



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

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

Date: July 15, 2009
To: Interested Person
From: Kathy Harnden, Land Use Services
503-823-7834

**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN
YOUR NEIGHBORHOOD**

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-182770 EN
UNINCORPORATED MULTNOMAH COUNTY

GENERAL INFORMATION

Applicant: Gregory Kirby
Multnomah County
1620 SE 190th Ave
Portland OR 97233

Owners: Elaine R Gossman
3909 SW 52nd Pl
Portland, OR 97221-2118

Judee K Axelsen
1526 Alki Ave SW #206
Seattle, WA 98116-1889

Site Address: 3833 SW 52ND Place

Legal Description: TL 2600 LOT 22&23 BLOCK 7, WILCOX ESTATES
Tax Account No.: R909703100
State ID No.: 1S1E07DB 02600
Quarter Section: 3424

Neighborhood: Bridlemile, contact Karen Tabata at 503-292-4377.
Business District: None
District Coalition: Southwest Neighborhoods Inc., contact Leonard Gard at 503-823-4592.
Plan District: None
Other Designations: Sites with 20% slopes or greater; potential landslide hazard area

Zoning: R10c – Residential 10,000 (R10) with the environmental conservation (c) overlay

Case Type: EN – Environmental Review

Procedure: Type II, an administrative decision with appeal to the Hearings Officer

Proposal:

A Multnomah County stormwater catch basin diverted water to an outfall that allowed stormwater to flow overland between two houses, down a 60-percent slope to a small tributary of the East Fork of Columbia Creek. The stormwater flow had eroded a 6-foot deep gully in an easement across private property between the two houses. Erosion had reached the point where it was threatening the home located at 3833 SW 52nd Place. Multnomah County determined that the stormwater should be piped through the easement in order to permanently alleviate any potential destabilization of the site. Because the home was in imminent danger, Multnomah County took immediate action. The County installed a 56-foot long, 18-inch diameter pipe from the end of the existing stormwater pipe in SW 52nd Street down the slope to a riprap outfall in the Columbia Creek tributary west of the house.

Most of the disturbance area for the new pipe was outside the environmental zone. The temporary disturbance area in the conservation resource area was approximately 413 SF, and the permanent disturbance area in the resource area was 150 SF. No trees were removed from the resource area of the environmental zone, although one western red cedar was removed from the transition area. Six trees were removed from areas outside the environmental zone in order to access the site. The tree removal and disturbance areas outside the environmental zone are not included in the environmental review. Because no trees were removed from the resource area, tree removal is not subject to this review.

Multnomah County submitted a mitigation plan that includes planting 18 native trees, 3 non-native trees, 270 shrubs, and 52 groundcovers within the overall site area, both in and outside of the environmental zone. The non-native trees will be planted outside the environmental zone. Two alders and 5 western red cedars are to be planted in the transition area and groundcovers are to be planted in the trenched area within the environmental zones at a rate of 3 shrubs and 8 groundcovers per 10 square feet of disturbance area.

The project requires review because the 18-inch pipe exceeds the 4-inch diameter allowed by Standard 33.430.180.F, *Standards for Stormwater Outfalls*.

Relevant Approval Criteria:

To be approved, this proposal must comply with the approval criteria of Chapter 33.430, the *Environmental Zones*. The relevant criteria are:

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

PUBLIC REVIEW COMMENTS

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on **June 10, 2009**.

1. Agency Review: Several Bureaus and agencies responded to this proposal. Exhibits E contain additional details. The comments are addressed under the appropriate criteria for review of the proposal.

2. Neighborhood Review: No written responses were received from either the Neighborhood Association or notified property owners in response to the proposal.

SITE INFORMATION

Site and Vicinity: The site is located in a well-developed residential neighborhood in a Multnomah County pocket in southwest Portland. The subdivision was created in the early 1960s and the subject site lies south of SW Patton Road and north of SW Thomas Road. The area is characterized by rolling hills scored by steep ravines containing small to medium sized creeks. The subject tributary is about 350 feet long and is tributary to what appears to be an east fork of Columbia Creek. The larger stream is not named but joins Columbia Creek about 0.4 miles below the site. Columbia Creek is a tributary to Fanno Creek, which it joins approximately 0.6 miles downstream from the site.

Zoning: The R10 zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 6,000 square feet. Newly created lots must have a minimum density of 1 lot per 10,000 square feet of site area. The provisions of this zone allow this use; these provisions are not specifically addressed through this Environmental Review.

Environmental zones, “c” - conservation and “p” - protection overlays, 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 that there are no prior land use reviews associated with the site that would have implications for this case.

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

The project site is mapped within the *Fanno Creek Resource Management Plan*, as Site #124 of the *Fanno Creek and Tributaries Conservation Plan*. This *Plan* identifies steep headwater tributaries of Fanno Creek flowing through steep ravines, which contain native forests in advanced succession. The forested areas were recommended for environmental protection zones (pg. 283). Identified resources and functional values within Resource Site 124 include perennial and seasonal streams, wetlands, forest habitat, fish and wildlife habitat, groundwater, slope stabilization, water quality, storm drainage, open space scenery, education and recreation. Functional values of these resources include wildlife habitat, slope stabilization and stormwater treatment.

