The presence of a landslide is the biggest risk for future landslides;
- Upland forest that stabilizes the ground overlying the landslide will be clear cut, and will be replaced with impervious surfaces that will concentrate water on the slope;
- Land will be graded and cut from the bottom;
- 20,000 cubic yards of infill will be added as a load to the slope;
- Tons of building material will add to the load and will create impervious surfaces which will concentrate water on the slope;
- Since there is no mitigation for uphill ground water, water will be concentrated even more on the slope;
- Applicants Geotech firm asserted landslide was “low [risk], assuming our design and construction recommendations are followed“. Design recommendations were removed without further mitigation in July 2017. Therefore have not proven low risk to build on landslide.

City Council acknowledges the concerns of the SBNA and recognizes the challenges of developing on a site with such unique constraints. However, City Council accepts Staff’s expertise and finds the evidence in the record demonstrates the proposal reasonably limits the risk of a landslide affecting the site, adjacent sites, and sites directly across the street considering accepted industry standards for factor of safety. It is expected that the additional technical information identified by Staff would be submitted in any subsequent application for land use or building permit review on the site. Therefore, City Council finds this criterion is met.

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

PCC 33.635.100 Clearing and Grading Approval Criteria

The Preliminary Clearing and Grading Plan must meet the following approval criteria:

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete;**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable; and**
- F. The limits of disturbance and tree protection measures shown on the preliminary Clearing and Grading Plan must be adequate to protect trees to be retained on the tree preservation plan.**

Findings: City Council finds the regulations of Chapter 33.635 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. Council finds that all of the approval criteria must be met in order to satisfy 33.635.100.

City Council finds the site has steep grades (over 20%), is located in the Potential Landslide Hazard area and requires extensive grading for new streets and slope stabilization measures. The Applicant submitted a Construction Management Plan (Exhibit H.107.o.3) that depicts the proposed work, including existing and proposed elevation contours, soil stockpile areas, and the overall limits of disturbed area. The Site Development section of BDS has reviewed the submittal and provided the following findings (Site Development Revised Land Use Response – 11/3/17, Exhibit H.94):

The July 27, 2016 OTAK, revised January 27, 2017 and August 25, 2017 by Emerio Design land division and environmental review narrative discusses the proposed grading relative to the Clearing and Grading Approval Criteria, of Chapter [33.635.100.A](#).

33.635.100.A Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion.

The narrative finds that based on an evaluation of the grading relative to the overall site boundaries, rather than the proposed limits of disturbance, the proposed clearing and grading satisfies the approval criteria.

It does not appear a revised narrative discussing the grading approval criteria was provided with the revised grading associated with Tract C. However, it is the opinion of Site Development that the change in grading does not significantly increase the volume of runoff or erosion when compared to the August 23, 2017 grading plan.

Please note, the grading plan shows retaining walls located within the public right-of-way. The Portland Bureau of Transportation (PBOT) must approve development (grading and retaining wall construction) within the public right-of-way.

Rockery retaining walls are proposed to be constructed adjacent to Ruby Creek to facilitate outfall construction. It does not appear that an adequate area of disturbance has been provided for the construction of the retaining walls. If permitted under a BDS construction permit, the retaining walls will be subject to the Portland City Code and the design calculations will need to demonstrate adequate factors of safety for both internal and external (global) stability for sliding and overturning under static and seismic loading respectively.

Site Development recommends the design team submit preliminary retaining wall design calculations and typical cross sections to verify the proposed limits of disturbance are adequate.

The Hearings Officer found this criterion to be met per the following (Exhibit I.3, Pg. 59):

Site Development, however, did not take into consideration documents submitted by Applicant on or after November 6th. On November 6th, Applicant submitted a technical memorandum from Geo Consultants. See Exhibit H-100f. In it they explain:

"We have reviewed the revised grading plan that eliminates Lot 1 and Lot 2 and creates Tract C. The new plan shows an 8 foot tall boulder rockery with a 2.5H:1 V backslope that extends parallel to the SW Hume Street extension from SW Taylors Ferry Road. The original grade change was accomplished with several retaining walls as shown in the August 23, 2017 grading Plan.

"The changes to the grading plan do not impact our original conclusion in our January 30, 2017 Landslide Hazard Study. The development including the most recent changes to the grading plan satisfies the approval criteria of PCC 33.632 and 33.730.060.D.1.f. as originally discussed in our LHS."

Exhibit H-100f.

In addition, Applicant submitted an updated grading plan. See Exhibit 105f (Sheet 6). However, issues may occur with respect to Urban Forester, PBOT or BES approvals that may impact the disturbance area. Nevertheless, based on this information, the Hearings Officer finds that this criteria can be met with conditions.

City Council finds that the applicant has addressed Site Developments concerns regarding the grading associated with Tract C in relation to the overall limits of disturbance. However, the applicant did not address the proposed rockery retaining walls to be constructed adjacent to Ruby Creek to facilitate reconstruction of the existing outfall. In addition, the limits of disturbance shown on the applicants construction management plan (Exhibit H.107.o.3) does not accommodate the proposed construction and disturbance area associated with sanitary and storm sewer mains within Tract A and additional area required to accommodate a stormwater facility within the right-of-way of the proposed public street (BES Response, Exhibit H.94).

City Council finds that the evidence in the record is not specific and certain at this point enough to determine that the applicant has demonstrated clearing and grading is sufficient for construction of the proposed development. City Council finds that deferral of compliance with this criterion is not appropriate as the approved design may change the amount and type of resources disturbed, and thus the alternatives analysis for Environmental Review. Therefore, City Council finds this criterion is not met.

PCC 33.635.200 Land Suitability Approval Criterion

Where geologic conditions or historic uses of the site indicate that a hazard may exist, the Applicant must show that the proposed land division will result in lots that are suitable for development. The Applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

City Council finds the lots may be suitable for development subject to addressing potential landslide hazard and clearing and grading issues noted in previous findings. City Council finds there are no other know historic uses of the site that would indicate a haard exists. Therefore, City Council finds this criterion can be met.

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

Findings: Opponents did not raise any issues regarding the Application's ability to meet this criterion during the Appeal period. City Council finds the following tracts and easements are proposed and/or required for this land division:

- Tract A: Open Space (Environmental Resource Area *and Drainage Reserve*);
- Tract B: Landscape Buffer Tract;
- A 3.5-foot turnaround easement is proposed on Lots 8 and 9;
- A 30-foot wide sanitary and storm sewer easement to the City of Portland is proposed within Tract A.

The applicant has indicated that Tract A will be owned in common by all of the owners of the land division site or by a homeowners association, a public agency or a non-profit organization. Tract B is proposed to be owned by the current owners of the land division site (Riverview Abbey Mausoleum Company). The Council finds the proposal meets the standards for ownership of tracts.

As stated in Section 33.636.100 of the Zoning Code, maintenance agreements will be required describing maintenance responsibilities for the tracts and easements described above and facilities within those areas. This criterion can be met with the condition that maintenance agreements are prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreements with a recording block for each agreement, 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."

With the conditions of approval discussed above, City Council finds this criterion can be met.

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

PCC 33.641.020 Approval Criterion

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.

PCC 33.641.030 Mitigation

The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets, alleys, or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: City Council finds the transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. The City Council finds that the criterion requires evaluation of all of the factors included in the criterion. The Council finds that the applicant may meet the approval criterion through mitigation measures as a part of the land division proposal.

The applicant submitted a Transportation Impact Study (Exhibit A.1; A.2; A.3.e) to address this approval criterion. The Development Review Section of the Portland Bureau of Transportation (PBOT) has reviewed the application against the evaluation factors and has provided the following findings (see Exhibit E.2):

PBOT has reviewed the Transportation Impact Study (TIS) dated August 11th, 2017, and Technical Memorandum dated August 15th, 2017 and concurs with majority of findings related to the evaluation factors in 33.641.020 that the transportation system could be capable of safely supporting the proposed development. However, the applicant has not adequately addressed the *safety for all modes*, and *availability of transit* evaluation factors. Below are the TIA's findings and PBOT's comments on the two evaluation factors not adequately addressed. Therefore, PBOT cannot support approval of this proposed 23-lot subdivision.

Street Capacity and Level of Service

Street capacity and level of service was addressed partly in the trip generation and capacity analysis sections of the TIA.

The intersection of SW Taylors Ferry Road at Terwilliger Boulevard currently does not meet City of Portland's performance standard for signalized intersections (level of service D or better). Short of redesigning the intersection to accommodate more travel lanes on Terwilliger or by providing new routes and connections for traffic to use, the operation of the intersection is unlikely to be able to be improved to accommodate the existing demand of the facilities to the standard set by the City.

Even with the intersection of SW Taylors Ferry Road at Terwilliger operating above the City's standards, the impact projected to occur from the proposed Macadam Ridge development will be imperceptible from daily fluctuations in traffic.

The intersection of SW Taylors Ferry Road at 2nd Avenue is also currently operating above the City of Portland's performance standard. Southbound movements from 2nd Avenue experience long delays due to high volumes of traffic on Taylors Ferry Road and are only likely to increase with more traffic using the approach. However, if full movement is permitted from the intersection of SW Taylors Ferry Road at Hume Street, the proposed development will have little to no impact to the southbound movements at this intersection.

The remaining study-area intersections are projected to operate within the City of Portland's performance standards. The intersection of SW Ruby Terrace at 2nd Avenue and other streets internal to the surrounding neighborhood are projected to continue to have low volumes and very little delay after the addition of trips associated with the Macadam Ridge development. Although Ruby Terrace may have a significant increase in traffic volumes if left-turn restrictions are made at SW Taylors Ferry Road at Hume Street, the volumes will be within reasonable levels for a local street and the street will continue to be considered a very low-volume roadway.

Vehicle Access and Loading

To access the 23 lots of the Macadam Ridge development, a connection between SW Ruby Terrace and SW Taylors Ferry Road will be constructed and a new street will be provided to access lots within the development. It is anticipated that each property will accommodate loading and unloading with either a driveway or the street in front of the lot.

Based on the design plan of the subject property and the streets surrounding the project, adequate vehicle access and loading opportunities are provided.

On-Street Parking Impacts

A site visit was performed during the late evening hours (around midnight) to observe existing parking demands and the availability in the site vicinity during the time of peak residential parking demand. Observations were made in the late evening hours, as this represents the peak parking demand for residential areas.

On-street parking was observed along SW Ruby Terrace between SW 2nd Avenue and where the street ends. The street of SW Ruby Terrace becomes narrow in areas allowing for parking on only one side of the street. Even assuming parking only uses one side of the entire street, the street was observed to only be parked to approximately 10 percent of capacity. This parking would likely only be utilized by the proposed development if the SW Hume Street connection remains open for site traffic to use.

The parking demand that will be generated as a result of the construction of the Macadam Ridge development was estimated using rates from the manual *PARKING GENERATION*³. The data corresponding to land-use code 210, *Single-Family Detached Housing*, was used to determine the parking demand for the 23 single-family dwellings. Based on the data for average peak parking demand, the development could result in an increased demand for up to 42 parking spaces during the late evening peak period. Based on the 85th-percentile parking demand data, the proposed development could result in a demand for up to 49 parking spaces during the late-evening peak period. The 85th-percentile peak parking demand is conservative and represents demands that are unlikely to occur at most comparable developments.

The Macadam Ridge development is anticipated to be constructed with 23 homes that have at least two off-street parking spaces. Approximately 23 new on-street parking spaces will be provided along the new cul-de-sac street providing access to the SW Hume Street connection. If the assumption is made that each of the 23 lots are parked to the two-vehicle off-street capacity when the 85th-percentile parking demand occurs, only three of the vehicles would be required to use on-street parking, which could easily be accommodated along the new street.

Based on the available supply of parking in the vicinity of the proposed development in addition to the additional parking being provided by the development, no significant impacts to on-street parking in the area is anticipated. Accordingly, no parking mitigations are necessary or recommended. 3 Institute of Transportation Engineers (ITE), *PARKING GENERATION*, 4th Edition, 2010.

Transit Availability

Eight transit lines are accessible within a half-mile walking or biking trip of the subject property.

