

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

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**Date:** November 19, 2010 **To:** Interested Person

**From:** Stacey Castleberry, Land Use Services

503-823-7586 / Stacey.Castleberry@portlandoregon.gov

### 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. If you have questions about the proposal, please contact the Applicant.

### CASE FILE NUMBER: LU 10-103405 EN AD

GENERAL INFORMATION

**Applicant/Owners:** Bureau of Environmental Services Brian Williams

**Attention:** Chad Smith 2126 SE Umatilla Street 1120 SW 5th Avenue Ste 1000 Portland, OR 97202-7415

Portland, OR 97204 **(503) 823-5838** 

International Ventures, Inc.

13354 Rogers Road

Lake Oswego, OR 97035-6753

Site Address: 8220 SE 21st Avenue, 8308 SE 21st Avenue, 2126 SE Umatilla Street,

and adjacent right of way in SE Umatilla, SE Tenino, and SE 21st

Avenue.

Legal Description: BLOCK 108 LOT 10-12, SELLWOOD; SELLWOOD, BLOCK 107, LOT

12-16 TL 4700; SELLWOOD, BLOCK 107, LOT 12-14 TL 4800

**Tax Account No.:** R752720450, R268017, R268016

**State ID No.:** 1S1E23DD 03900; 1S1E23DD 4800; 1S1E23DD 4700

Quarter Section: 3832

**Neighborhood:** Sellwood-Moreland, contact Mat Millenbach at 503-239-1134.

**Business District:** None

**District Coalition:** Southeast Uplift, contact Leah Hyman at 503-232-0010.

**Plan District:** Johnson Creek Basin - Flood Risk

**Other Designations:** 100-year floodplain, FEMA floodway, potential flood hazard.

**Zoning:** R2 a,c,d—Residential 2,000 base zone with Alternative Design Density,

Environmental Conservation, and Design overlay zones.

Case Type: EN AD—Environmental Review with Adjustment Review

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

**PROPOSAL:** The applicant proposes a stream and riparian enhancement project located on Crystal Springs Creek in southeast Portland between SE Tenino and Umatilla at SE 21st Ave. The Tenino – Umatilla Culvert Replacement project will replace three culverts on Crystal Springs Creek. All three culverts are velocity barriers that currently prevent upstream passage of juvenile salmon. The Tenino and Umatilla St. culvert replacements are located within the right-of-way. The third culvert is located beneath the carport on the 8220 SE 21st Avenue property.

• The existing Tenino culvert is a 41-foot long by 42-inch diameter corrugated metal pipe located in the public right of way.

- The Umatilla culvert is a 62-foot long by 48-inch diameter pipe located in the public right of way.
- The carport culvert is a 42-foot long by 48-inch diameter corrugated metal pipe located under the private carport at 8220 SE 21st Avenue.

The culverts are undersized and increase stream velocities above and below the culverts. Much of the streambank in the project area is lined with stacked concrete, cinderblocks or grouted stacked rocks.

Tenino Culvert --The existing culvert beneath the intersection of SE Tenino St. and SE 21st Ave. will be replaced with a bridge that has a minimum opening width of 14 feet. The tapered wing walls in the approach channel will be replaced to provide a smooth transition from the upstream channel through the culvert. A 'natural' streambed will be installed within the replacement structure. Preliminary hydraulic analysis indicates the proposed project will lower the base flood elevation approximately 2.9 feet upstream of SE Tenino Street.

Umatilla Culvert--The existing 4-foot diameter culvert at SE Umatilla St. will be replaced with an open-bottomed arch culvert that has a minimum opening width of 14 feet. The approach channel will be shaped to provide a smooth transition into the culvert. Rounded gravel substrate with a number of larger fish rocks will be installed within the replacement structure to provide a natural streambed. Installation of headwalls and wingwalls at the inlet and outlet of the replacement structure will limit potential scour and protect the footings. Preliminary hydraulic analysis indicates the proposed project will lower the base flood elevation approximately 0.3 feet upstream of SE Umatilla Street.

Note that those portions of the two culverts that are within the public right of way are exempt from environmental review according to Zoning Code Section 33.430.080 D.2., and only the work outside of the right of way is technically subject to environmental review.