The project site consists of only a small portion of Resource Site 124. Significant resources on the site include a headwater stream and mixed coniferous/deciduous forest habitat. The forest provides wildlife habitat, ground-water recharge and slope stabilization functions and values. Tree roots help absorb and slow surface water runoff which helps prevent erosion and preserve downstream water quantity and quality. Columbia Creek provides benefits to wildlife and to a downstream fishery.

PROJECT ANALYSIS

Alternatives Analysis: At the time this project was undertaken, the gully erosion was closing in on a piling support for the house located at 3533 SW 52nd Place. If immediate action were not taken, there was a high probability that the piling would be undermined during upcoming winter storms and the house could collapse into the creek. Besides doing nothing to alleviate the danger, the applicant could have tried a more natural fix that would have involved staking some type of erosion control matting along the eroded banks of the gully between SW 52nd

Place and the creek, and then planting the banks with live stakes so that roots could grow into the banks and bind the soil. The applicant determined that the threat was so immediate that there was not enough time to wait for roots to grow. Therefore, the determination was made that the stormwater had to be sent through a pipe to outfall in the creek below the house.

Construction Management: A sediment barrier was placed around the downhill end of the gully and proposed access area. Fabric wattles were placed at intervals in the drainageway and at the mouth of the drainage so that sediments would not enter the tributary creek. The gully bed was graded to provide a level bed for the new pipe. A 30-foot long area from the mouth of the pipe was backfilled with approximately 100 cubic yards of Class 200 riprap. Riprap was also used to secure the pipe in place and to provide a protective layer over the top of the pipe. Jute matting was placed over the rock to retain the soil that was eventually placed on top of the matting. Approximately twelve inches of a planting soil mix was placed over the jute matting. The piped area will be replanted with shrubs and groundcovers.

Applicant-Identified Development Impacts: Seven trees were removed in order to access the site. No trees were removed from the gully. No trees or shrubs were removed from the resource area due to the erosive nature of the stormwater flowing through the gully. The primary impact of the project was the temporary disturbance area required for the pipe installation and placement of riprap that affects about 150 square feet of resource area.

Mitigation Plan: The applicant proposes to replant the entire piped area, both inside and outside the resource area. The mitigation plan includes planting 21 trees in the disturbance areas associated with access to the site and with installation of the pipe. Five western red cedar, one big leaf maple, and 2 red alder will be planted near the pipe outfall, but will be located in the transition area. Two hundred and seventy native shrubs, including Indian plum, sword fern, baldhip rose, thimbleberry and salal will be planted in the disturbance areas, including both the resource and transition areas. These shrubs will be the one gallon size and planted at a density of 3 shrubs for each 10 square feet of area. In addition 40 bracken fern and 12 red-osier dogwood will be planted at a rate of 8 plants per 10 square feet around the outfall area. The mitigation plan includes removing invasive species within the disturbance area and installing an unspecified amount and species of seed.

Proposed Monitoring Plan for Mitigation: The applicant did not provide a monitoring plan. However, the mitigation plants should be monitored for several years to ensure their success. Generally, maintaining shrub and groundcover survival so that 80 percent of the planted areas are covered by native vegetation will ensure that a healthy understory is established. Limiting intrusion into planted areas by invasive species, as well as providing water during the dry summer months, for the first few years, will also help to ensure survival of the mitigation plantings. Generally, after two years, all plants should be well established. However, if mortality remains high, replanting is generally required until an 80-percent healthy shrub cover is achieved. Documentation of these monitoring and maintenance practices must continue until the required cover has been achieved.

ZONING CODE APPROVAL CRITERIA

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: Installation of the stormwater pipe and outfall does not meet the Standards for Stormwater Outfalls in Chapter 430.180. F (size of pipe) and G (planting the riprap pad with

live stakes). The approval criteria that apply to the proposed stormwater pipe are found in Sections 33.430.250.A. The applicant provided findings for these approval criteria and BDS Land Use Services staff have revised these findings or added conditions, where necessary, to meet the approval criteria.

33.430.250. A. Public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, Planned Developments, and Planned Unit Developments. Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met: Note that since this activity is not a Public Safety Facility, Land Division, Planned Development, or Planned Unit Development and does not require a Property Line Adjustment subject to environmental review, the criteria in Sections 33.430.250 A.2 and A.4 do not apply and are not included.

A.1. General criteria for public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, and Planned Developments;

A.1.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;

Findings:

Location: The applicant did not provide an alternatives analysis because the situation allowed only one course of action. The location was guided by the project, which was to stabilize erosion occurring in an existing gully across a residential property. The gully had formed by stormwater flowing from an outfall at the top of the site. New erosion was threatening to erode soil from around a support pile of an existing house. Immediate action was needed to prevent damage to the house.