TriMet's Bus Route 43-*Taylor's Ferry Rd* connects Portland City Center, Burlingame, and Washington Square along 4th, 5th, Lincoln, 1st, Corbett, Virginia, Taylor's Ferry, Huber, 80th, Locust and Hall. The route runs along SW Taylor's Ferry Road in the vicinity of the project site. The stops closest to the development are bus stop ID 5717 and bus stop ID 5718. The westbound stop is on the north side of SW Taylor's Ferry Road at the intersection with 2nd Avenue. The eastbound stop is on the south side of SW Taylor's Ferry Road at the driveway serving the cemetery. However, these stops lack level, separated waiting areas, and require crossing Taylor's Ferry Road if catching the eastbound bus. Based on ridership data provided by TriMet, these stops are currently rarely used with only one person being recorded as boarding the bus at stop ID 5717 and one person alighting at stop ID 5718 in a three-month period.

Additional stops for Bus Route 43-*Taylor's Ferry Rd* are provided on the western leg of the intersection of SW Terwilliger Boulevard at SW Taylor's Ferry Road and are accessible via low-volume, low-speed neighborhood streets as well as sidewalks along SW Terwilliger Boulevard and west of SW 4th Avenue on SW Taylor's Ferry Road. Weekday headways are generally 45 minutes to an hour during most of the day, and service runs from after 7:00 AM to approximately 7:30 PM. There is no scheduled weekend service.

West of the subject property, five other bus lines are within a half-mile walking or biking trip. These routes include TriMet's Bus Route 39-*Lewis and*

Clark, TriMet's Bus Route 38-*Boones Ferry Rd*, and TriMet's Bus Route 65-*Marquam Hill/Barbur Blvd* which provide weekday service along SW Terwilliger Boulevard.

The proposed development plan is providing sidewalks along the frontages of the new homes as well as along the northern side of SW Taylors Ferry Road on the property frontage. These sidewalks will provide connectivity to SW Ruby Terrace, a street with low traffic volumes and low speeds where pedestrians and bicyclists can safely share the roadway with motor vehicles.

SW Ruby Terrace can be used to reach public transit by way of SW 2nd Avenue, another low volume, low speed Local Street, to reach stops for TriMet Bus Route 43-*Taylor Ferry Road* at the intersection of SW Taylors Ferry Road at SW 2nd Avenue. Unmarked crosswalks are available at the intersection to allow pedestrians to cross SW Taylors Ferry Road to walk approximately 150 feet northeast in the grass removed from traffic. For those users seeking a safer route, additional stops that provide separated waiting areas can be reached by continuing along the low volume, low speed Local Street of SW Carson Street and using sidewalks along SW Taylors Ferry Road west of SW 4th Avenue or along SW Terwilliger Boulevard.

SW Ruby Terrace can also be used to reach Local Streets in the neighborhood to travel to and from stops for TriMet Bus Route 38-*Boones Ferry Rd*, Bus Route 39-*Lewis and Clark*, and Bus Route 65-*Marquam Hill/Barbur Blvd* at SW Terwilliger Boulevard at SW Taylors Ferry Road.

Access to transit is insufficient and safe routes to nearby bus stops are not available to serve the proposed development in addition to the existing uses in the site vicinity.

PBOT's Response to Transit Availability

The nearest stops lack level, separated waiting areas. The TIS cited very low ridership at these stops. No mitigation measures were proposed. No input from TriMet has been provided. There are no existing separated pedestrian connections to the nearest stops. Instead of proposing mitigation measures, the TIS argues that pedestrians could instead choose to walk on the low volume streets north of Taylors Ferry Rd to the next closest stops to the west at Terwilliger. No input from TriMet has been provided.

Neighborhood Impacts

The impact of site traffic resulting from proposed Macadam Ridge development on the adjacent neighborhood along SW Ruby Terrace, assuming the connection of SW Hume Street is not reserved for emergency services only, is projected to be minor and within acceptable levels. If left-turns are restricted onto or from SW Taylors Ferry Road at the location of the new connection, traffic from the development destined for locations to the east will be required to travel down SW Ruby Terrace and SW 2nd Avenue to make the left-turn movement. Additionally, with the significant delays that are experienced at SW Taylors Ferry Road at Terwilliger Boulevard, the traffic traveling to and from the northwest in the direction of Barbur Boulevard or Interstate 5 may find the route using the traffic signal at the intersection of SW Terwilliger Boulevard at Troy Street to be more efficient. In this case, traffic will filter through the neighborhoods prior to traveling down Ruby Terrace.

Based on the trip assignment from the development as well as existing volumes captured at SW Ruby Terrace at 2nd Avenue, it is anticipated that traffic volumes on SW Ruby Terrace could increase from approximately 14 vehicles during the evening peak hour to almost 31 vehicles, depending on movement restrictions at SW Taylors Ferry Road at Hume Street. While this is a significant increase in traffic on the street, it amounts to an additional two vehicles traveling on the road every five minutes during the peak evening hour. Even with the increase in traffic, SW Ruby Terrace will still be considered a very low-volume roadway with an average daily volume of less than 400 vehicles per day.

It should be noted that the new connection of SW Hume Street from SW Taylors Ferry Road to SW Ruby Terrace under the development scenario, if remaining unrestricted, could lead to a redirection of trips to homes along SW Ruby Terrace that would otherwise use SW 2nd Avenue. Due to low speeds along SW Ruby Terrace and a circuitous route to SW 2nd Avenue, it is unlikely that the new connection will be used as a cut-through to access other homes within the area or the traffic signal at SW Terwilliger Boulevard at Troy Street. More direct routes are available for cut-through traffic using SW 3rd Avenue or SW 4th Avenue.

Safety for All Modes

Motor Vehicle Traffic-

Based on turning volumes at nearby intersections, a review of the crash history at intersections with similar lane configurations, and the available sight distances at the location of the proposed connection, it is anticipated that the proposed SW Hume Street access to SW Taylors Ferry Road will operate safely and efficiently without restrictions to left-turns onto or from the street.

Based on a detailed review of the crash history, no significant patterns or contributing design concerns were identified at the study intersections.

Daily traffic volumes and speed data were collected along SW Ruby Terrace to identify if traffic calming measures were needed. Traffic volumes on SW Ruby Terrace north and east of SW 2nd Avenue were measured to be less than 125 vehicles per day that traveled at an 85th-percentile speed of less than 20 mph in both directions. If the SW Hume Street connection is made, these volumes are anticipated to reach 294 vehicles over the span of the day, depending on movement restrictions at SW Taylors Ferry Road at Hume Street. Due to the character of the neighborhood, speeds are not projected to increase significantly or exceed 25 mph.

Traffic volumes west of SW 2nd Avenue on SW Ruby Terrace were measured to be less than 300 vehicles per day. The 85th-percentile traffic speed was measured to be less than 23 mph, less than the statutory residential speed limit. Depending on movement restrictions at SW Taylors Ferry Road at Hume Street, traffic volumes could reach approximately 400 vehicles per day, still less than what classifies a roadway as a Very Low-Volume Local Road.

Bicycle & Pedestrian Traffic

Terwilliger Boulevard has bike lanes and sidewalks on both sides of the street. The intersection of Taylors Ferry Road at Terwilliger Boulevard also has advance stop lines on both Terwilliger approaches and signalized pedestrian crossings. Macadam Avenue has sidewalks but lacks bicycle facilities on the roadway; however, the Willamette Greenway runs parallel to Macadam and provides a comfortable and safe bike route.

The proposed SW Hume Connection will provide a pedestrian and bike route alternative to SW Taylors Ferry Road. The facilities of SW Ruby Terrace, SW 2nd Avenue, and SW Troy Street have low traffic volumes and travel speeds limited by the statutory residential 25 mph speed limit. Due to this, bicyclists can safely and comfortably share the travel lane with motor-vehicles. Connectivity within the nearby neighborhoods provide a safe and comfortable network to allow bicyclists to travel to their destinations.

The proposed development will include a pedestrian connection that connects the proposed A Street with SW Ruby Terrace. Sidewalks are not provided on Ruby Terrace or 2nd Avenue; however, with the low traffic volumes and limited travel speeds, pedestrians are able to walk in the roadway and cross the street safely.

The length of Taylors Ferry Road between Terwilliger Boulevard and Macadam Avenue lacks continuous sidewalks and bicycle facilities. For bicyclists, a comfortable, low traffic route is available through the Riverview Cemetery to the south, which provides an alternate connection from Macadam Avenue to Terwilliger Boulevard. This route is heavily used by people on bicycles and the bike route through the cemetery is marked with both pavement markings and signs. Although no sidewalks are provided along Taylors Ferry Road, the roadway is not currently designed as a pedestrian route and no pedestrian destinations are within 1/3rd of a mile from the site.

The applicant is providing grading, road improvements, and sidewalk along the frontage of the subject site along SW Taylors Ferry Road to improve the safety of pedestrians to the extent possible.

To provide a meaningful sidewalk connection on SW Taylors Ferry Road to nearby destinations, a new sidewalk would need to be constructed approximately 1/3rd of a mile to SW 4th Avenue where it would connect to the existing network. The construction of this sidewalk was estimated to cost more than \$500,000 and would require the acquisition of right-of-way, extensive earthwork, and the construction of retaining walls so not to compromise other properties fronting the street.

Based on the trip generation and distribution of trips, the proposed 23-lot development is projected to contribute only 9 vehicles to SW Taylors Ferry Road between the site access and SW Terwilliger (assuming full access is provided). This number of trips is estimated to be less than 0.5 percent of the projected traffic on SW Taylors Ferry Road at the time the site is to be completed and occupied. Based on this minimal impact to SW Taylors Ferry Road and the availability of other safe and comfortable pedestrian routes, construction of sidewalk on SW Taylors Ferry Road is not recommended nor is it roughly proportional to the impacts of the proposed development.

While infrastructure for people walking or biking on Taylors Ferry Road is lacking, there are other safe and comfortable routes for walking, biking, and accessing transit. This evaluation factor is satisfied without improvements to Taylors Ferry Road other than the frontage improvements that are currently proposed.

PBOT's Response to Safety for All Modes

1. Sight triangle exhibits were not provided as requested at "Hume"/Ruby Terrace, "Hume"/"Front", and "Hume"/Taylors Ferry Road. These are needed

to identify any visibility obstructions and mitigation measures to achieve adequate sight distance.

2. A sight triangle exhibit was provided with the memo for 2nd Av/Taylor's Ferry Rd. However, specific mitigations to improve the sight distance were not identified. Vegetation could be cleared. Widening for a sidewalk could improve sight distance. The exhibit did not include property lines that may limit the extent of mitigations possible. Also, this exhibit and discussion should be included in the TIS as requested.
3. There are not adequate bike facilities on Taylor's Ferry Rd. While the TIS points to a bike connection through the cemetery, this is a private facility and its presence does not substitute for the need for a bike facility on Taylor's Ferry Rd which is classified as a City Bikeway. No bicycle mode mitigation measures were proposed.
4. There are not adequate pedestrian facilities on Taylor's Ferry Rd. While the TIS points to a network of lower volume roadways that pedestrians can use to connect to the TFR/Terwilliger node, it does not address the lack of connection to the east to Macadam and it does not substitute for the need for a pedestrian facility on Taylor's Ferry Rd which is classified as a City Walkway. A potential sidewalk connection between the site and Terwilliger along Taylor's Ferry Rd was discussed, but the TIS argued that the cost (acquisition of ROW needed, retaining walls needed) was not proportional to the impact of the development. A potential path connection between the site and Canby was ruled out by BDS due to the impact to the environmental protection zones. A shoulder widening or separated path along Taylor's Ferry Rd in general was not discussed. No pedestrian mitigation measures were proposed beyond the site's immediate frontage improvements.