Carport Culvert--In 2009 the City of Portland purchased the property located at 8220 SE 21st Avenue. A triplex and a private culvert are located on this property beneath an existing driveway and carport. This project permanently removes the triplex, private carport, driveway, and culvert from the property. The stream will be day-lighted and floodplain regraded. Nonnative and invasive vegetation will be removed from the site. The riparian corridor will be planted with native plant species. Preliminary hydraulic analysis indicates the proposed project will lower the base flood approximately 1.6 feet upstream of the existing carport culvert location.

The overall project will remove a total of 4837 cubic yards of material within and around Crystal Springs Creek. The project will result in 3942 cubic yards of fill. Flood storage capabilities will be improved with the removal of excavated materials.

Public Trail--A short public trail will be constructed on the property at 8220 SE 21st Avenue. The trail will be 4 feet wide, made of ¼-inch minus crushed/compacted rock and meet Americans with Disabilities Act requirements. An informational sign (not to exceed 50 sq. ft.) will be placed near the trail. A split rail fence will be placed between the trail and stream and around the boundary of the property. The trail and fence, both predominantly outside of the resource area of the environmental zone, will be constructed so as to meet the objective development standards of 33.430.190 and 33.430.140, and are not required to be approved through Environmental Review.

The majority of the site is within the City's Environmental Conservation overlay zone. Certain standards must be met to allow the work to occur by right. If the standards are not met, an Environmental Review is required. In this case, construction activities for the removal of the culverts will occur in the resource area of the environmental zone and excavation will occur within Crystal Springs Creek. The Resource Enhancement standards in Zoning Code Section

33.430.170 can not met by the culvert removal project; therefore the work that occurs outside the public right of way must be approved through an Environmental Review.

Additionally, the project will result in the removal of six trees that are not within 10 feet of a proposed building or within 5 feet of a paved surface. The Johnson Creek Basin Plan District standards limits the removal of trees within the 100-year floodplain, and to be approved an Adjustment to the standards listed in 33.53.150 D is needed.

**RELEVANT APPROVAL CRITERIA:** In order to be approved, the proposed culvert removal project must comply with the approval criteria of Title 33. The relevant criteria are:

- 33.430.250. B Resource Enhancement Projects
- 33.805.040 Adjustments

### **FACTS**

**Description of the Site:** The entire project site is located within a residential portion of Southeast Portland. Over the past 50 plus years, Crystal Springs Creek has been altered to accommodate the adjacent development. Man-made features within the project reach include three culverts, a backyard pond created by an in-stream weir, and man-made island with a miniature lighthouse. The channel is constrained by high terraces within a broad valley. Most of the area is channelized with little erosion due to the reinforcement of the banks. The surrounding topography is fairly flat and channel slope in the area is an average of 0.5%.

The three culverts occur within the reach of Crystal Springs Creek between SE Umatilla and SE Tenino streets. The culverts are undersized and increase stream velocities slightly above and below the culverts. Above the Tenino Street culvert the channel is lined with stacked concrete, while the downstream side has concrete reinforcements at SE 21st Avenue and a fallen, uprooted tree creates its bank. A 20-foot wide pond is present between the Tenino culvert and the Umatilla Street culvert. In-stream habitat complexity is very low.

**Zoning:** The site is situated within the Residential 2,000 (R2) base zone, and the Alternative Design Density (a), Environmental Conservation (c), and Design (d) overlay zones. It is also in the Johnson Creek Basin Plan District area.

The <u>R2 zone</u> allows multi-dwelling residential development up to a maximum density of one unit per 2,000 square feet of site area, and requires a minimum density of one unit per 2,500 square feet of site area. The provisions of this zone allow this use; these provisions are not specifically addressed through this Environmental Review.

The <u>"a" overlay</u> is intended to allow increased density that meets design compatibility requirements. It fosters owner-occupancy, focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. These regulations do not apply to the proposed culvert replacement project.

The "d" overlay zone promotes the conservation and enhancement of areas of the City with special historic, architectural or cultural value. New development and exterior modifications to existing development must meet the Community Design Standards (Chapter 33.218) or are subject to design review. These regulations do not apply to the proposed culvert replacement project.

The <u>"c" overlay zones</u> 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 Environmental Review is to ensure compliance with the regulations of the environmental zones.