Design: Because lining the existing gully with erosion control matting and mass planting the banks in this steep gully would not provide immediate protection for the house, a stormpipe was installed instead. The pipe was quite large at 18 inches in diameter, far exceeding the 4-inch size that could be allowed by standard. The large diameter pipe was based on the fact that far more stormwater was being sent to the creek than a 4-inch pipe could handle. The stormwater originates off-site from the neighborhood at large. Riprap was laid under and around the pipe at the discharge area for a length of 30 feet. Jute matting was placed over the riprap and soil placed over the jute matting to form a planting bed for mitigation plants on top of the pipe area.

Construction methods: The new pipe was laid within the existing gully with some minor grading to achieve a level platform for the pipe. The site was accessed through a neighboring property because the site was too close to the existing house and because the property was too steep to take equipment straight down the hill. A backhoe was used to bring in and place the rock riprap, and no trees or other native vegetation was removed from within the resource area of the gully. The affected resource area was approximately 150 square feet (5 feet wide by 30 feet long). Site Development issued a permit for project construction, which is currently under inspection. Site Development is satisfied with the construction methods used at the site.

Permanent erosion controls, i.e., installation of mitigation plants, are required. Temporary erosion controls should remain in place until the mitigation plants have matured enough to provide permanent erosion control.

Therefore, with a condition that erosion and sediment controls remain in-place until mitigation plants have matured enough to prevent normal erosion from occurring, *this criterion will be met.*

b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;

Findings: The proposal includes lining the last 30 feet of the gully with riprap to dissipate the energy of water emerging from the 18-inch outfall. This should alleviate any potential impacts to the creek from this proposal. The pipe was laid in an existing eroded gully, so there were no new impacts to resources from installation of the pipe; i.e., no trees or other vegetation was removed from within the gully or within the defined project limits in the resource area. Therefore, *this criterion is met.*

c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;

Findings: The applicant provided a mitigation plan that will significantly improve the resource area as well as rehabilitate the remainder of the gully outside the resource area. The applicant proposes to install native trees adjacent to the pipe in the transition area and along the pipe outside the environmental zone. The construction/project area within the resource area is 10 feet wide and varies between 3 and 9 feet deep. The applicant needs to maintain trees a minimum distance of 10 feet from the pipe in order to maintain its integrity as the trees grow and expand. Therefore, there is not enough area within the resource disturbance area for trees to be planted. The proposed western red cedar and red alder that will be planted adjacent to the resource area will provide soil and bank stability and will overhang the resource area and the creek bank. The shrubs, with a proposed planting density of 3 plants to 10 square feet will ensure a well vegetated resource area with approximately 45 shrubs in 150 square feet. In addition, the outfall area will be planted with live red-osier dogwood stakes. However, the applicant intends to install only 12 live stakes, which does not meet the planting guidelines of the Bureau of Environmental Services (BES). The number of live stakes should be enlarged to meet typical planting standards for live stakes. This usually includes planting clumps of 10 stakes at 2-foot intervals. BES suggested that the mitigation plan should also include greater species diversity, including native willows and Pacific ninebark, as well as the dogwood.

With conditions to increase the number and species of live stakes to be installed per the above specifications and including native willow, dogwood and Pacific ninebark at the outfall, *this criterion will be met.*

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: Mitigation will occur within the outfall easement owned by the applicant as shown on the accompanying site plans. Therefore, *these two criteria are met.*

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of

Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

In an emergency situation the applicant installed an 18-inch stormwater pipe in an easement across private property in order to stop erosion that had cut a deep gully down the side of the property and was threatening to undermine an adjacent house. The pipe outfalls to a small tributary of the East Fork of Columbia Creek. The mitigation plan for disturbing approximately 150 square feet of resource area includes installing 270 shrubs along the length of the pipe, 21 trees in the disturbance area outside the resource area, and 52 groundcover plants in the outfall area. With the conditions described above and listed below and with conditions to comply with Site Plans 2-4, the proposal meets the Approval Criteria for outfall installation in the environmental zones. Therefore, the applicant has either met, or will meet with conditions, the Outfall Approval Criteria, and this proposal should be approved.

ADMINISTRATIVE DECISION

Approval of an Environmental Review for:

- Installing approximately 6 feet of 18-inch stormwater pipe, and
- Installing 3 shrubs per each 10 square-foot area within the resource area; and installing groundcover plants, as described on the Mitigation Site Plan;

all of which is located within the resource area of the environmental conservation overlay zone, and in substantial conformance with Exhibits C.2, C.3, and C.4, as modified, signed, and dated by the City of Portland Bureau of Development Services on July 8, 2009. Approval is subject to the following conditions:

A. All permits: Copies of the stamped Exhibits C.2 – C.4 from LU 08-182770 EN and Conditions of Approval listed below, shall be included within all plan sets submitted for the required REVISED Site Development Permit. These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, ***"Any field changes shall be in substantial conformance with approved Exhibits C.2 through C.4."***

B. Construction management shall include:

1. Compliance with the construction management plan provided by the applicant for this review and with any additional construction management measures deemed necessary by Site Development.