On October 16, 2017, the applicant submitted a memorandum from Lancaster Engineering (Exhibit H.107.1) addressing sight distance concerns identified by PBOT. On October 30, 2017, the applicant submitted additional evidence into the record to address evaluation factors of availability of transit service and safety for all modes (Transportation Impacts memorandum, Exhibit H.54). To address concerns regarding availability of transit, the applicant offered, in consultation with TriMet, to either improve an existing bus stop at SW 2nd Avenue and SW Taylor's Ferry Road or relocate this stop along the project site's frontage and incorporate with proposed sidewalk improvements in this area. In regards to the evaluation factor of safety for all modes, the applicant advanced the following arguments (I.3, Pgs. 66-69):

"The Applicant's TIS demonstrated that the proposal will produce an insignificant amount of vehicle traffic compared to the background traffic. There are expected to be 14 new trips during the peak evening hour. The total vehicle traffic from the proposal will be .07% of the existing traffic on SW Taylor's Ferry. PBOT did not lodge any objections to the Applicant's traffic engineer's conclusion that there is no safety issue associated with vehicular traffic. *PBOT identified the need for additional sight distance triangle exhibits and those have been provided to staff.*

"On bicycle and pedestrian traffic, the Applicant's traffic engineer explained that there are no sidewalks or bicycle paths on SW Taylor's Ferry. Indeed, there have never been any, despite the fact that the street has heavy traffic volumes. Any safety issue for pedestrian and bicycle traffic already exists and has nothing to do with the proposed development. In fact, the Applicant is proposing to provide measures to

make the situation safer. Currently, if anyone was walking or biking on SW Taylors Ferry, which is not common by any means, there is no place for them to get off Taylors Ferry onto a safer route. The proposed development includes connecting the currently unimproved SW Hume right-of-way to SW Taylors Ferry and extending it to SW Ruby Terrace. The proposal also includes a pedestrian connection through the development to SW Ruby Terrace. Pedestrians can use those facilities to walk on local streets with low traffic volume until they get to the existing sidewalks on SW Taylors ferry closer to SW Terwilliger. Bicycles can also use that safer route to get to SW Terwilliger where there are bike lanes.

"It is also important to note that for many years, bicycles have used an alternative route through the existing cemetery. Although not a public facility, it is a well-established route used daily by bicycles in recognition that to date there has not been any feasible way to eliminate lanes on SW Taylors Ferry to create usable pedestrian and bike facilities.

"Prior to the staff report, PBOT suggests that the only way the Applicant can satisfy its concern over the availability of transit is to construct a separated sidewalk and bicycle facilities from SW Macadam nearly to SW Terwilliger where there are sidewalks. The Applicant demonstrated that just to extend sidewalks from the proposed development to SW 2nd A venue on the north side of SW Taylors Ferry would exceed \$500,000. That assumes the Applicant has the right-of way it would need to complete the project, which is not currently available. The Applicant has no legal ability to acquire additional right-of way. Thus, the Applicant demonstrated that the improvements PBOT was suggesting were vastly disproportionate to the insignificant impacts created by its proposal. TIS, p. 32.

"In its response that was included in the staff report, PBOT did not include any disagreement with the Applicants statement on the lack of proportionality. PBOT did not discuss any impacts that would result from the proposal that made any facility unsafe. It did not provide any evidence on the number of pedestrians that would be walking on Taylors Ferry, or the number of bicycles that would be added to that street.
* * * * *

"In discussion with the Applicant's traffic engineer, PBOT acknowledged that the improvements it suggested are not proportionate to impacts from the proposal. Yet, PBOT still feels it can recommend denial of the application unless the Applicant spends far in excess of \$500,000 on off-site public improvements. There is a fundamental constitutional flaw in PBOT's position. If it agrees that it cannot require the improvements because the proposal does not generate impacts that allow it to exact the improvements, it cannot deny the application based upon the impacts that do not justify the exaction.

"Under PCC 33.641, the impacts and mitigation are intertwined. If there are impacts from the proposal that render facilities unsafe for all modes of travel, then, the City can deny the application unless the impacts are mitigated for. But, the first component of any analysis requires the City to identify specific impacts that the proposal will generate that will make the existing facilities incapable of safely

supporting the proposed development. In this regard, the law on exactions is relevant.

"When a condition requires an exaction, the local government must justify the exaction under the legal standard commonly referred to as the *Nollan/Dolan* test.¹ If the local government cannot satisfy the *Nollan/Dolan* test, the exaction is a taking. The first prong of the test that arose in *Nollan* is called the essential nexus test. The local government has the burden to prove that there is an essential nexus between the exaction and a legitimate governmental policy or standard that would allow the local government to deny the application without mitigation. *Nollan v. California Coastal Commission* 483 US at 836-837; *Skora v. City of Portland*, 544 F Supp 1128 (D. Oregon 2008). As the essential nexus test has been interpreted by Oregon courts, it requires an impact analysis. The local government must show that the proposal will generate impacts, that, if unmitigated, would violate some standard that provides a basis for denying the application altogether. *Brown v. Medford*, 251 Or App 42, 47 (2012). After the *Koontz v. St Johns River Water Management District*, 568 US __, the *Nolan/Dolan* test applies not only to exactions of real property, but applies equally to when a local government requires an applicant to pay for off-site public improvements. That case held that money is property like any other property.

"* * * * *

"Plainly, the law requires that to exact property from an applicant, the local government must establish a connection between actual impacts generated by the proposal and a legitimate standard that allows the local government to deny the application if mitigation of the impacts is not made.

"What PBOT is trying to do here is fundamentally the same as an exaction. PBOT acknowledges that it cannot impose a condition that the Applicant provide massive public improvements to address a long-standing issue because it cannot identify impacts that justify such a condition under *Nollan/Dolan*, and *Brown*. So, PBOT identifies the improvements it wants and then, recommends that the application be denied because those improvements are not constructed. That is a transparent and improper attempt to impose a condition without calling it a condition. If a local government agrees that it cannot condition approval on an applicant making mitigation absent specific impact from the development, it follows that the local government cannot use unidentified, and non-existent impacts to deny an application to coerce an applicant to make the improvements that it wants, but knows it cannot require.

"PBOT's desired improvements are clearly to address a general safety issue that has existing for years and has nothing to do with the proposed development. PBOT and the City have not had the ability or will to provide improvements to SW Taylors Ferry to address the long-standing issues. There is no dispute that large scale public improvements would make Taylors Ferry safer for pedestrians and bicycles. However, those improvements would be directed at a general transportation goal to make all facilities safer for all modes. It would be addressing impacts that have been there for many years and have nothing to do with the proposal. The Court in *Brown* expressly held

that local governments cannot exact property from applicants to address those larger, general transportation policies. They can only require an applicant to address the specific impacts from its proposal.

"PBOT's response contains absolutely no discussion of any impacts from the proposed development that make Taylors Ferry unsafe for all modes. The safety issues all pre-existed this application. PBOT did not try to explain what impacts it expects that will make Taylors Ferry more unsafe. PBOT does not even mention what it perceives will be the non-vehicular impacts the project will have on the current facilities. That is critical because the Oregon Court of Appeals has held that when a local government does not have findings that a proposed development will generate specific non-vehicular impacts on the existing facilities, it cannot exact property for pedestrian improvements. *McClure v. City of Springfield*, 175 Or App 425,434, 28 P3d 1222 (2001). Without an ability to identify specific non-vehicular impacts from the proposal, the City can never meet its burden of showing a nexus between impacts and a legitimate policy. Nor can it ever show that the impacts from the development are roughly proportionate to the impacts on the applicant."

On November 6, 2017, PBOT submitted a memorandum (PBOT Response - 11/6/17, Exhibit H.94) with the following response:

PBOT continues to stand by the recommendation in our original response that applicant's finding addressing the evaluation factor "safety for all modes" has not been met. In particular, pedestrian, bike, or transit users generated by the development cannot safely cross Taylors Ferry to get to the bus stops on the south side to SW Taylors Ferry Road. In the applicants memorandum regarding transportation impacts, dated Oct 30, 2017, Christopher Koback makes an argument about PBOT not providing any evidence on the number of pedestrians that would be walking on Taylors Ferry, or the number of bicycles that would be added to that street. It is the applicant's responsibility to provide that information per 33.800.060, the burden of proof is on the applicant to show that the approval criteria are met. There is data available that the applicant could have used to predict the number of pedestrians, bicyclists, walkers, and transit riders that the proposed new single-family homes would reasonably be expected to generate. Examples include Metro's 2011 Oregon Household Activity Survey (OHAS), and data from the 2010-2015 American Community Survey Five Year Estimate.

All of the relevant approval criteria must be met. There is nothing in the language of 33.641.020 or the purpose statement in 33.641.010 that allows for making an "on balance" finding and that failure of one or more of the evaluation factors is not a basis for denial.

The applicant has provided site distance studies. If the Hearings Officer's decision is for approval, PBOT recommends the following site distance related conditions: Prior to final plat approval the applicant shall trim down the understory and branches over the ROW at the west side of the intersection of SW 2nd Ave and SW Terwilliger Blvd. Prior to final plat approval, the applicant shall construct a flat concrete pad per Tri-Met standards at the bus stop at SW 2nd Ave and SW Taylors Ferry Road, or relocate the bus stop to the new intersection of SW Hume and SW Taylors Ferry with approval from Tri-Met. At the end of this report, PBOT will identify standard conditions should the HO approve this land use application.

The Hearings Officer found that the “proposal meets the Transportation Impact approval criterion evaluation factors except as noted with respect to bus stops. In addition, potential issues exist with a final determination on proposed disturbance area. The Hearings Officer therefore finds this criterion can be met with conditions.”

This criterion was appealed by the South Burlingame Neighborhood Association (SBNA) on the basis of Transportation Impact evaluation factors of safety for all modes and availability of transit service and facilities and connections to transit. Significant evidence and testimony was submitted into the record to this effect.

In regards to the evaluation factors in question, SBNA argues that SW Taylors Ferry Road is unsafe for pedestrians, bicyclists, and transit riders due to the lack of sidewalks, bike lanes, and safe routes to access transit (SBNA Presentation, Exhibit I.193). SBNA acknowledges the applicant is proposing to improve the existing westbound transit stop (TriMet bus route #43) located at the intersection of SW Taylors Ferry Road and SW 2nd Avenue. These improvements will be in the form of either constructing a flat level concrete pad, per TriMet standards, at the existing bus stop location or relocating the stop along the subject site frontage, where a new sidewalk will be installed. SBNA, however, argues that no improvements have been proposed to solve issues with access to the eastbound transit stop located across from the development on the south side of SW Taylors Ferry Road near the entrance to the Riverview cemetery. This is the stop that will serve transit riders from the proposed development, in addition to existing transit riders in the neighborhood, traveling to SW Macadam Avenue and downtown. SBNA argues that improvements such as a crosswalk on SW Taylors Ferry Road could help to address this deficiency in access to transit.

City Council finds that although the proposal may generate a minimal increase in the percentage of vehicle traffic (.07%, Applicant’s TIS) on SW Taylors Ferry Road, the proposal will significantly increase the percentage of people that live within close proximity of the transit facilities on SW Taylors Ferry Road. City Council finds that access to the transit stop on the south side of SW Taylors Ferry Road to be deficient and the applicant has not proposed any mitigation measures to address this deficiency.

The Applicants council argues that the improvements necessary to make SW Taylors Ferry Road safe for pedestrian and bicyclists is not proportional to the impacts generated from the proposed development (Exhibit I.39). This is based on the assertion that the only way to provide a meaningful sidewalk connection is to install a sidewalk on SW Taylors Ferry Road to connect to the nearest sidewalk network at approximately SW 4th Avenue. SBNA’s council argue (Exhibit I.38) that although such an improvement may be greater than the impacts generated from the development it doesn’t mean that no improvements should be made to address the currently deficient system. Further, they argue that some improvements should be made that are roughly proportional to the impacts generated from the development in order to contribute to a solution that will address safety issues on SW Taylors Ferry Road rather than do nothing.

Based on the evidence placed in the record preceding, City Council finds the applicant has not demonstrated the transportation system is capable of safely supporting the proposed development.

Additionally, the Council interprets the Code as allowing the applicant to satisfy the criterion by including roughly proportional mitigation measures. However, Council finds that the applicant has failed to propose acceptable mitigation measures. Therefore, City Council finds this criterion is not met.

