

Ottbone Investments, LLC

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4/27/2018

Ms. Hamilton

c/o Leslie Hamilton, AICP, Senior Planner

Planning and Building Department

P.O. Box 369

Lake Oswego, OR 97034

lhamilton@lakeoswego.city

Dear Ms. Hamilton,

In response to the recent letters submitted by Earth Engineers, Inc (EEI) and Black Helterline, LLP; both representing Nelson Rutherford at 17090 Fernwood Drive, Lake Oswego, OR 97034. Per the process of this application I wanted to take the opportunity to respond to both submitted letter's and provide some additional information and detail regarding the application, LU 17-0065.

Other than a few points from the Black Helterline submitted letter, I will not be providing much of a response to their letter, as they are primarily attempting to refer to City of Lake Oswego codes that don't either pertain to my application or that I have already addressed and met all the referenced codes in previous documents; therefore, further explanation would only be redundant of already submitted information. Although Black Helterline has stated some specific City codes, they are primarily using the comments from the EEI letter to try and state their arguments on behalf of their clients, but are NOT qualified as a civil engineer or Geotechnical engineer. Additionally, much of the content of both letters submitted by EEI and Black Helterline were done without referencing our latest submitted facts and report from Rapid Soils Solution (RSS), which one will clearly see our latest submission to the City of Lake Oswego on 4/20/18, addresses much of their comments and concerns. In addition to our response of the latest submitted letters by the opposition, we

have recently been to the two properties (17080 and 17090 Fernwood) and have completed additional soils analysis on each of the mentioned properties. Please refer to the latest RSS soils analysis report (Addendum II) as a part of this application and response to any of the neighbors' concerns. The Submitted Addendum I, by RSS is still relevant and pertinent to this application; however, Addendum II addresses not only the new soils analysis, but also encompasses the additional questions and concerns from the neighbors, EEI and Black Helderline that was submitted on 4/20/18.

The following are our comments related to the latest submitted letters by EEI and Black Helderline.

1. EEI's letter has referenced that the Development Review Commission (DRC) provide a more thorough evaluation of the impact to the proposed stormwater disposal system (I.E. rain garden with a drywell system) on the neighboring lots, especially as it pertains to slope stability. *In our recently submitted letter by RSS, dated 4/20/18, we have clearly provided evidence that there should be no concern to the soils stability with our site. More recently and as a part of this latest submittal of additional information, RSS has completed two additional soils analysis at both 17080 and 17090 Fernwood as requested by EEI and the DRC. Please refer to "Addendum II" dated 4/27/18 by Rapid Soils Solutions. In summary of "Addendum II", one will clearly see, there should no concern for the adjacent properties due to the installation of the proposed rain garden and "drywell"(which will now be referred to as the APPROVED OVERFLOW DISCHARGE POINT). RSS's latest tests and analysis (Addendum II) has defined the safety and soils stability at these locations and the entire site.*
2. EEI and Black Helderline both reference the Stormwater Management Manual (SWMM) and that it is required to provide an overflow pipe to and approved discharged location. *Although there are many rain gardens installed in the city of Lake Oswego without an overflow pipe and the City has acknowledged that our design and submittal is approved, we are going to incorporate the once "redundant system" as our now, approved overflow discharge location. Although this will likely never be needed, we have provided additional soils analysis on the two adjacent properties (17080 and 17090 Fernwood Drive) to show the stability of the site and the neighboring properties. Please refer to both Addendum I and II of the RSS report.*



3. It has additionally been brought up by EEI that the SWMM standards prohibit drywells on slopes greater than 25%. As shown in our previous application submittals, we are not installing a drywell on slopes greater than 25%. Per our topography map and the area we are installing our overflow discharge, is less than 25%. We have additionally addressed the slope stability as noted above and have provided these positive results in both Addendum I and II of the RSS reports. On 4/25/18 Troy Hull of EEI was present during our testing of the soil on the neighboring property and reiterated he was not concerned of the steepness to the slope as it pertained to the "drywell" or overflow discharge point. He additionally made reference that he had informed his clients to that fact.

4. Section 50.06.006 has been brought up many times throughout EEI's and Black Helderline latest submittal. Without taking the time to list every section and rebut every section of this code, as to our compliance; a quick summary should be sufficient for the City of Lake Oswego and the DRC. 50.06.006 is a City code that refers to Geological hazards and stormwater. This code requires a registered civil engineer experienced in soils engineering (I.E. a geotechnical engineer) to certify the contemplated project will be safe where it is known to be existing landslide hazard area. Much of the area in Lake Oswego are labeled as potential landslide locations, since much of our natural land in Lake Oswego has a greater than 12% slope. With that being said, it is very common to have a geotechnical engineer do a soils analysis to ensure the land/site is safe from any potential landslide in the future or after an improvement is made on the particular site. We have provided that information in our original application and RSS has additionally provided this analysis in the 4/20/18 report and the latest report on 4/27/18. Every report and analysis has shown without question, that our soil is stable and that installing the proposed rain garden and overflow discharge point will not affect the soil nor its stability on our site, as well as the neighboring property. Both EEI and Black Helderline, seem to reference these codes to show we have not or cannot comply. This is clearly not the case and we have provided an extensive amount of facts and evidence to ensure the neighbors, City of Lake Oswego and the DRC, this project is safe and meets all the required standards (please refer to the RRS reports- Addendum I and II).