The <u>Johnson Creek Basin plan district</u> provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. These regulations apply to tree protection and are addressed in this report through the Adjustment review.

**Environmental Resources:** The application of the environmental overlay zones is based on detailed studies that have been carried out within ten 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 *Johnson Creek Basin Protection Plan* as Site # 3. Resources and functional values of concern on the project site include water, storm drainage, scenic, fish and wildlife habitat, aesthetics, heritage, flood storage, recreation, and education.

**Impact Analysis and Enhancement Plan:** A full description of the proposal was provided on page one of this report. The following additionally describes the proposed construction management plan, resource enhancement and monitoring proposal.

<u>Construction Management Plan (CMP):</u> The applicant's detailed Construction Management plan is provided in the application case file Exhibit A.1. Construction is anticipated to begin during the following summer. Timing of construction activities will meet the required In-Water Work Periods as required by Oregon Department of Fish and Wildlife (ODFW) of July 15 – August 31.

<u>Tree Protection Measures:</u> Temporary fencing, barricades, and guards will be provided as required to protect trees and other plants, which are to remain, from all damage. Protective barrier fence will be installed prior to the start of any activity which may potentially intrude into root protection zones of trees designated to be retained, and will be removed only after all work potentially injurious to trees and other plants is complete. Tree protection fencing will be 6-foot high chain link and be secure to the ground with 8-foot metal posts.

All construction traffic will be excluded from areas outside the limits of disturbance in order to retain undisturbed natural vegetation areas. There will be no disturbance of native vegetation outside of the limits of disturbance as shown in the approved tree removal/protection plan and report provided by the City Forester (Exhibit A.1, attachment #10). Care will be taken to avoid damage to the canopy of any trees overhanging the limits of disturbance.

Erosion Prevention and Sediment Control: Erosion prevention and sediment control within the construction zone of the proposed project will follow best management practices and conform to the construction management plan and to clearing, grading and erosion control code contained within the City of Portland Erosion Control Manual and Title 10. Work will be conducted during summer months, when risk of rain and runoff are greatly reduced. City staff will be present on the job site at all times, and will have coir fabrics and other geotextiles and erosion control measures on site. City staff will monitor erosion control devices twice daily. Equipment, materials, and personnel will be exclueded from wetlands and waterways using silt fences and exclusion zone fences where work will not be conducted, as shown on the plans.

Construction equipment will enter the site on the existing concrete pad/driveway that is located directly over the carport culvert. This will allow access to the east side of the property at 8220 SE 21<sup>st</sup> (triplex property). The existing concrete pad/driveway will be removed as the contractor finishes construction and planted with native vegetation. Additional measures such as using 6-inch ballast rocks may be required as needed to insure that paved areas are kept clean for the duration of the project. Construction is anticipated to occur in July through October and completed prior to the start of the rainy season.

Orange protective fencing will be installed to isolate disturbance areas and vegetation while chain link fence will be used around trees prior to any ground disturbing activities. All construction activities will occur within the fenced area (within the limits of disturbance) to minimize the disturbance of vegetation and soil. Sediment fencing will be installed along the driveway and down grade of the staging and fill areas.

Approximately 4837 cubic yards of fill will be removed from the site and disposed of off-site to an approved upland facility.

Temporary flow diversion will be installed to divert the creek around the construction site. Diversion dams will be placed in the creek upstream and downstream of the project area. Pumps or gravity feed will be used to divert the stream. Block nets will be installed both up and downstream of the project site in order to exclude fish from the area once a rescue operation has been performed. Diverted flow will be filtered prior to entering the creek downstream. Energy dissipating boulders will be used to reduce scour at the end of the stream diversion pipe and sedimat or equal will be installed in Crystal Springs immediately downstream of the construction areas to trap sediment.

Groundwater and other seepage into the work area may need to be dewatered during construction. Water will be pumped into an undisturbed vegetated area, above ordinary high water (OHW), onto a sedimat where sediment can settle out and water will flow away from Crystal Springs.

Crystal Springs flows are nearly constant and modest through all seasons. Fish rescue will be conducted immediately following work area isolation. The work area will be isolated with a small diversion dam and flexible bypass pipe. Fish passage will be provided immediately following the construction activities. The new channel, in place of the existing culvert, will be graded to positively drain at the gradient of upstream and downstream sections.