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

PCC 33.651 Water Service standard

Findings: The Hearings Officer found this criteria could be met per the following findings:

The Water Bureau has indicated that new water mains would need to be installed to serve the proposed development in order to meet the standards of 33.651. Subject to providing appropriate plans and financial assurances to the Water Bureau prior to final plat approval, this criterion could be met.

PZC 33.651.020 requires that "the Water Bureau or District and the Fire Bureau have verified that water facilities with adequate capacity and pressure are available to serve the proposed development. The Hearings Officer adopts BDS Staff's finding on this point. However, potential issues exist with a final determination on proposed disturbance area. The Hearings Officer therefore finds this criterion can be met with conditions.

City Council finds that the Water Bureau has indicated that new water mains would need to be installed to serve the proposed development to meet the standards of 33.651. The Water Bureau and Fire Bureau did not raise any issues regarding the ability to provide water service to the proposed development. Therefore, City Council finds this criterion can be met.

PCC 33.652 Sanitary Sewer Disposal Service standards

Findings: PCC 33.652.020 states: Sanitary sewer disposal service must meet the standards of this section.

A. Availability of sanitary sewer.

- 1. The Bureau of Environmental Services has verified that sewer facilities are available to serve the proposed development; or**
- 2. BDS has approved the use of a private on-site sanitary sewage disposal system.**

B. Public sanitary sewage disposal. Where public sewer facilities are available to serve the proposed development, the Bureau of Environmental Services has preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system. The approval is based on the Sewer Design Manual; and

C. Private sanitary sewage disposal. Where private on-site sanitary sewage disposal is proposed, BDS and Environmental Services have preliminarily approved the location, design, and capacity of the proposed sanitary sewage disposal system.

The Hearings Officer found this criteria could be met per the following findings:

The Bureau of Environmental Services has noted sanitary sewer infrastructure that is on or in the vicinity of the site (Page 3 of this report). The applicant proposes to extend a sewer main from the 8-inch CSP public sanitary-only sewer in SW Ruby Terrace through the proposed public pedestrian connection to the new north-south public street (Street A). A new main is proposed within Street A that extends south and into a portion SW Hume Street and to the north, through proposed Tract A, to connect to a main located within Ruby Creek, via a sewer easement to the City of Portland. Under PZC 33.652.020, BES must approve public sewer facilities. Potential issues exist with a final determination on proposed disturbance area. The Hearings Officer therefore finds this criterion can be met with conditions.

City Council finds that the Bureau of Environmental Services must preliminarily approve the location, design, and capacity of the proposed sanitary sewage disposal system to meet this criterion. The Bureau of Environmental Services assessment of the proposal against this criterion cannot be completed without an approved Public Works Permit concept review. Public Works Permit review is the process the Bureau of Environmental Services uses to make a technical assessment of an engineered proposal and concept approval is the minimum threshold that must be achieved in order to inform the feasibility of constructing the proposed improvements. Issues that remain unresolved with the Public Works review include the construction and disturbance area associated with the sanitary main that extends from the cul-de-sac of the proposed public street, the method of abandoning the existing sewer main in Ruby Creek, and impact of proposed improvements on existing services for adjacent homes (BES Land Use Response Addendum #3 – 11/3/17, Exhibit H.94).

City Council finds that BES has not preliminarily approved the proposed location, design, and capacity of the proposed sanitary sewage disposal system. City Council finds that deferral of compliance with this criterion is not appropriate as the approved design may affect the amount and type of resources disturbed, and thus the alternatives analysis for Environmental Review. Therefore, City Council finds this criterion is not met.

PCC 33.653.020 Stormwater Management Approval Criteria

Stormwater management must meet the following approval criteria:

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

PCC 33.653.030 Stormwater Management Standards

Stormwater management facilities must meet the following standards. Adjustments are prohibited.

- A. The Bureau of Environmental Services has preliminarily approved the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The approval is based on the Sewer Design Manual and the Stormwater Management Manual;**
- B. The Bureau of Development Services has preliminarily approved the capacity, type, location, feasibility, and land area required of any proposed private on-site stormwater disposal facilities; and**
- C. Ownership and maintenance. (Omitted - not applicable)**

Findings: The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater and the Bureau of Environmental Services must approve the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The Hearings Officer found this criteria could be met per the following findings:

The Bureau of Environmental Services has noted stormwater infrastructure that is on or in the vicinity of the site (Page 3 of this report). No stormwater tract is proposed or required. Therefore, criterion A is not applicable. The applicant submitted a Stormwater Management Report (Exhibit A.1; A.2; A.3.e) to address this approval criterion.

BDS Staff explain:

"Stormwater associated with the individual lots will be directed into flow-through planters that remove pollutants and suspended solids. The water will drain from the planters to a new storm sewer main within proposed Street A and SW Hume Street, which then outfalls within Ruby creek, via a sewer easement to the City of Portland. Stormwater associated with portions of SW Hume and Street A will be directed into infiltration swales located between the curb and the new sidewalk. These swales will then discharge to the mains noted above. Stormwater management associated with portions of SW Hume and Taylors Ferry Road will also be treated by swales but will discharge to an existing main in SW Taylors Ferry Road that discharges to an outfall on the south side of this street."

Exhibit H-1, page 34.

The Hearings Officer adopts BDS Staff's finding. BES is required to approve stormwater facilities. See PZC 33.653.030.A In addition, potential issues exist with a final determination on proposed disturbance area. The Hearings Officer therefore finds this criterion can be met with conditions.

City Council finds that the application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater and the Bureau of Environmental Services must approve the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. The Bureau of Environmental Services assessment of the proposal against this criterion cannot be completed without an approved Public Works Permit concept review. Public Works Permit review is the process the Bureau of Environmental Services uses to make a technical assessment of an engineered proposal and concept approval is the minimum threshold that must be achieved in order to inform the feasibility of constructing the proposed improvements. Issues that remain unresolved with the Public Works review include the construction and disturbance area associated with the stormwater main that extends from the cul-de-sac of the proposed public street, the sizing of stormwater facilities located within the right-of-way of the public street, and construction and disturbance associated with existing and proposed outfalls in Ruby Creek (BES Land Use Response Addendum #3 - 11/3/17, Exhibit H.94).

City Council finds that the applicant has not achieved concept approval of a Public Works Permit to demonstrate that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater and BES has not preliminarily approved the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities. City Council finds that deferral of compliance with this criterion is not appropriate as the approved design may change the amount and type of resources disturbed, and thus the alternatives analysis for Environmental Review. Therefore, City Council finds this criterion is not met.

PCC 33.654.110.B.1 Through Streets and Pedestrian Connections

PCC 33.654.130.B Extension of Existing Public Dead-End Streets and Pedestrian Connections

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

Findings: City Council finds that through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart. The Portland Bureau of Transportation has provided the following evaluation of connectivity for this proposal (Exhibit E.2):

The proposal will construct a new public street connection (SW Hume) from SW Taylors Ferry Road to SW Ruby Terrace constructed to city standards. A street connection directly north is not feasible due to the steep topography and environmental overlay zones. A new pedestrian connection between the new dead end public street and SW Ruby Terrace will be provided approximately 400-ft north of the intersection of SW Hume and SW Ruby.

City Council finds the applicant is proposing to improve SW Hume Street and extend this right-of-way to SW Taylors Ferry Road. A new north-south public right-of-way, identified as Street A, is proposed to be extended north from SW Hume Street through the site for a length of approximately 500 feet. In addition, a public pedestrian connection is proposed to connect SW Ruby Terrace to Street A. Due to the presence of environmental zoning, steep terrain, and natural features such as Stephens and Ruby Creeks, the proposed street and pedestrian connections appear to be the extent of what can be achieved on this site without creating significant detrimental

impacts to the resources in this area. For these same reasons, it is not feasible to extend SW Brier Place or SW Canby Street onto the site.

Based on the preceding findings, City Council finds the connectivity and locations of rights-of-way sufficient for this proposal. Therefore, City Council finds this criterion can be met.

PCC 33.654.110.B.2 Dead-end streets in OS, R, C, and E zones.

Findings: In OS, R, C, and E zones, dead-end streets may be provided where through streets are not required. Dead-end streets should generally not exceed 200 feet in length, and should generally not serve more than 18 dwelling units. Public dead-end streets should generally be at least 200 feet apart.

City Council finds the proposal includes a new north-south dead-end street (Street A) located within a public right-of-way. This right-of-way will serve 18 dwelling units and is approximately 460-feet in length from the intersection with SW Hume Street to the center of the radius turn-around.

As discussed under the findings for through streets above, City Council finds the proposal to create a dead-end street appropriate as a through street(s) would result in significant detrimental impacts to identified resources in this area.

Therefore, City Council finds this criterion can be met.

PCC 33.654.120.B and C Width & Elements of the Right-of-Way

Findings: City Council finds the site has frontage on SW Taylors Ferry Road, SW Hume Street, SW Ruby Terrace, SW Front Street, SW Canby Street, and SW Brier Place. Only SW Taylors Ferry Road and SW Ruby Terrace are improved (substandard) along the site's frontage. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. In this case Portland Transportation has determined that the following improvements are required to meet City standards:

SW Taylors Ferry Road: Construct a buffered (3-ft) 6-ft bike lane beyond the fog line, 0.5-ft curb, 8-ft swale, 6-ft sidewalk, and a 1.5-ft frontage zone. Survey will be required to determine needed dedications.

SW Ruby Terrace: Construct standard half-street improvements including a minimum 20-ft roadway, curb 16-ft from ROW centerline, 8-ft swale, 5-ft sidewalk, and a 0.5-ft frontage zone. Approximate dedication is 2-ft.

SW Hume Street: Improvements must connect to SW Ruby. Construct standard half-street improvements including a minimum 20-ft roadway, curb 16-ft from ROW centerline, 8-ft swale, 5-ft sidewalk, and a 0.5-ft frontage zone along sections of Hume where the site only abuts one side of the street. For sections of the site the front both sides of SW Hume, construct full width street improvements with 26-ft of roadway with 14-ft sidewalk corridors along both sides. Dedicate whatever is needed to provide 54-ft of ROW.

New access street from SW Taylors Ferry (identified as SW Hume Street): construct a 26-ft roadway with curbs 8-ft public storm water facilities, 5-ft sidewalks, 0.5-ft frontage zone. Dedicate 54-ft of ROW. New road grades not to exceed 15%.

City Council finds a new north-south public dead-end street (Street A) is proposed to serve the lots within the land division site. The street is anticipated to serve the vehicle traffic, pedestrians and bicyclists accessing the

lots within this subdivision. The street dedication is proposed to be 60 feet wide, to provide room for the construction of a 32-foot wide paved roadway that allows two travel lanes, parking on both sides, two 6-inch curbs, stormwater swales and 5-foot wide sidewalks. The elements of the proposed right-of-way appear to meet applicable standards (Exhibit E.2).

Therefore, City Council finds this criterion can be met.

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

Findings: City Council finds a 35-foot radius turn-around is proposed at the terminus of the proposed north-south public street (Street A). In addition, a fire turnaround is proposed where the proposed public pedestrian connection meets Street A, which also necessitates easements on adjacent Lots 8 and 9.

The Portland Bureau of Transportation has indicated that the proposed cul-de-sac at the terminus of the public street is not large enough for a fire turnaround but will function for trash haulers and delivery trucks (Exhibit E.2). This turnaround is sufficient to provide safe vehicular and bicycle movement for the expected users and a sidewalk extends around its entirety to provide safe and convenient access for pedestrians traveling on the street or to the nearby pedestrian connection that is proposed. The Portland Bureau of Transportation approves of the configuration of elements within the turnaround right-of-way.

Therefore, City Council finds this criterion can be met.

PCC 33.654.120.E Pedestrian Connections

Findings: City Council finds the width of the pedestrian connection right-of-way must be sufficient to accommodate expected users and provide a safe environment, taking into consideration the characteristics of the site and vicinity, such as the existing street and pedestrian system improvements, existing structures, natural features, and total length of the pedestrian connection. As much as is possible, the users should be able to stand at one end of the connection and see the other end. For public pedestrian connections, the Office of Transportation must approve the configuration of elements within the pedestrian connection right-of-way.