C. Prior to finaling SD Permit 08-168069, the applicant shall submit a revision that includes the required mitigation. The applicant's proposed mitigation plan is acceptable, provided that all shrubs and groundcovers planted within the resource area are selected from the *Portland Plant List*, and shall be planted in substantial conformance with Exhibit C.4, Mitigation Plan, as modified by the staff and described below:

1. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings.
2. The following BES-recommended plant species shall be planted in the outfall area. Native willow, Red-osier Dogwood (*Cornus sericea ssp. sericea*) and Pacific ninebark (*Physocarpus capitatus*) live stakes shall be planted around the outfall and shall be installed in clumps of 10 stakes with the clumps spread about 2 feet apart throughout this area.
3. Native shrubs shall be planted throughout the resource area at a density of 3 plants to 10 square feet.
4. Only native grass and forb seeds shall be used to seed the site, and shall be spread at a

rate of no less than 30 pounds per acre.

5. Plantings shall be installed or supplemented by the requirements of this decision during the first planting season (between October 1 and March 31) following issuance of this decision.
6. The mitigation site shall be prepared per the instructions listed on the Mitigation site plan or as modified by Site Development.
7. All mitigation plants shall be marked in the field by a tag attached to the top of the plant for easy identification by a landscape professional. All tags shall be in bright colors that are easily seen and identified and that contrast well with green and brown vegetation.
8. The applicant shall have a registered landscape architect, a registered landscape contractor, or the designer of record certify that all the required mitigation plantings were installed as required.
9. After installation, the applicant shall submit a Landscape Certification Form to this effect, signed by the registered landscape professional. The signed Landscape Certification Form shall be submitted to the Site Development Section of the Bureau of Development Services, confirming that all required mitigation plantings have been installed in accordance with these conditions of approval.

D. An inspection of Permanent Erosion Control Measures shall be required to document installation of the required mitigation plantings.

1. The **Permanent Erosion Control Measures** inspection (IVR 210) shall not be approved until the required mitigation plantings have been installed (as described in Condition C above);

--OR--

2. If the **Permanent Erosion Control Measures** inspection (IVR 210) occurs outside the planting season (as described in Condition C above), then the Permanent Erosion Control Measures inspection may be approved prior to installation of the required mitigation plantings – if the applicant obtains a separate **Zoning Permit** for the purpose of ensuring an inspection of the required mitigation plantings by March 31 of the following year.

E. The landscape professional or designer of record shall monitor the required plantings for two years to ensure survival and replacement as described below. The landowner is responsible for ongoing survival of required plantings beyond the designated two-year monitoring period. The landowner shall:


Provide a minimum of two letters (to serve as monitoring and maintenance reports) to the Bridlemile Neighborhood Association and to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 08-182770 EN) containing the monitoring information described below. Submit the first letter within 12 months following approval of the Permanent Erosion Control Inspection of the required mitigation plantings. Submit subsequent letters every 12 months following the date of the first monitoring letter. All letters shall contain the following information:

- a. The percent coverage of native shrubs and ground covers. If less than 80 percent of the mitigation planting area is covered with native shrubs or groundcovers at the time of the annual count, additional shrubs and groundcovers shall be planted to reach 80 percent cover (replacement must occur within one planting season).
- b. A list of replacement plants that were installed.
- c. Photographs of the mitigation area and a site plan, in conformance with approved Exhibit C.4, Proposed Mitigation Plan, showing the location and direction of photos.

- d. A description of the method used and the frequency for watering mitigation trees, shrubs, and groundcovers for the first two summers after planting. All irrigation systems shall be temporary and aboveground.
- e. An estimate of percent cover of invasive species (English ivy, Himalayan blackberry, reed canarygrass, teasel, clematis) within 10 feet of all plantings. Invasive species must not exceed 20 percent cover during the monitoring period.

Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to Portland Zoning Code Section 33.700.040 and /or enforcement of these conditions in any manner authorized by law.

Staff Planner: Kathy Harnden

Decision rendered by:  **on July 8, 2008**
By authority of the Director of the Bureau of Development Services

Decision mailed: July 15, 2008

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 10, 2008, and was determined to be complete on June 8, 2009.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on December 10, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: October 6, 2009**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, 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.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on July 29, 2009** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails.

Appeal fee waivers. Multnomah County may cover the appeal fees for their recognized associations. An appeal filed by a recognized association must be submitted to the City with either the appropriate fee or the attached form signed by the County. Contact Multnomah County at 503-988-3043, 1600 SE 190th, Portland, OR 97233.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, The final decision may be recorded on or after **July 30, 2009 – (the first business day following the last day to appeal)**.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