Coir filter fabric will be installed around placed large wood and on the newly constructed stream bank to prevent erosion and allow for stabilization.

Adult and Juvenile Fish Passage: Fish passage will not be maintained during this project. Block nets will be installed above and below the work area. A fish salvage effort will be conducted prior to in-water work. A fish salvage permit will be acquired from Oregon Department of Fish and Wildlife.

<u>Construction Impacts</u>: Impacts from construction activities necessary to replace the culverts and daylight the stream are described in detail in Exhibit A.1 in the application case file. Impacts of the project on fisheries resources are expected to be temporary and minimal. Potential impacts on aquatic habitat and organisms may include: acoustic disturbances, physical disturbance of resident fish species during rescue, and risk of fuel spills from construction equipment. Potential impacts on wildlife include temporary loss of habitat and acoustic disturbances during construction.

The long-term benefits of restoring Crystal Springs Creek are expected to far outweigh potential temporary, short-term impacts associated with project construction. The project will restore approximately 300 feet of high quality fish bearing habitat and 0.41 acres of riparian habitat and upland habitat.

<u>Proposed Resource Enhancement:</u> The proposed replanting plan is described below: The Bureau of Environmental Services Watershed Revegetation Program staff will provide and install all plant materials and maintain enhancement plantings for 5 years (see Attachment #5 of Exhibit A.1) as part of this stream restoration project. Installation will include the application of native seed to establish a native herbaceous ground cover and the installation of woody plant materials (bare-root trees, bare-root shrubs and live pole cuttings) on approximately 0.5 acres surrounding and including the construction area. Maintenance will include initial site preparation, follow-up treatment of invasive non-native vegetation, and additional plant

installation as necessary. Monitoring will occur at least once annually in years one through five.

The applicant will provide native seed to the construction contractor for application to all exposed/disturbed soils within the project boundaries including all graded areas, access roads, staging areas, and stockpile areas. Additionally, the applicant will apply native seed to other areas within the project boundary to provide competition to invasive plant species and aid in vegetation management. Species composition of the native seed mix is shown below. All seed material will be collected and/or propagated from local seed sources to help maintain local genetics and improve survival. Seed will be applied during and after construction.

### PROPOSED PLANTING -NATIVE HERBACEOUS SEED LIST

| Native Grasses         | Common Name        | Lbs/Acre |
|------------------------|--------------------|----------|
| Bromus carinatus       | California Brome   | 15       |
| Elymus glaucus         | Blue Wild Rye      | 10       |
| Agrostis exarata       | Spike Bent Grass   | 1        |
| Deschampsia elongata   | Slender Hair Grass | 1        |
| Hordeum brachyantherum | Meadow Barley      | 2        |
|                        | Total Lbs/Acre     | 29       |

BES will provide and install all native woody plant materials. Materials will consist of native trees and shrubs in the form of bare-root seedlings and live cuttings. Most plant materials are collected and/or propagated from a Portland metro area wild population/seed source. Installation of these materials shall occur in winter 2011. The table below lists the plant species and planting density.

### PROPOSED PLANTING -NATIVE PLANT LIST

| Species               | Common Name           | Plant Density   |
|-----------------------|-----------------------|-----------------|
| Trees                 |                       |                 |
| Pseudotsuga menziesii | Douglas Fir           |                 |
| Fraxinus latifolia    | Oregon Ash            |                 |
| Populus trichocarpa   | Black Cottonwood      | 820/acre        |
| Salix laisiandra      | Pacific Willow        |                 |
| Rhamnus purshiana     | Cascara               |                 |
| Alnus rubra           | Red Alder             |                 |
| Thuja plicata         | Western Red Cedar     |                 |
| Shrubs                |                       |                 |
| Spirea douglasii      | Spirea                |                 |
| Ribes sanguineum      | Red Flowering Currant |                 |
| Sambucus racemosa     | Red Elderberry        | 820/acre        |
| Cornus sericea        | Red Osier Dogwood     | 820/acie        |
| Physocarpus capitatus | Pacific Ninebark      |                 |
| Symphocarpus alba     | Snowberry             |                 |
| Live Cuttings         |                       |                 |
| Salix laisiandra      | Pacific Willow        |                 |
| Spirea douglasii      | Spirea                | 1000/acre       |
| Cornus sericea        | Red Osier Dogwood     | (live cuttings) |
| Physocarpus capitatus | Pacific Ninebark      |                 |