City Council finds the applicant has proposed a public pedestrian connection between SW Ruby Terrace and the proposed north-south public street (Street A) within the land division site. The proposed pedestrian connection contains a 6-foot wide path that is approximately 300-feet in length and is located within a right-of-way that varies in width between 15 and 23 feet. City Council finds the proposed pedestrian connection right-of-way appears sufficient to accommodate expected users and provide a safe environment considering existing (7827 SW Ruby Terrace) and proposed (Lots 8 and 9) structures that can provide “eyes” on this area. The applicant indicated that no pedestrian way lighting is proposed but the proximity of nearby homes should provide sufficient ambient lighting. In addition, it appears that users should be able to stand at one end of the connection and see the other end.

Therefore, City Council finds this criterion can be met.

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

Findings: The City Council adopts and incorporates the Hearings Officer’s response to this criterion on page 77, as stated below. Opponents did not raise any issues regarding the Application’s ability to meet this criterion during the Appeal period.

The City Council finds any easements that may be needed for private utilities that cannot be accommodated within the adjacent right-of-ways can be provided on the final plat. The applicant has proposed a 6-foot utility easement adjacent to the proposed public street(s). Therefore, City Council finds this criterion can be met.

V. CONCLUSIONS

The City Council heard compelling testimony from both the applicant and appellant in this case. This complex site is zoned for residential use, and the Council expects it to be developed. Ultimately, Council determined that the application and alternatives analysis had not been developed enough to satisfy the environmental review criteria. Council finds that there is substantial evidence in the record to support the findings made herein. This evidence supports denial of the Application for a Land Division, Environmental Review and Modification. The evidence and findings support approval of Environmental Violation Review, with conditions.

VI. DECISION

It is the decision of the City Council to GRANT the Appeal in part and DENY the Application for Land Division, Environmental Review and Modifications, except that Council GRANTS approval of Environmental Violation Review with conditions.

Therefore, the City Council:

Denies the application for Land Division, Environmental Review and Environmental Modifications;

Approves Environmental Violation Review, subject to the following conditions:

- A. A BDS Zoning Permit is required to be finalized by March 31, 2019 for inspection and approval of remediation plantings. Copies of Exhibit C.13 from LU 16-213734 and conditions limits below shall be included within all plan sets submitted for permits (Zoning Permits). These exhibits shall include the following statement, "Any field changes must be in substantial conformance with approved Exhibit C.13 from LU 16-213734". To obtain the permit, the applicant must submit a Remediation Planting Plan which provides the following:
 - removal of all non-native nuisance vegetation from the "upland and riparian remediation areas" shown on Exhibit C.13,
 - installation of native species within the 12,727 square foot "upland remediation area" at the following rate: 1 tree, 1 shrub, and 5 groundcover plants for every 50 square feet of planting area.
 - installation of native species within the 10,000 square foot "riparian remediation area" at the following rate: 1 tree, 1 shrub, and 5 groundcover plants for every 50 square feet of planting area.
 - Plants must be native and selected from the *Portland Plant List*. A minimum of 3 different tree species, 5 different shrub species; and 5 different groundcover species must be provided in each remediation area.
 - All nuisance plant removal and plant installation work must be conducted with hand-held equipment.
 - All remediation trees and shrubs 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.
- B. The land owner shall maintain the required planting for two years to ensure survival and replacement. The land owner is responsible for the ongoing survival of the required plantings during and beyond the designated 2-year monitoring period. At the end of the 2-year maintenance and monitoring period, the land owner shall obtain a second (final) Zoning Permit for a final inspection of the remediation plantings for the purpose of ensuring the required plantings remain. The permit must be finalized no later than 2 years from the final inspection of the initial installation of the remediation plantings. Any required plantings that have not survived must be replaced.

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.

VII. APPEAL INFORMATION

Appeals to the Land Use Board of Appeals (LUBA)

This is the City's final decision on this matter. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date of the decision, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period or this land use review. You may call LUBA at 1 (503) 373-1265 for further information on filing an appeal.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Initial Submittal, August 3, 2016
 - 2. Revised Submittal (responses to completeness review), received January 30, 2017
 - 3. Amended Submittal, received August 28, 2017
 - a. Revised narrative
 - b. Additional neighborhood contact information (an addition to Appendix B)
 - c. Stormwater Memo from Emerio Design (an addition to Appendix F)
 - d. Memo from Brad Hupy at GEO Northwest Consultants, Inc., dated July 17, 2017 (an addition to Appendix G)
 - e. Technical Memorandum from Lancaster Engineering, dated August 15, 2017 (an addition to Appendix H)
 - f. Traffic Impact Study from Lancaster Engineering, dated August 11, 2017 (an addition to Appendix H)
 - g. Memo from Juniper at Schott & Associates, dated July 18, 2017 (an addition to Appendix I)
 - h. Memo from property owners, dated August 7, 2017 (an addition to Appendix I)
 - i. Updated Alternative 4 to replace the outdated Alternative 4 that is currently in Appendix I
 - j. Exhibit 1A which is the Alternate Option for Storm and Sanitary Sewer
 - k. Revised Plan Set Sheets 1-25 (this set will replace the current planning set)
 - l. Response Matrix to Kate Green's March 14, 2017 comments with an email from Chris Lastomirsky with BES attached as part of the response
 - m. Response Matrix to Jason Butler-Brown's March 17, 2017 comments
 - n. Response Matrix to Dawn Krantz's comments with emails from Terry Wentz at the Water Bureau addressing fire flow
 - o. Response Matrix to Benjamin Kersens' March 20, 2017 comments
 - 4. Timeline Extensions (received January 30, 2017; March 30, 2017; July 14, 2017)
 - 5. March 9, 2017 GEO Consultants Northwest, *Macadam Ridge Subdivision, Site Conditions Following February 2017 Rainfall Events*.
- B. Zoning Map (attached):
- C. Plans & Drawings:
 - 1. Cover Sheet
 - 2. Aerial Photo with Project Overlay
 - 3. Existing Conditions
 - 4. Preliminary Site Plan (attached)
 - 5. Street Cross Sections
 - 6. Preliminary Subdivision Plat (attached)
 - 7. Preliminary Grading Plan
 - 8. Preliminary Composite Utility Plan (attached)

9. Preliminary Landscape Planting Plan
 10. Preliminary Landscape Planting Plan
 11. Planting Notes and Details
 12. Existing Conditions
 13. Proposed Development Site Plan (attached)
 14. Proposed Construction Management Site Plan
 15. Tree Removal and Preservation Plan
 16. Tree Removal and Preservation Plan
 17. Tree Removal and Preservation Plan
 18. Tree Removal and Preservation Plan
 19. Street A
 20. SW Hume Street
 21. SW Hume Street
 22. SW Taylors Ferry Road
 23. SW Ruby Terrace
 24. Lines SS-A & SD-01
 25. Lines SS-C & SD-03
 26. Alternate Storm and Sanitary Plan
 27. Alternative Development Plans
 - a. Alternative 1
 - b. Alternative 2
 - c. Alternative 3
 - d. Alternative 4 (Applicants' Preferred Alternative)
- 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
- E. Agency Responses:
1. Bureau of Environmental Services (March 20, 2017; October 4, 2017)
 2. Portland Transportation (March 24, 2017; October 4, 2017)
 3. Water Bureau
 4. Fire Bureau (August 25, 2016; October 3, 2017)
 5. Site Development (March 17, 2017; October 4, 2017)
 6. Urban Forestry
 7. TriMet
 8. Life Safety
- F. Letters:
1. Barbara Griffith, February 15, 2017, supports proposal
 2. Jennifer Edeline, February 22, 2017, supports proposal
 3. Robert N Griffith, February 22, 2017, supports proposal
 4. Bob Griffith, February 23, 207, supports proposal
 5. Fred L Shelton, February 26, 2017, supports proposal
 6. Lisa Gomez, February 26, 2017, supports proposal
 7. Jessica Coleman, February 27, 2017, supports proposal
 8. Jaclyn Griffith, February 28, 2017, supports proposal
 9. Sean Edeline, February 28, 2017, supports proposal
 10. Jim Diamond/Collins View Neighborhood Association, March 3, 2017, cites concerns about transportation, environmental and neighborhood character impacts
 11. Robert Lennox/South Burlingame Neighborhood Association, March 3, 2017, notes concerns about traffic, environmental and geotechnical impacts
 12. Laurie Wall, September 22, 2017, requests to be added to mailing list
- G. Other:

1. Original LUR Application
2. Letter to applicant re: incomplete application
3. DSL Wetland Notification
4. Applicant Correspondence
- H. Hearings Office Exhibits
 1. Staff Report - Green, Kate
 2. 10/7/17 letter - Zumwalt, Lorraine
 3. 10/10/17 letter - James, Alex
 4. Fax Letter - Shorr, Sarah
 5. 10/11/17 letter (2 pages) - Lidberg, Steve and Carol
 6. Letter dated 10/8/17 (2 pages) - Holderness, John
 7. Letter dated 10/10/17 - Holderness, Mary L.
 8. Letter dated 10/8/17 - Goodwin, Jules
 9. Fax Letter dated 10/13/17 - Dryden, Seth
 10. Letter dated 10/13/17 - Andrews, Michael
 11. Request to be added to mailing list - Porto, Carol
 12. Request to be added to mailing list - Baranow, Michael
 13. Letter dated 10/16/17 - Baranow, Michael
 14. Request to be added to mailing list - Pearson, Sam
 15. Letter - Dennis, Patricia
 16. Letter dated 10/13/17 - Andrews, Michael
 17. Letter dated 10/16/17 - Jones II, John & Garrison Hullinger
 18. Letter w/ fax duplicate - Brown, Robert H.
 19. Request to be added to mailing list - Lacka David
 20. Letter dated 10/15/17 w/ 2 duplicates - Read, Maryellen
 21. Letter dated 10/14/017 w/ fax duplicate - Dames, Hillary and George
 22. Letter dated 10/15/17 w/ fax duplicate - Zumwalt, Lorraine
 23. Letter dated 10/16/17 w/ fax duplicate - Carleton, James E.
 24. Letter dated 10/12/17 w/ fax duplicate - Porto, Carol
 25. Letter dated 10/10/17 - James, Alex
 26. Letter dated 10/13/17 w/ fax duplicate - Pearson, L.A.
 27. Letter dated 10/14/17 w/ fax duplicate - Lennox, Robert
 28. Letter dated 10/14/17 w/ fax duplicate - Lennox, Robert
 29. Letter dated 10/9/17 - Meier, Linda
 30. Letter with 2 attachments - Meier, Linda
 31. Letter dated 10/15/17 - Peterson, Krista
 32. Letter dated 10/15/17 - Kauffman and Dominey
 33. Letter dated 10/15/17 w/ fax duplicate - Greenough, Lynn
 34. Letter dated 10/16/17 - Carleton, James E.
 35. Letter dated 10/14/17 w/ fax duplicate - Greenough, Chuck
 36. Letter dated 10/15/17 w/ fax duplicate - Friedman, Jan E.
 37. Request to be added to mailing list - Andrews, Michael
 38. Letter dated 10/16/17 - Lennox, Michelle
 39. Zoning Map - yellow highlighted area - Andrews, Michael
 40. 10/14/17 GEO Consultants Northwest Memo to Stephen Griffith - Koback, Chris
 41. Letter - Wooldridge, Kent F.
 42. Letter dated 10/14/17 - Koeleman, Fredericus
 43. Fax Letter dated 10/##/17 - Enestvedt, C. Kristian
 44. Sign Up To Testify In Favor Of List 10/16/17 - Hearings Office
 45. Sign Up To Testify In Opposition To List 10/16/17 - Hearings Office
 46. Record Closing Information - Hearings Office
 47. Letter dated 10/11/17 - Grorud, Christian
 48. Letter dated 10/11/17 - Leno, James & Diane Victoria
 49. 10/20/17 letter (3 pages) - Koback, Chris
 50. Memo to Hearings Officer dated 10/25/17 - Green, Kate