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

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

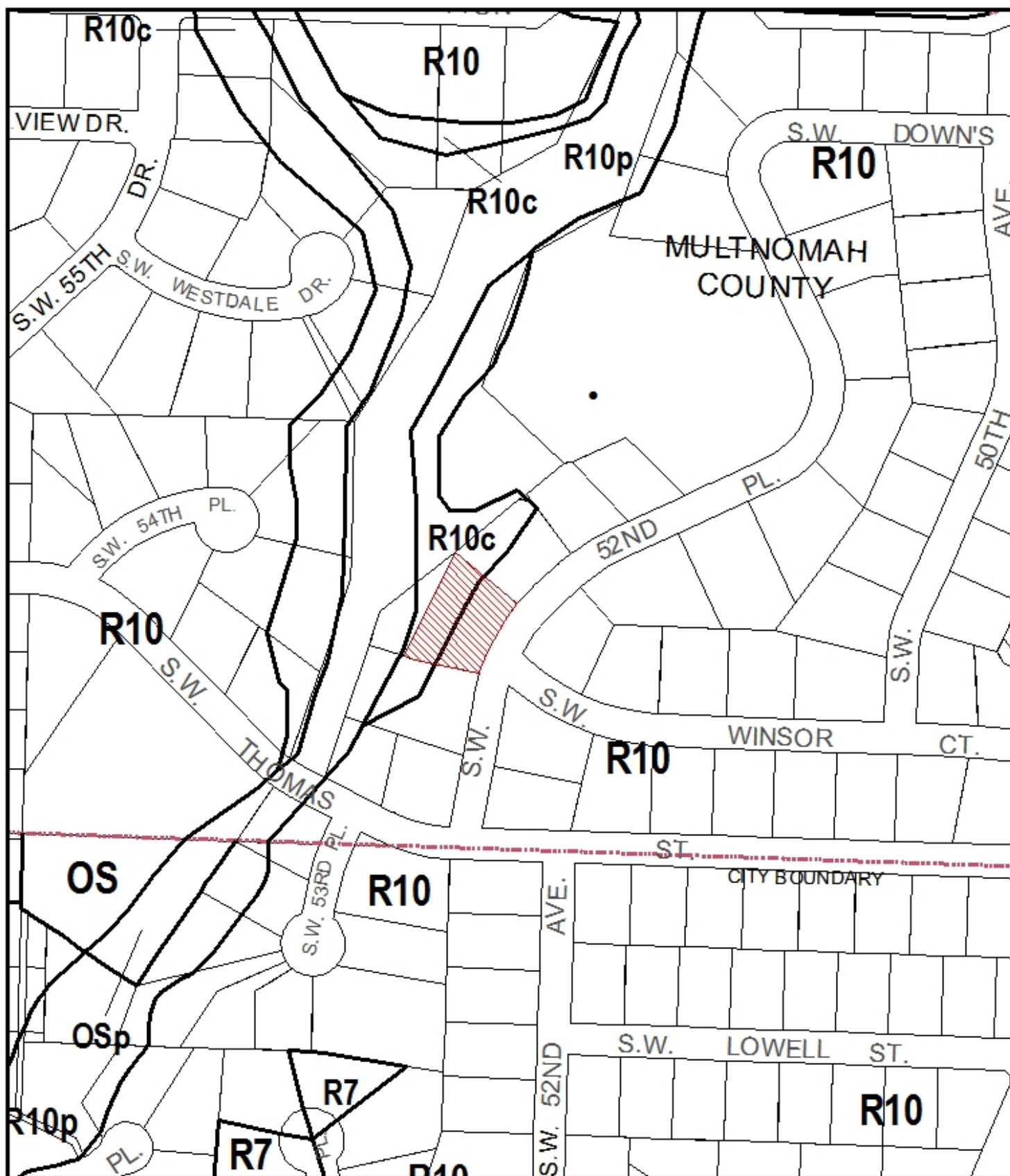
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Applicant's Submittal received June 8, 2009
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Site Plan
 - 2. Proposed Development Site Plan (attached)
 - 3. Construction Management Site Plan (attached)
 - 4. Mitigation Site Plan (attached)
 - 5. Typical Cross Section
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Water Resources
 - 3. Site Development Review Section of BDS
- F. Correspondence:
 - 1. None
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Staff Incomplete Letter to Applicant dated December 12, 2008
 - 4. Staff 180-day Reminder Letter to Applicant, dated May 1, 2009