5. We still have some concerns of the infiltration rates used in the stormwater disposal system design, was another topic brought up by EEI. We have addressed



this, and have it clearly defined in our reports. It was discussed in greater detail during the last DRC hearing and additionally confirmed by the City staff present. The tests we did are very common and have been shown to be more than adequate by the City of Lake Oswego and its staff. An auger test been completed, which provided a positive result and have also completed a PIT test near the proposed rain garden, which again provided adequate and positive results for infiltration on this site. As mentioned earlier, the procedure of this testing is done the same way on almost every site in the City of Lake Oswego; furthermore, the City's outside storm analysis team has confirmed and approved this common practice.

6. EEI's concerns related to the top elevation of the of the overflow drywell. The City of Lake Oswego SWMM requires that "the top of drywell must be below lower than the floor elevation of basements in immediately adjacent homes." Although this code can be interpreted in many ways, this standard does not apply, as it is not the primary discharge facility. It is merely the overflow discharge point to the rain garden as stated earlier, which the City of Lake Oswego concurs. Additionally, there is no specific code or design to review the discharge point; However, it meets the standards of an approved drywell facility by our infiltration rate of 2" or more per hour, not in an area greater than 25% and our licensed geotechnical professional RSS, approving the location through multiple soil tests on our site, as well as the adjacent neighbors at 17080 and 17090 Fernwood Drive. I also wanted to add the Commission was primarily concerned about the stability of the land and soil at or near the proposed locations of the discharge point and the rain garden. In both addendums, we have provided substantial and documented evidence to the land stability and safety of the adjacent neighbors.

Item 7 addresses the conveyance of the parcel, which is not related to slope stability/ stormwater facilities.

- ~~7. Black Helterline: "Since the hearing, the applicant/Owner has conveyed away the parcel. It is unknown at the time of this letter whether the new owner consents to the continuance of this application and is aware of the issues under dispute. Please refer to the provided purchase and sale agreement and its addendums. The new owners are very much aware of this application and where it is in the approval process. Without violating the privacy of the new owners, I have only attached what I think is pertinent to this question brought up by Black Helterline. If the City of Lake Oswego or the DRC wishes to see the fully~~

~~executed agreement. I am sure it will be ok, but I will need to check with counsel to ensure I am not violating the new owners privacy; However, the new owners are excited about their new home and the approval of this application.~~

Item 8 addresses tree removal, which is not related to slope stability/stormwater facilities.

8. ~~Black Helterline additionally referenced 55.02 and 55.02.084, which is the removal of tree's and its mitigation. I will defer to the City of Lake Oswego and its staff to relevance and the compliance of this code. I will add that RSS has addressed the issues with the removal of the trees for the partition application and future removal of trees for the residential home and the stability of the site. Please refer to RSS's report, Addendum II for a more detailed analysis and facts regarding the tree removal.~~

I appreciate the time and effort with both the staff at the City of Lake Oswego and the Development Review Commission. I understand there are many opposing opinions and arguments to this application, but I strongly ask the Development Review Commission to consider all the comments and concerns through this lengthy process and see that I have met every concern and question the opposing side has brought up or contended, as well as the Development Review Commissions comments and concerns. Through this lengthy process we have additionally provided an extensive analysis of the safety and stability of the soil and any potential landslide that may occur at this site. More specifically at the proposed rain garden and approved overflow discharge point and the neighboring property's 17080 and 17090 Fernwood Drive at the request of the DRC, and the adjacent neighbors. We have additionally met all the codes requirements by the City of Lake Oswego, with regards to infiltration rates, setbacks, ingress and egress to the site, utilities and more. I do understand the sensitivity with opposition, but we have concretely met every requirement from the codes set forth by the City of Lake Oswego and more importantly, the people who helped create these codes. We have provided substantial evidence, tests, test results and professional opinions that we have complied with or exceeded all of the standards and codes to ensure we absolutely have a safe and stable site to create this partition for a future residential home. The City of Lake Oswego and its staff recommends this application be approved and we encourage the Development Review Commission to approve this application as well.

Sincerely,

Sean Foushee- Ottbone Investments, LLC