51. Environmental Review - Koback, Chris
52. Example - Decision of the Hearings Officer (LU 07-132746 LDS ENM AD (4070071)) - Koback, Chris
 - a. Example - Decision of the Hearings Officer (LU 09-116765 LDS EN M (4100007)) - Koback, Chris
53. Memorandum Public Works Conceptual Approval with Macadam Ridge Subdivision Site Plans attached - Koback, Chris
54. Memorandum Transportation Impacts - Koback, Chris
55. Fire Code Appeal Form - Koback, Chris
56. Excerpt from recent decision (LU 11-173927 EN GW) 4110032 - Koback, Chris
57. Macadam Ridge Type III Land Division - Comment for Record With Attachments 1-8 - Meier, Linda
58. Envelope with Letter from Kent Wooldridge, Letter between Sandoval and Leupp, and Letters and 13 Color Photographs - Wooldridge, Kent F.
59. Letter dated 10/29/17 - Lennox, Robert
60. Letter dated 10/25/17 - Lennox, Robert
61. Letter dated 10/29/17 - read as testimony 10/30/17 - Griffith, Stephen
62. Letter dated 10/29/17 - read as testimony - Griffith, Barbara J.
63. Letter read as testimony 10/30/17 - Griffith, Anna
64. Letter dated 10/30/17 read as testimony - Griffith, Robert
65. Letter to Hearings Officer - Baranow, Michael
66. Letter to City Planners dated 10/30/17 - Baranow, Michael
67. Letter read as testimony dated 10/29/17 - Andrews, Michael
68. Letter read as testimony dated 10/30/17 - Friedman, Jan E.
69. Written notes based on testimony 10/31/17 - Greenouh, Lynn
70. Letter dated 10/29/17 with map - Lidberg, Steve and Carol
71. Email from Brian Lee to Lennox and Shaver dated 10/13/17 - Lennox, Robert
72. Letter read as testimony - Dennis, Patricia
73. Letter dated 10/27/17 read as testimony - Peterson, Krista
74. Letter dated 10/28/17 read as testimony - Lennox, Michelle
75. Testify In Favor Of List - Hearings Office
76. Testify In Opposition To List - Hearings Office
77. Written request for continuance - Koback, Chris
78. Record Closing Information - Hearings Office
79. Macadam Ridge "PC" CD - Hiller-Webb, Shannon
 - a. Macadam Ridge "Mac" CD - Hiller-Webb, Shannon
 - b. Macadam Ridge "Mac" CD - Hiller-Webb, Shannon
80. Letter in Opposition dated 10/15/17 (fax) - Read, Maryellen
81. Letter in Opposition (fax) - Delsoldato, Jason & Emily
82. Letter in Opposition dated 10/12/17 (fax) - Meiners, Dennis & Leslie Lee
83. Memo with attachments - Baranow, Michael
 - a. Offs - Baranow, Michael
 - b. Ons - Baranow, Michael
84. Fax Letter dated 10/30/17 - Priest, Amanda
85. Fax Letter dated 10/30/17 - Peterson, Anthony
86. Fax Letter dated 11/3/17 - McCuaig, Carolyn
87. Fax Letter with attachments dated 11/5/17 (with duplicate letter) - Houck, Ann
88. Fax letter dated 10/30/17 - Enestvedt, Brintha
89. Fax "Due Process Objection" Letter from Lennox as President and Friedman as Neighbor dated 11/5/17 - South Burlingame Neighborhood Assoc.
90. Fax Letter dated 10/30/17 - Erickson, Sam
91. Fax Letter dated 10/30/17 - Erickson, Lily
92. Letter dated 11/5/17 - Carpenter, Stan
93. Letter with attachment dated 11/5/17 - Koenig, Julie
94. Updated materials provided by the Applicant - Williams, Sean

95. Letter (7 pages) dated 11/5/17 with Attachments 1-4 (1 page each) Attachment 5 (2 pages), Attachments 6-7 (1 page each) Attachment 8 (45 pages) - Meier, Linda
96. Fax Letter dated 11/6/17 (with duplicate) - Zumwalt, Roger
97. Fax Letter dated 10/29/17 - Hiller-Webb, Shannon
98. Fax Letter dated 11/6/17 - Zumwalt, Lorraine
99. Letter dated 11/6/17 - Baranow, Michael
 - a. Letter dated 11/6/17 - Baranow, Michael
 - b. Letter dated 11/6/17 with attached Dissertation and Thesis dated 3/13/2013 (90 pages) - Baranow, Michael
100. Letter dated 11/6/17 (5 pages) - Koback, Chris
 - a. Site Maps (2) - Koback, Chris
 - b. Schott & Associates 11/3/17 MEMO (11 pages) - Koback, Chris
 - c. Preliminary Environmental Review site map P62 - Koback, Chris
 - d. Teragan & Associates 11/5/17 Letter with attachments (4 pages) - Koback, Chris
 - e. Memorandum in Response to aerial video (7 pages) - Koback, Chris
 - f. Technical Memorandum dated 11/5/17 - Koback, Chris
101. Letter dated 10/29/17 - Hiller-Webb, Shannon
102. Documents forwarded from Shannon Hiller-Webb - Williams, Sean
103. Faxed documents from Shannon Hiller Webb - Williams, Sean
104. 11/13/17 letter from Robert Lennox/South Burlingame NA - Hiller-Webb, Shannon
105. 11/13/17 letter with attachments - Koback, Chris
 - a. Construction Management Plan - Koback, Chris
 - b. Construction Management Plan - Koback, Chris
 - c. Preliminary Land Division Submittal Plans (18 pages) - Koback, Chris
 - d. 11/2/17 Technical Memorandum from Eric Evans/Emerio Design - Koback, Chris
 - e. Preliminary Site Plan - Koback, Chris
 - f. Macadam Ridge Subdivision Plans (16 pages) - Koback, Chris
 - g. 11/5/17 Technical Memorandum from Geo Consultants Northwest - Koback, Chris
 - h. 11/8/17 Memo from Schott & Associates with tables (4 pages) - Koback, Chris
 - i. 11/9/17 letter to Joel Smith/Urban Forestry from Stephen Griffith - Koback, Chris
 - j. 11/12/17 letter from Stephen Griffith with attachment - Koback, Chris
 - k. E-mails (2 pages) - Koback, Chris
 - l. Staff Report and Recommendation in LU 16-273162 LDS (2 pages) - Koback, Chris
 - m. 11/9/17 Letter from Nate Takara/Fire Marshal - Koback, Chris
106. 11/14/17 letter - Koback, Chris
107. Power Point printout - BDS Planner's File
 - a. Staff Report (Duplicate) - BDS Planner's File
 - b. Handwritten notation from Edythe Leupp - BDS Planner's File
 - c. Email from Lennox to Green dated 10/6/17 - BDS Planner's File
 - d. Email from Griffith to Green & Williams dated 10/16/17 with attachments - BDS Planner's File
 - e. Email from Howard to Green with Wetland Land Use Notification Response attached - BDS Planner's File
 - f. Opposition Email from Vesey to Green dated 10/15/17 - BDS Planner's File
 - g. Opposition Email from Liskear to Green dated 10/15/17 - BDS Planner's File
 - h. 10/12/17 Macadam Ridge Project Management Plan for Ruby Creek Stormwater Outfall Project and Ruby Creek Sanitary Sewer re-route and connection (with duplicate) - BDS Planner's File
 - i. Memorandum dated 10/16/17 to HO from Koback (2 pages w/ duplicate) - BDS Planner's File
 - j. Letter dated 10/26/17 from MEI Group to Griffith (2 pages w/ duplicate) - BDS Planner's File
 - k. 10/12/16 Macadam Ridge Management Plan for Ruby Creek Stormwater (2 pages w/ duplicate) - BDS Planner's File
 - l. Memorandum to HO from Mobley, Lancaster Engineering dated 10/16/17 (6 pages) - BDS Planner's File
 - m. Memo Staff Report and Recommendations dated 10/26/17 by Schott & Associates (11 pages w/ duplicate) - BDS Planner's File

- n. Hand Delivery 10/25/17 - From Koback to Green & Williams (30 pages w/ 2 duplicate) - BDS Planner's File
- o. 10/26/17 From Koback to Green & Williams, Site plans (duplicate plans attached) - BDS Planner's File
 - (1) Preliminary Site Plan 4 of 25 (P 2.0) - BDS Planner's File **(8 ½ x 11" attached)**
 - (2) Preliminary Plat 6 of 25 (P 3.0) - BDS Planner's File **(8 ½ x 11" attached)**
 - (3) Preliminary Environmental Review 14 of 25 (P 6.2) - BDS Planner's File **(8 ½ x 11" attached)**
 - (4) Preliminary Tree Removal and Preservation Plan 15 of 25 (P 7.0) - BDS Planner's File **(8 ½ x 11" attached)**
 - (5) Preliminary Tree Removal and Preservation Plan 16 of 25 (P7.1) - BDS Planner's File **(8 ½ x 11" attached)**
 - (6) Preliminary Tree Removal and Preservation Plan 18 of 25 (P 7.3) - BDS Planner's File **(8 ½ x 11" attached)**
- p. Letter dated 10/27/16 from Koback to Green & Williams (no attachments) - BDS Planner's File
- q. Letter to Hearings Officer from Green & Williams - BDS Planner's File
- r. Email from Lennox to Williams & Green 10/27/17 - BDS Planner's File
- s. Email from Baranow to Green & Williams with TriMet letter attached - BDS Planner's File
- t. Letter dated 10/20/17 From Koback to Hearings Office - BDS Planner's File
- u. 10/19/17 Land Use Response Addendum from BES to Green - BDS Planner's File
- v. Email from Lennox to Williams 10/18/17 - BDS Planner's File
- w. Email from Baranow to Williams dated 10/17/17 - BDS Planner's File
- x. Email from Griffith to Williams dated 10/17/17 - BDS Planner's File
- y. Email from Lennox to Williams dated 10/16/17 - BDS Planner's File
- z. Email from Griffith to Williams dated 10/16/17 - BDS Planner's File
- aa. Email from Butler-Brown to Williams with attachments dated 10/16/17 (6 pages) - BDS Planner's File
- bb. Preliminary Site Maps 14, 16, 4, 6, 14, 15, 18 (8.5 x 14) - BDS Planner's File
- cc. Type III Planner's File (31 pages total) - BDS Planner's File
- 108. Interim Order Mailing List - Hearings Office
- 109. Returned Mail to Emerio Design - Hearings Office
- 110. Returned Mail to David Lacka - Hearings Office
- 111. Returned Mail to Theodore Norton - Hearings Office
- 112. 11/27/17 letter (2 pages) - Koback, Chris
- 113. 11/30/17 letter (2 pages) - Linn, Lorie
- 114. 11/30/17 letter (2 pages) - Preisler, Vanessa
- 115. 12/5/17 letter - Sanders, Kathy and Richard
- 116. Returned Mail (Interim Order) to Jim Diamond - Hearings Office
- 117. 11/30/17 letter (2 pages) - Hamilton, Rose Marie
- 118. 12/6/17 letter - Vesey, Robin
- 119. 12/6/17 letter - Liskear, Jack
- 120. 12/14/17 Final Written Argument (14 pages) - Koback, Chris
- I. Council Appeal
 - 1. South Burlingame Neighborhood Association (SBNA) Appeal Submittal
 - 2. Robert N Griffith, letter regarding SBNA appeal and fee waiver request
 - 3. Appealed Decision
 - 4. Notice of Appeal
 - 5. Notice of Appeal mailing list
 - 6. Council Appeal Packet
 - a. Memo from Rebecca Esau, BDS, received January 25, 2018
 - b. Impact Statement

(Received before Hearing)

 - 7. Letter dated 1/28/18 – Diana Bennett, opposes proposal
 - 8. Letter dated 1/29/18 – Andrea Kampic, opposes proposal