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



Historic Landmark

This site lies within:
MULTNOMAH COUNTY

File No. LU 08-182770 EN

1/4 Section 3424

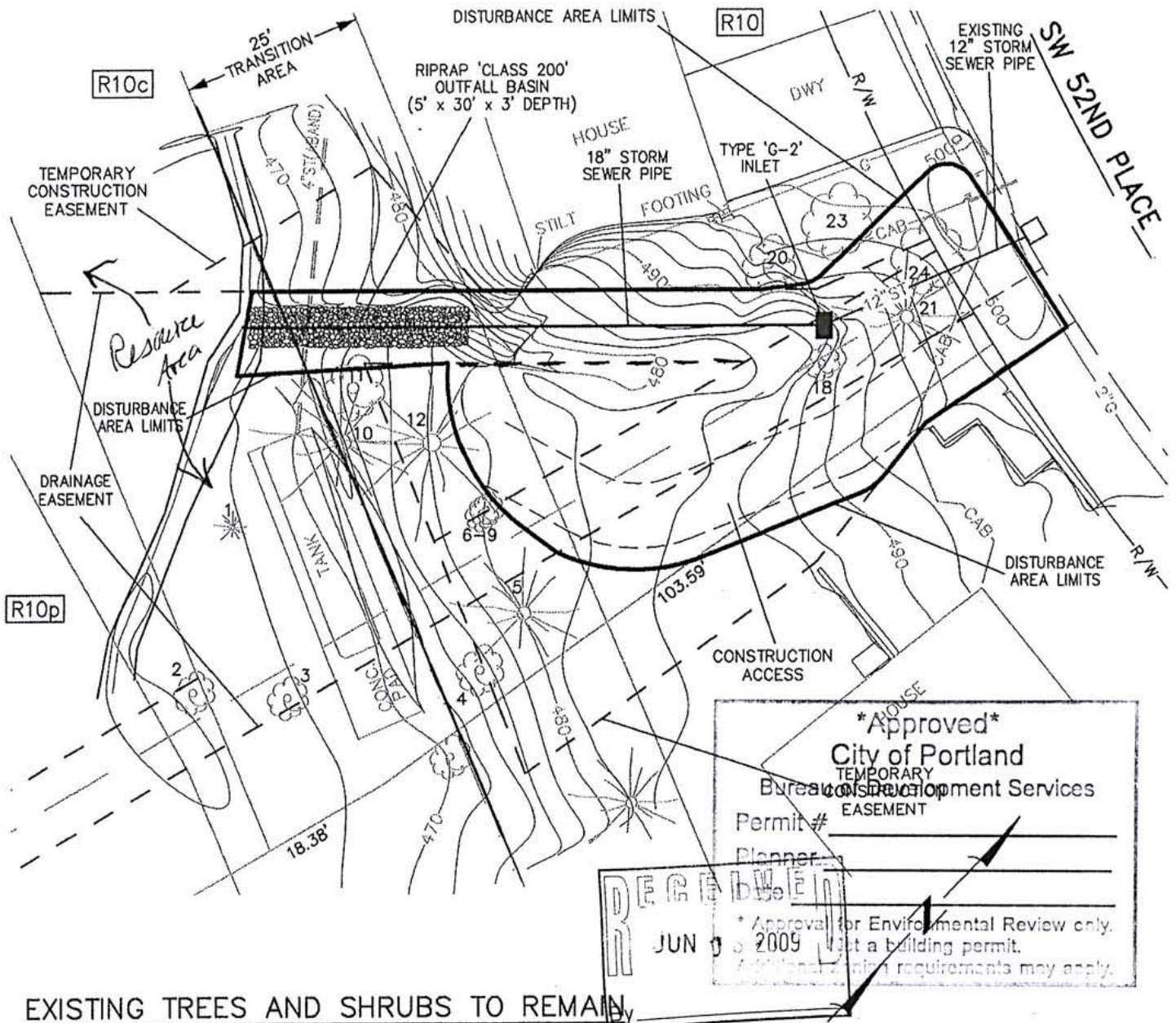
Scale 1 inch = 200 feet

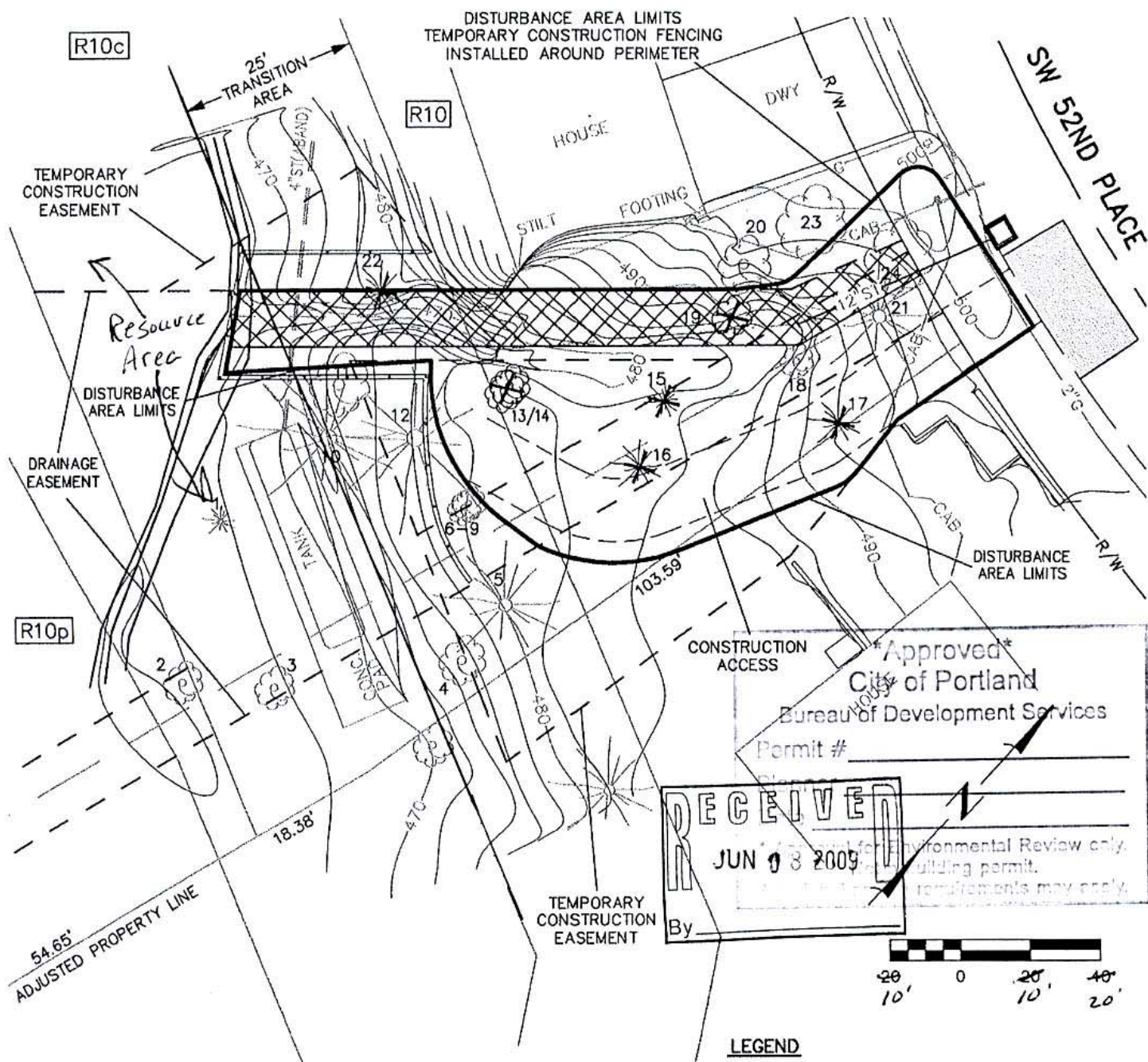
State_Id 1S1E07DB 2600

Exhibit B (Dec 12, 2008)