Actual numbers of plants may be adjusted and species substitutions may be made depending on availability of plant stock. Trees will be planted on approximately 8 foot spacing, and each tree will be protected with a vexar mesh tube to reduce mortality due to herbivore damage. Shrubs will be planted in clusters of three and staked with bamboo.

Monitoring Plan: BES Watershed Revegetation Program staff have prepared detailed monitoring and documentation guidelines for revegetation sites to assess conditions and trends in order to increase the continued success of planting projects (attachment #5, Exhibit A.1 in application case file). Monitoring includes assessment of plant mortality and its causes. BES will interplant areas where stocking falls below a level that will ensure occupancy of the site by native plants within 10 years. BES may prescribe other treatments to reduce further plant mortality or to further enhance project areas.

Non-native vegetation will be suppressed by mechanical or chemical means for the first five years. Cutting and/or spraying treatments will occur 1-4 times annually, depending on regrowth of exotic vegetation. If survival of planted seedlings falls below acceptable levels, maintenance will be intensified and high-mortality areas will be interplanted. It is expected that after the first five years, native trees and shrubs will be well established.

Land Use History: City records indicate there are no prior land use reviews for this site.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed. The following Bureaus have responded with no issues or concerns (Exhibits E.1 – E.4 in application case file):

- Bureau of Environmental Services
- · Bureau of Transportation Engineering
- Water Bureau
- Site Development Section of BDS

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal.

### 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:** The approval criteria which apply to the proposed creek enhancements are found in Section 33.430.250 B. Resource Enhancement Projects. The applicant has provided findings for these approval criteria and BDS Land Use Services staff members have revised these findings or added conditions, where necessary to meet the approval criteria.

**B.** Resource enhancement projects. In resource areas of environmental zones, resource enhancement projects will be approved if the applicant's impact evaluation demonstrates that all of the following are met:

### 1. There will be no loss of total resource area;

**Findings:** The project and its merits are described in detail on pages 1-7 of this report. To summarize the information on pages 1-7, the project will result in more resource area by permanently removing the culvert under the carport, while upgrading the Tenino and Umatilla culverts to "fish friendly" culverts on Crystal Springs Creek. The project also reduces impervious surfaces by removing the triplex foundation and associated driveway, resulting in an *increase* in resource area. The health of the stream will further benefit by improving portions of the streambank, pool creation, installation of large wood into the

bank and stream, removing invasive vegetation, planting native vegetation and adding spawning gravels.

Upon project completion there will not be a total loss of resource area. Rather, the total resource area will be increased. This criterion is met.

### 2. There will be no significant detrimental impact on any resources and functional values; and

### 3. There will be a significant improvement of at least one functional value.

**Findings**: The construction management and enhancement plans are described in detail on pages 1-7 of this report and are summarized here to reiterate these aspects of the project. The proposed construction management activities, described above, will protect the environmental resources and functional values at this site. Functional values will be improved as follows:

Significant resource values for Crystal Springs are identified as: water, storm drainage, fish and wildlife habitat, flood storage, scenic qualities, heritage, recreation and education.

Groundwater infiltration will increase, stormwater runoff will decrease, and fish habitat in the stream will improve, with replacement of the existing culverts, daylighting of Crystal Springs Creek, and removal of the driveway, and building foundations.

Removal of the existing foundation, culvert and driveway at 8220 SE 21st Avenue, along with daylighting the creek and regrading the banks will also provide amphibian, reptile and bird habitat. The new street culverts are "oversized" which will also improve mammal crossings. All areas will be planted with native plants that existed in the area historically.

The project will result in a net removal of fill. Flood storage will increase due to the creation of pools and laying back the banks of the creek.

Scenic and aesthetic qualities at this location will be greatly improved as the new vegetation becomes established and flora and fauna respond to restoration. The restored and enhanced stream will provide a significant increase in the aesthetics of the creek and riparian area. The creek and proposed trail will also provide high quality nature viewing for neighborhood residents and visitors to the site.