9. Letter dated 1/30/18 – Robert H. Brown, opposes proposal
10. Letter dated 1/27/18 – James and Shirley Tormey, oppose proposal
11. Letter dated 1/31/18 – Alice Fay, opposes proposal
12. Letter dated 2/3/18 – Sheila Pastore, opposes proposal
13. Letter dated 2/4/18 – Lloyd and Catherine Taylor, oppose proposal
14. Letter dated 2/4/18 – Linda Martin, opposes proposal
15. Letter dated 2/4/18 – John Irvin Jones II, opposes proposal
16. Letter dated 2/4/18 – Stephanie Jacobson, opposes proposal
17. Letter dated 2/4/18 – Angela Corman, opposes proposal
18. Letter dated 2/4/18 – Cheryl DeGroot, opposes proposal
19. Letter dated 2/4/18 – Richard Chapman, opposes proposal
20. Letter dated 2/4/18 – Karin Kelsey, opposes proposal
21. Letter dated 2/4/18 – Christian Grorud, opposes proposal
22. Letter dated 2/4/18 – Stephen Schmidt, opposes proposal
23. Letter dated 2/4/18 – Nina Simosko, opposes proposal
24. Letter dated 2/4/18 – Stacia Gibson, opposes proposal
25. Letter dated 2/4/18 – Carol Patrick, opposes proposal
26. Letter dated 2/4/18 – Shannon Brown and Lance Cole, oppose proposal
27. Letter dated 2/5/18 – Jane Gordon, opposes proposal
28. Letter dated 2/5/18 – Stephen and Cheryl Campbell, oppose proposal
29. Letter dated 2/5/18 – Alicia Calligan, opposes proposal
30. Letter dated 2/5/18 – Jane Gordon, opposes proposal
31. Letter dated 2/5/18 – Stephen Griffith, SBNA member in support of the proposal because environmental impacts will be mitigated for and 10 acres of land will be preserved as a natural area
32. Letter dated 2/5/18 – Robert Griffith, in support of the proposal and the recommendation of the Hearings Officer
33. Letter dated 2/5/18 – Ethel Shuldman and Jeff Edmundson, oppose proposal
34. Letter dated 2/5/18 – Kathleen Pearson, opposes proposal
35. Letter dated 2/5/18 – Ed Sullivan, opposes proposal
36. Letter dated 2/5/18 – Tina Towers, opposes proposal
37. Letter dated 2/5/18 – Wendi Makuch, opposes proposal
38. Letter dated 2/5/18 – Carrie A Richter, Appellants' representative, appeal grounds and opposition to proposal
39. Letter dated 2/5/18 – Christopher P Koback, Applicants' representative, in support of the proposal and the recommendation of the Hearings Officer, rebuts appeal grounds
40. Letter dated 2/5/18 – Christopher P Koback, Applicants' representative, in dispute of the validity of the SBNA appeal based on procedural error
41. Letter dated 2/5/18 – Cynthia Polance, opposes proposal
42. Letter dated 2/5/18 – Julie Nash, opposes proposal
43. Letter dated 2/5/18 – Janet Kuh-Urbach, opposes proposal
44. Letter dated 2/5/18 – Scott Shufelt, opposes proposal
45. Letter dated 2/5/18 – Ken and Tammy Leatherman, oppose proposal
46. Letter dated 2/5/18 – Rosi Goldsmith, opposes proposal
47. Letter dated 2/5/18 – Deborah Honthamer, opposes proposal
48. Letter dated 2/5/18 – O.R. Howard, opposes proposal
49. Letter dated 2/5/18 – Tom and Cathy Angerilli, oppose proposal
50. Letter dated 2/5/18 – Peggy Jackson, opposes proposal
51. Letter dated 2/5/18 – Becky Wright, opposes proposal
52. Letter dated 2/5/18 – Keith Richardson, opposes proposal
53. Letter dated 2/5/18 – Wendy Broussard, opposes proposal
54. Letter dated 2/5/18 – John Croft, opposes proposal
55. Letter dated 2/5/18 – Donald Mickey, opposes proposal
56. Letter dated 2/5/18 – Barbara Wankowicz, opposes proposal
57. Letter dated 2/5/18 – David Boulanger, opposes proposal
58. Letter dated 2/5/18 – Sheryl Poole Todd opposes proposal

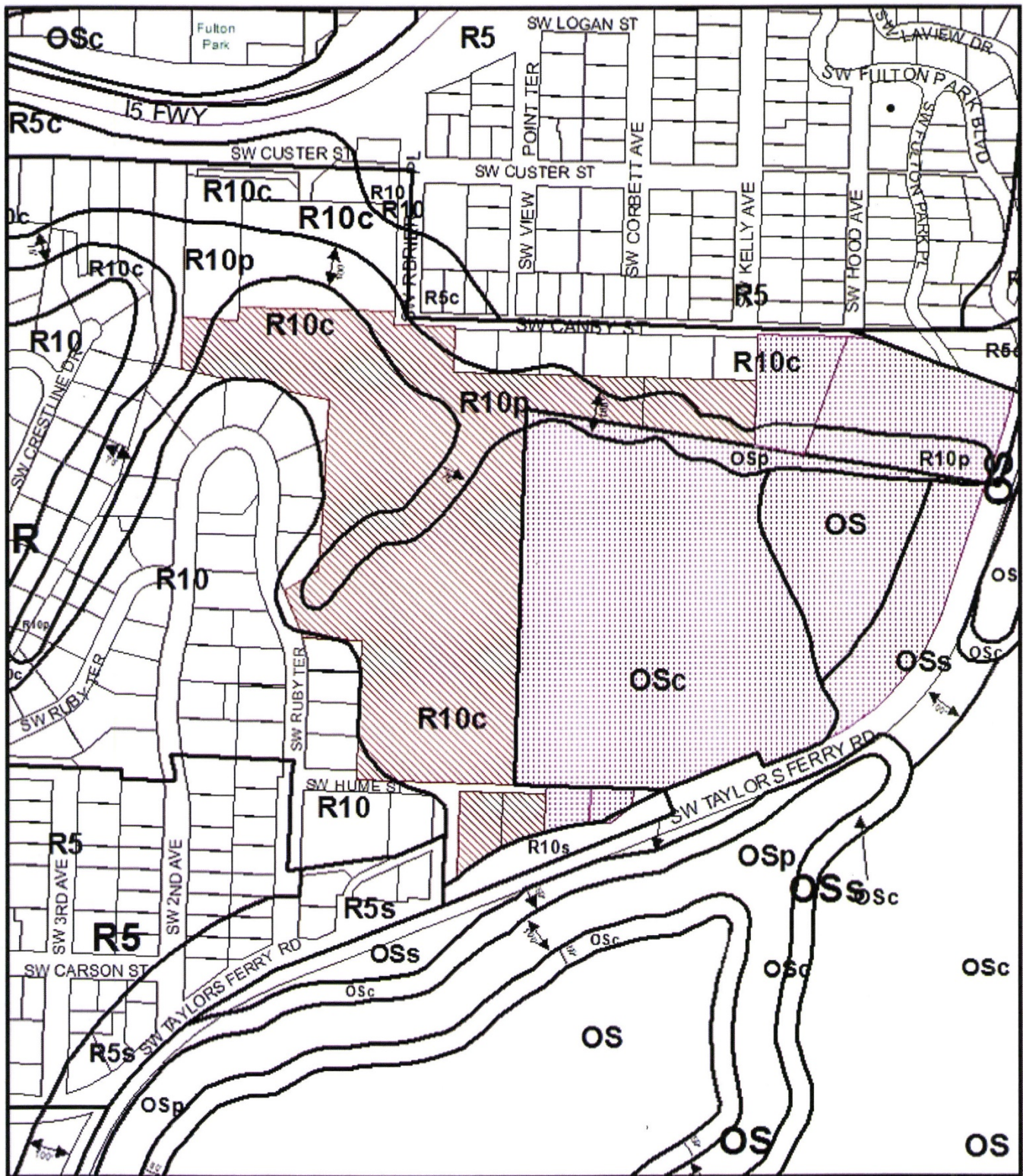
59. Letter dated 2/5/18 – Elaine Leback, opposes proposal
60. Letter dated 2/5/18 – LJ Herskowitz, opposes proposal
61. Letter dated 2/5/18 – Kenneth and Natalia Bronner, oppose proposal
62. Letter dated 2/5/18 – Shai Huang, opposes proposal
63. Letter dated 2/5/18 – Elaine Nishimura, opposes proposal
64. Letter dated 2/5/18 – Matt DiVeronica, opposes proposal
65. Letter dated 2/5/18 – Shantara Grace, opposes proposal
66. Letter dated 2/5/18 – Brienna Grover, opposes proposal
67. Letter dated 2/5/18 – Jean Duffett, opposes proposal
68. Letter dated 2/5/18 – Sandra Sheets, opposes proposal
69. Letter dated 2/6/18 – Meta Bruner, opposes proposal
70. Letter dated 2/6/18 – Lynn Bey, opposes proposal
71. Letter dated 2/6/18 – Sarah Alexander Smith, opposes proposal
72. Letter dated 2/6/18 – Robert and Kate Parks, oppose proposal
73. Letter dated 2/6/18 – David Nolfi, opposes proposal
74. Letter dated 2/6/18 – Nancy Swaim, opposes proposal
75. Letter dated 2/6/18 – Leslie and Craig Goodman, oppose proposal
76. Letter dated 2/6/18 – Vanessa Preisier, opposes proposal
77. Letter dated 2/6/18 – Emily Bailey, opposes proposal
78. Letter dated 2/6/18 – Matthew Spicer, opposes proposal
79. Letter dated 2/6/18 – Andrea Danehower, opposes proposal
80. Letter dated 2/6/18 – Paul Medlyn, opposes proposal
81. Letter dated 2/6/18 – David LaPrete, opposes proposal
82. Letter dated 2/6/18 – Ann Houck, opposes proposal
83. Letter dated 2/6/18 – Dorothy and Dennis Payton, oppose proposal
84. Letter dated 2/6/18 – Deborah Ohlsen and Neil Ramiller, oppose proposal
85. Letter dated 2/6/18 – Kristin Dillon, opposes proposal
86. Letter dated 2/6/18 – Ann L Carlson, opposes proposal
87. Letter dated 2/6/18 – Jessica Smith, opposes proposal
88. Letter dated 2/6/18 – Shanie Mason, opposes proposal
89. Letter dated 2/6/18 – Meredith Hamm, opposes proposal
90. Letter dated 2/6/18 – Barbara Anne Dickie, opposes proposal
91. Letter dated 2/6/18 – David Cipriano, opposes proposal
92. Letter dated 2/6/18 – Carolyn McCuaig, opposes proposal
93. Letter dated 2/6/18 – Brad McCuaig, opposes proposal
94. Letter dated 2/6/18 – Evan Pierce, opposes proposal
95. Letter dated 2/6/18 – Dan and Jan Hicks, oppose proposal
96. Letter dated 2/6/18 – Danielle Ramos, opposes proposal
97. Letter dated 2/6/18 – Julie Unangst, opposes proposal
98. Letter dated 2/6/18 – Kerry Lewis, opposes proposal
99. Letter dated 2/6/18 – Matt Franklin, opposes proposal
100. Letter dated 2/6/18 – Teri Danielson, opposes proposal
101. Letter dated 2/6/18 – Greg Lansing, opposes proposal
102. Letter dated 2/6/18 – Sheila Morris, opposes proposal
103. Letter dated 2/6/18 – Melinda Mallek, opposes proposal
104. Letter dated 2/6/18 – Nancy Steensma, opposes proposal
105. Letter dated 2/6/18 – Susan Jacobsen, opposes proposal
106. Letter dated 2/6/18 – Chris Wanderer, opposes proposal
107. Letter dated 2/6/18 – Brian Mosher, opposes proposal
108. Letter dated 2/6/18 – Rosie Rogel, opposes proposal
109. Letter dated 2/6/18 – Laura Kuperstein, opposes proposal
110. Letter dated 2/6/18 – Mary Wills, opposes proposal
111. Letter dated 2/6/18 – Sarah Lowles, opposes proposal
112. Letter dated 2/6/18 – Gail Stiffler, opposes proposal
113. Letter dated 2/6/18 – Patricia Dennis, opposes proposal