NORTH





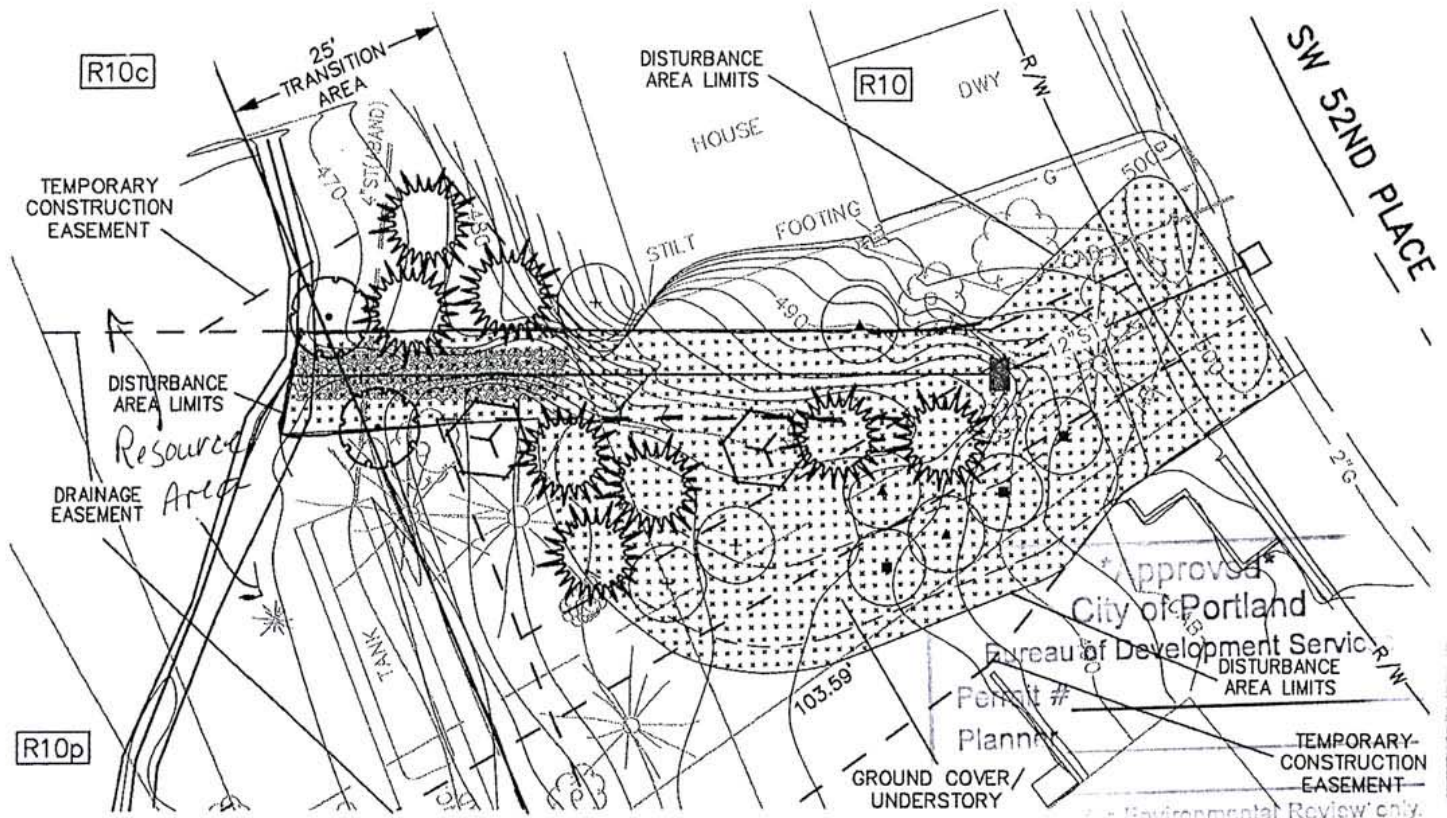
TREES TO BE REMOVED

TREES >6-INCHES	COMMON NAME	SCIENTIFIC NAME	DBH (INCHES)
13	BITTER CHERRY	PRUNUS EMARGINATA	12
14	BITTER CHERRY	PRUNUS EMARGINATA	12
15	WESTERN RED CEDAR	THUJA PLICATA	7
16	DOUGLAS FIR	PSEUDOTSUGA MENZIESII	10
17	WESTERN HEMLOCK	TSUGA HETEROPHYLLA	10
19	BITTER CHERRY	PRUNUS EMARGINATA	12
22	WESTERN RED CEDAR	THUJA PLICATA	12

DATE: MAY 14, 2009

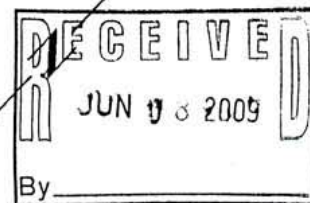
CONSTRUCTION MANAGEMENT PLAN 3533 SW 52ND PLACE

LU 08-182770 EN Exhibit C.3



MITIGATION PLANTING TABLE

TREES/SHRUBS REMOVED	REPLACEMENT TREES	COMMON NAME	SCIENTIFIC NAME	SIZE	SPACING	QUANTITY
(2) TREES 12" DIA. BITTER CHERRY (#13, #14)		BIGLEAF MAPLE	ACER MACROPHYLLUM	2 1/2" CAL B&B OR BR	AS SHOWN	2
(1) TREE 12" DIA. BITTER CHERRY (#19)		RED ALDER	ALNUS RUBRA	2 1/2" CAL B&B OR BR	AS SHOWN	2
(1) TREE 12" DIA. WESTERN RED CEDAR (#22)		WESTERN RED CEDAR	THUJA PLICATA	4' HEIGHT	AS SHOWN	8
(1) TREE 10" DIA. WESTERN HEMLOCK (#17)		WESTERN HEMLOCK	TSUGA HETEROPHYLLA	2 1/2" CAL B&B OR BR	AS SHOWN	3
(1) TREE 7" DIA. WESTERN RED CEDAR (#15)		CALIFORNIA INCENSE CEDAR	CALOCEDRUS DECURRENS	2 1/2" CAL B&B OR BR	AS SHOWN	3