The property at 8220 SE 21st Avenue will be publicly owned natural area with a trail to provide low impact recreation opportunities for the public.

The Bureau of Environmental Services Environmental Educators will use this site to show school children spawning salmon in the urban environment. In the future, the Parks Bureau will also use this site for educational opportunities.

With construction management practices described on pages 1-7 of this report, and with improvement of the above-listed functions, these criteria are met by the proposal.

### 33.805.040 Adjustment Review Approval Criteria

This project involves cutting six trees larger than 6 inches in diameter within the Johnson Creek Basin Plan District. Since the trees are not within 10 feet of a proposed building, an Adjustment to Zoning Code Section 33.537.150 D Tree Removal, must be approved.

**A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

**Findings:** The six trees that will be removed will be replaced with 344 trees, 344 shrubs, and 420 live stake cuttings (Exhibit C.11). The restoration project, as a whole, will significantly improve the quality of natural functions on the site. The entire site, including the area with in the floodplain, will be densely planted with native vegetation that will provide more than adequate erosion control along the stream. The amount of impervious

surface on the site will decrease with the removal of the triplex and driveway. With plantings as shown on Exhibit C.11 this criterion will be met.

**B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a C, E, or I zone, the proposal will be consistent with the desired character of the area; and

**Findings:** The trees that are going to be removed are located within the Residential 2,000 base zone. This project will improve the livability and appearance of the area after replanting 344 trees, and constructing the pedestrian path. There will be more trees planted than are being removed. The desired residential character of the area will not be affected by the removal of the six trees. With plantings as shown on Exhibit C.11 this criterion will be met.

**C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

**Findings:** Only one adjustment is requested. This criterion is not applicable.

**D.** City-designated scenic resources and historic resources are preserved; and

**Findings:** City designated resources are shown on the zoning map by the 's' overlay; historic resources are designated by a large dot. There are no such resources present on the site. Therefore, this criterion is not applicable.

**E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

**Findings:** The impacts of removing six trees will be mitigated by planting with 344 trees, 344 shrubs, and 420 live stake cuttings (Exhibit C.11). With plantings as shown on Exhibit C.11 this criterion will be met.

**F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

**Findings:** This project tries to avoid removing trees as much as possible while still regrading portions of the streambank and installing new fish-passable culverts. The project requires a separate Environmental Review application and the impacts on the resources and resource values are evaluated in that review. Overall, the benefits of the project, and replanting the 344 trees, 344 shrubs, and 420 cuttings far outweighs the detrimental impacts, which are temporary (construction related). With plantings as shown on Exhibit C.11 this criterion will be 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.

The trail proposed by the applicant will meet the development standards for trails listed in Zoning Code Section 33.430.190.

### **CONCLUSIONS**

The applicant proposes a stream and riparian enhancement project located on Crystal Springs Creek in southeast Portland between SE Tenino and Umatilla at SE 21st Ave. The Tenino –

Umatilla Culvert Replacement project will replace three culverts on Crystal Springs Creek. All three culverts are velocity barriers that currently prevent upstream passage of juvenile salmon. The Tenino and Umatilla St. culvert replacements are located within the right-of-way. The third culvert is located beneath the carport on the 8220 SE 21st Avenue property. Some of the work is outside of the right of way and triggers Environmental Resource Enhancement Review.

Tree removal is necessary to conduct the work although no buildings are proposed, and the Johnson Creek Basin Plan District tree removal regulations must be Adjusted.

The proposed culvert replacement projects, and creek daylighting project improve environmental resource functions and values associated with Crystal Springs Creek and all of the Resource Enhancement and Adjustment approval criteria are met, as described above, and this project should be approved.