114. Letter dated 2/6/18 – Carlos Lopez, opposes proposal
115. Letter dated 2/6/18 – John Gibbon, Southwest Neighborhoods, Inc, opposes proposal
116. Letter dated 2/6/18 – Camille Stark, opposes proposal
117. Letter dated 2/6/18 – Erika Carter, opposes proposal
118. Letter dated 2/6/18 – Laurie Flynn, opposes proposal
119. Letter dated 2/6/18 – Paul Platosh, supports proposal
120. Letter dated 2/6/18 – Terri Franklin, cites concerns about landslide hazards
121. Letter dated 2/6/18 – Linda Miller, opposes proposal
122. Letter dated 2/6/18 – Mark H Hankin, opposes proposal
123. Letter dated 2/6/18 – Patti Henry, opposes proposal
124. Letter dated 2/6/18 – Robin Jensen, opposes proposal
125. Letter dated 2/6/18 – Z Plishka, opposes proposal
126. Letter dated 2/6/18 – Courtney Woodside, opposes proposal
127. Letter dated 2/6/18 – Elizabeth Draper, opposes proposal
128. Letter dated 2/6/18 – Leslie Neibert, opposes proposal
129. Letter dated 2/6/18 – Holly Eby, opposes proposal
130. Letter dated 2/6/18 – Kathy McIntosh, opposes proposal

(Received Day of Hearing)

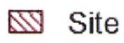
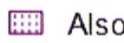

131. Letter dated 2/7/18 – Christine Tau, opposes proposal
132. Letter dated 2/7/18 – Lee Draper, opposes proposal
133. Letter dated 2/7/18 – Elliott Mecham, supports proposal
134. Letter dated 2/7/18 – Martin Grasmeyer, opposes proposal
135. Letter dated 2/7/18 – Erik Gilson, opposes proposal
136. Letter dated 2/7/18 – Joel Hanawalt, opposes proposal
137. Letter dated 2/7/18 – Anne and Brian Berry, oppose proposal
138. Letter dated 2/7/18 – Thad Hensleigh, opposes proposal
139. Letter dated 2/7/18 – Toni Holloway, opposes proposal
140. Letter dated 2/7/18 – Taro and Tamela Toyoda, oppose proposal
141. Letter dated 2/7/18 – Shirley Kengla, opposes proposal
142. Letter dated 2/7/18 – Amy Gupta, opposes proposal
143. Letter dated 2/7/18 – Chuck and Lynn Greenough, oppose proposal
144. Letter dated 2/7/18 – Brian and Anne Berry, oppose proposal
145. Letter dated 2/7/18 – Kelly Batte, opposes proposal
146. Letter dated 2/7/18 – Stan Carpenter, opposes proposal
147. Letter dated 2/7/18 – James Leno, opposes proposal
148. Letter dated 2/7/18 – Karen Martin, opposes proposal
149. Letter dated 2/7/18 – Marilyn Oberg, opposes proposal
150. Letter dated 2/7/18 – Julie Koenig, opposes proposal
151. Letter dated 2/7/18 – Gerriann Fox, opposes proposal
152. Letter dated 2/7/18 – Kristian Enestvedt, opposes proposal
153. Letter dated 2/7/18 – Robert Lennox, SBNA president, Appellants opposition to proposal
154. Letter dated 2/7/18 – Dr. Nijay K Gupta, opposes proposal
155. Letter dated 2/7/18 – Carole Ivy, opposes proposal
156. Letter dated 2/7/18 – Sharyl Hankin, opposes proposal
157. Letter dated 2/7/18 – Claudia Montagne, opposes proposal
158. Letter dated 2/7/18 – Steve Dauenhauer, opposes proposal
159. Letter dated 2/7/18 – Mariana Karami, opposes proposal
160. Letter dated 2/7/18 – Darryn Ambrose, opposes proposal
161. Letter dated 2/7/18 – Megan Lanen Simmons, opposes proposal
162. Letter dated 2/7/18 – Shonda Murphy, opposes proposal
163. Letter dated 2/7/18 – Shakti Bult, opposes proposal
164. Letter dated 2/7/18 – Matthew, opposes proposal
165. Letter dated 2/7/18 – Carol Lidberg, opposes proposal

166. Letter dated 2/7/18 – Krista Peterson, opposes proposal
167. Letter dated 2/7/18 – Eliana Andrews, opposes proposal
168. Letter dated 2/7/18 – Michael and Karen Andrews, oppose proposal
169. Letter dated 2/7/18 – Lee Cannon, opposes proposal
170. Letter dated 2/7/18 – James Hussey, opposes proposal
171. Letter dated 2/7/18 – Seth Dryden, opposes proposal
172. Letter dated 2/7/18 – Linda Meier, opposes proposal
173. Letter dated 2/7/18 – Carol Hazzard, opposes proposal
174. Letter dated 2/7/18 – Michelle Lennox, opposes proposal
175. Letter dated 2/7/18 – John Holderness, opposes proposal
176. Letter dated 2/7/18 – Robin Harman, opposes proposal
177. Letter dated 2/7/18 – Robert Lennox, opposes proposal
178. Letter dated 2/7/18 – David Henington, opposes proposal
179. Letter dated 2/7/18 – Jan E Friedman, opposes proposal
180. Letter dated 2/7/18 – Shannon Hiller-Webb, opposes proposal
181. Letter dated 2/7/18 – Scott Drushella, opposes proposal
182. Letter dated 2/7/18 – Brintha Enestvedt, opposes proposal
183. Letter dated 2/7/18 – Brintha Enestvedt, opposes proposal
184. Letter dated 2/7/18 – Leah Klass, opposes proposal
185. Letter dated 2/7/18 – Joel Hanawalt, opposes proposal
186. Letter dated 2/7/18 – Joel Hanawalt, opposes proposal
187. Letter dated 2/7/18 – Lendon Porter, opposes proposal
188. Letter dated 2/7/18 – John Gibbon, Markham Neighborhood Watershed Representative, opposes proposal
189. Letter dated 2/7/18 – Christopher P Koback, representative of Applicants, disputes information in 2/5/201[8] letter from Appellant’s counsel
190. Letter dated 2/7/18 – Merilee D Karr MD, opposes proposal
191. Staff PowerPoint Presentation to City Council
192. Testimony sign-up sheet, February 7, 2018
193. South Burlingame Neighborhood Association PowerPoint Presentation to City Council

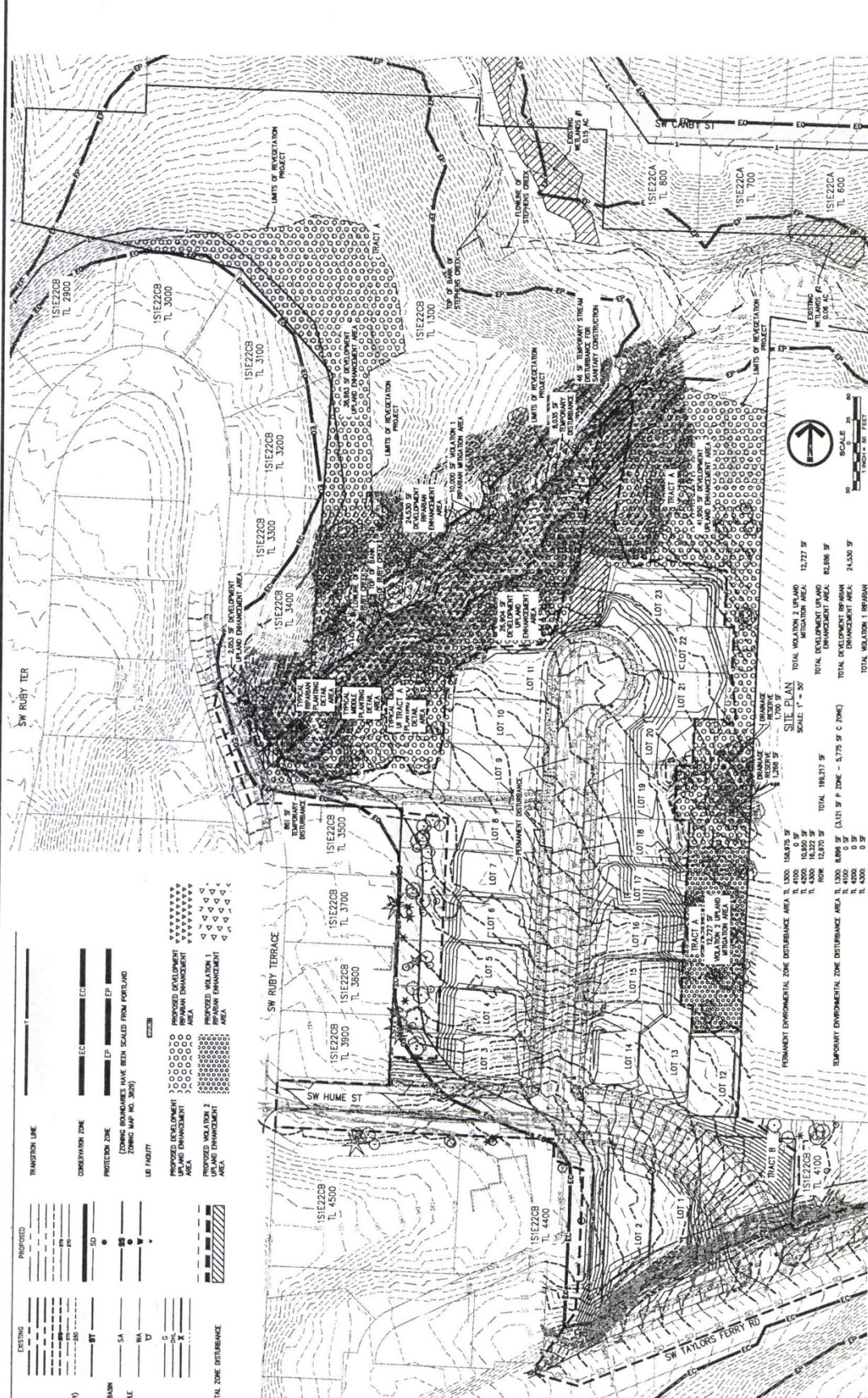


ZONING

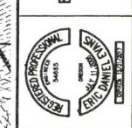


-  Site
-  Also Owned Parcels
-  Historic Landmark

File No. LU 16-213734 LDS ENM EV
 1/4 Section 3829
 Scale 1 inch = 300 feet
 State_Id 1S1E22CB 1300
 Exhibit B (Feb 01, 2017)



PROF. JOB NO. T80025
 SHEET NO. P 61
 13 OF 25



EMERIO Design
 8445 SW PALMBOULE AVENUE, SUITE 100
 BEAVERTON, OREGON 97008
 TEL: (503) 638-9142
 WWW.EMERIODSIGN.COM

BUREAU OF TRANSPORTATION
 STEVE MONCK, COMMISSIONER
 STEVE TOWNSEN, P.E., CITY ENGINEER

BUREAU OF ENVIRONMENTAL SERVICES
 MICK FISH, COMMISSIONER
 WILLIAM F. RYAN, P.E., CHIEF ENGINEER

APPROVALS:

DESIGNED BY	DATE APPROVED
CHECKED BY	DATE APPROVED
PROJECT COMPLETED	
MAP CORRECTED BY	
CHECKED BY	
DATE	
DESCRIPTION	
REVISIONS	



LEGEND

EXISTING	PROPOSED
RIGHT OF WAY	PROPOSED DEVELOPMENT
LOT LINE	PROPOSED DEVELOPMENT
EQUIPMENT	PROPOSED DEVELOPMENT
TO CONTOUR	PROPOSED DEVELOPMENT
WALL	PROPOSED DEVELOPMENT
STORM DRAIN LINE	PROPOSED DEVELOPMENT
STORM DRAINAGE CATCH BASIN	PROPOSED DEVELOPMENT
SANITARY SINKER LINE	PROPOSED DEVELOPMENT
SANITARY SINKER MANHOLE	PROPOSED DEVELOPMENT
FIRE HYDRANT	PROPOSED DEVELOPMENT
U/C TELEPHONE LINE	PROPOSED DEVELOPMENT
POWER LINE	PROPOSED DEVELOPMENT
FENCE	PROPOSED DEVELOPMENT
WETLAND LIMITS	PROPOSED DEVELOPMENT
DISTURBANCE LIMIT	PROPOSED DEVELOPMENT
TEMPORARY ENVIRONMENTAL ZONE DISTURBANCE	PROPOSED DEVELOPMENT

CASE NO. 16-215734
 EXHIBIT C-13