(1) TREE 10" DIA. DOUGLAS FIR (#16)		DOUGLAS FIR	PSEUDOTSUGA MENZIESII	2 1/2" CAL B&B OR BR	AS SHOWN	3
SHRUBS (UNDERSTORY) OTTO LUYKEN LAUREL ENGLISH IVY PERIWINKLE SWORD FERN SALAL RHODODENDRON WESTERN HAZELNUT		INDIAN PLUM SWORD FERN BALDHIP ROSE THIMBLEBERRY SALAL	OEMLERIA CERASIFORMIS POLYSTICHUM MUNITUM ROSA GYMNOCARPA RUBUS PARAMFLORIS GAULTHERIA SHALLON	1 GALLON	90 SQ. FT. 3 PLANTS/ 10 SQ. FT.	270
GROUND COVER SEE ABOVE		BRACKENFERN	PTERIDIUM AQUILINUM	4" POTS	8 PLANTS/ 10 SQ. FT.	40
	LIVE STAKES	REDTWIG DOGWOOD	CORNUS SERICEA	LARGE	10 SQ. FT. ALONG OUTFALL	12



4.0
Live stakes shall be planted at a density of 10 stakes/clump with clumps 2 ft apart.

- GENERAL NOTES**
- 1) REMOVE INVASIVE SPECIES WITHIN LIMITS OF DISTURBANCE
 - 2) REPLACE IN-KIND ALL PLANTINGS ON ADJACENT PROPERTY THAT ARE DISTURBED DURING CONSTRUCTION
 - 3) PLANT TREES A MINIMUM OF 10' FROM NEW STORM DRAIN
 - 4) INSTALL REDTWIG DOGWOOD *native willow, Pacific N. bark* LIVE STAKES IN ROCK PAD *and native grass + forb*
 - 5) INSTALL SEED MIX AND JUTE MESH MATTING TO ALL AREAS DISTURBED DURING CONSTRUCTION

DATE: MAY 14, 2009

5.0
Native grass + forb seed shall be spread at a rate of no less than 30 lbs per acre

MITIGATION PLAN
3533 SW 52ND PLACE