### ADMINISTRATIVE DECISION

**Approval** of an Environmental Review for:

- Replacement of the Tenino Culvert;
- Replacement of the Umatilla Culvert;
- Removal of the triplex, carport, driveway, and culvert, and daylighting of the stream at 8220 SE 21st Avenue:
- Construction of a trail at 8220 SE 21<sup>st</sup> Avenue;
- All site preparation, flow diversion, clearing, grading and construction activities associated with the above work;

### **Approval** of an Adjustment Review for:

Removal of six trees;

all within the Environmental Conservation overlay zone, and in substantial conformance with Exhibits C.2 through C.11 as signed, and dated by the City of Portland Bureau of Development Services on **November 17, 2010**. Approval is subject to the following conditions:

- **A. All permits:** Copies of the stamped Exhibits C.2 through C.11 from LU 10-103405 EN AD and Conditions of Approval listed below, shall be included <u>within all plan sets submitted for permits</u>, if permits are required. 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.11."
- **B.** Temporary construction fencing shall be installed according to Section 33.248.068 (Tree Protection Requirements), except as noted below. Construction fencing shall be placed along the Limits of Construction Disturbance for the approved development, as depicted on Exhibit C.4 Tree Protection Plan, or as required by inspection staff during the plan review and/or inspection stages.
- **C.** A total of 344 trees, 344 shrubs, and 420 cuttings, selected from the Portland Plant List, shall be planted, in substantial conformance with Exhibits C.11 Planting Plan.
  - 1. Plantings shall be installed between October 1 and March 31 (the planting season).
  - 2. Prior to installing required mitigation plantings, non-native invasive plants shall be removed from all areas within 10 feet of mitigation plantings, using handheld equipment.
  - 3. All mitigation and remediation shrubs and trees 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.
- **D.** 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.

**Note:** In addition to the requirements of the Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations.

This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

Staff Planner: Stacey M Castleberry

Decision rendered by: Ollie on November 17, 2010

By authority of the Director of the Bureau of Development Services

Decision mailed: November 19, 2010

**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 January 15, 2010 and determined to be complete on February 4, 2010.

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 January 15, 2010.

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 waived the 120-day review period, as stated with Exhibit A.2. **The 120 days will expire on: February 4, 2011.** 

### 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 December 3, 2010** at 1900 SW Fourth Ave. Appeals can be filed Tuesday through Friday on the first floor of the Development Services Center until 3 p.m. After 3 p.m. and Mondays, 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. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, 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 <a href="https://www.portlandonline.com">www.portlandonline.com</a>.

**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 **December 6**, 2010 (the first weekday 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.

**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**

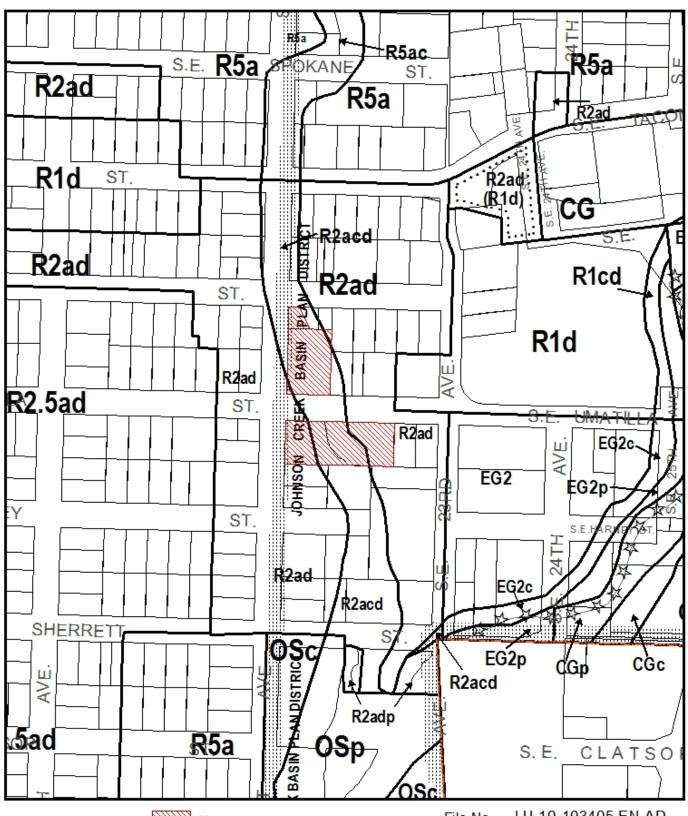
### NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statements
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - C.1 through C.11 (attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Bureau of Environmental Services
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Water Bureau
  - 4. Site Development Review Section of BDS
- F. Correspondence:

(none received)

- G. Other:
  - 1. Original LU Application
  - 2. Site History Research

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING Site



LU 10-103405 EN,AD File No. 3832 1/4 Section \_ 1 inch = 200 feet Scale\_ 1S1E23DD 4700 State\_Id . В

Exhibit \_

(Feb 02,2010)

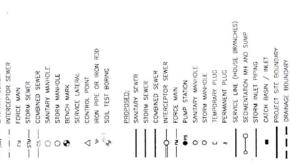


This site lies within the: JOHNSON CREEK BASIN PLAN DISTRICT

# Tenino Through Umatilla Passage Project Fish



### ---SAN--- SANITARY SEWER 0 00 POWER VAULT POWER TRANSFORMER TELEPHONE MANHOLE TELEPHONE PEDESTAL CATCH BASIN/INLET EDGE OF PAVEMENT EDGE OF DRIVEWAY DITCH OR STREAM WATER MANHOLE CAS VALVE WATER METER FIRE HYDRANT WATER VALVE CONCRETE PAD POLE ANCHOR STREET UGHT POWER POLE CLEAN OUT FENCE CURB 83 4000EL



A ILEM CRACKO AND REQUEST YOU OF THE STATE O

### Dig Safely.

DESIGN CRITERIA AND ASSUMPTIONS:

Call the Degan One-Call Center DIAL 811 or 1:800:332-2344

NW NATURAL GAS

N=7 Prom-6ge 503-226-4211 EAL433

AFITR HOURS

503-46-4717

ONE 51

ONE 52

OTH READ OF WINTERNET 503-523-674

VERZON

FERZON

1-600-483-1000 EMERGENCY TELEPHONE NUMBERS

# GENERAL NOTES:

- EXISTING GRADES SHOWN ON CHANNEL PROFILES ARE TAKEN ALONG THE THALWEG (I.E. LOW FLOW CHANNEL). ELEVATIONS PROVIDED BY THE CITY OF PORTLAND.
- ALL UTILITIES AND SERVICE LATERALS SHOWN ON PLANS ARE AT APPROXIMATE LOCATIONS ONLY AND MUST BE VERFIED BY THE CONTRACTOR IN THE FIELD PROR TO CONSTRUCTION.
- NOT ALL WATER AND GAS SERVICE LATERALS ARE SHOWN ON PLANS.



LEGEND (PLAN AND PROFILE SHEETS):

# PORTLAND, OREGON VICINITY MAP NOT TO SCALE

### SHEET INDEX:

| T SHEET SHEET<br>BER NAME DESCRIPTION |
|---------------------------------------|
| NUMBER                                |

|     | 00  | COVER SHEET AND VICINITY MAIS                            |
|-----|-----|--|
| 02  | 000 | EXISTING CONDITIONS AND SITE PLAN UTILITIES              |
| 0.3 | C02 | TREE REMOVAL AND PROTECTION                              |
| 0.4 | C03 | SITE ACCESS AND STAGING AREAS                            |
| 0.5 | C04 | EROSION CONTROL AND PLANTING                             |
| 90  | 002 | EROSION CONTROL, FLOW DIVERSION AND DEWATERING           |
| 0.7 | 900 | PLANTING PLAN  |
| 08  | C07 | GRADING PLAN 0+00 10 3+00                                |
| 60  | 800 | GRADING PLAN 3+60 TO 4+20                                |
| 10  | 600 | CHANNEL PROFILE 0+00 TO 5+60                             |
| :   | 010 | CHANNEL CROSS SECTIONS                                   |
| 12  | C11 | POOL AND RIFFLE DETALS                                   |
|     | 5-1 | SE TENINO REPLACEMENT STRUCTURE - PLAN & SECTION VIEWS   |
| 14  | 5-2 | SE UMATILLA REPLACEMENT STRUCTURE - PLAN & SECTION VIEWS |
| 4   | 5-2 | SE UMATILLA REPLACEMENT STRUCTURE - PLAN & SECTION VIEWS |

LU10-103405 EN AD

CONSTRUCTION EASEMENT

PROPERTY LINE

- R/W

TELEPHONE UG OVERHEAD LINE

FIBER OPTIC

ELECTRIC UG

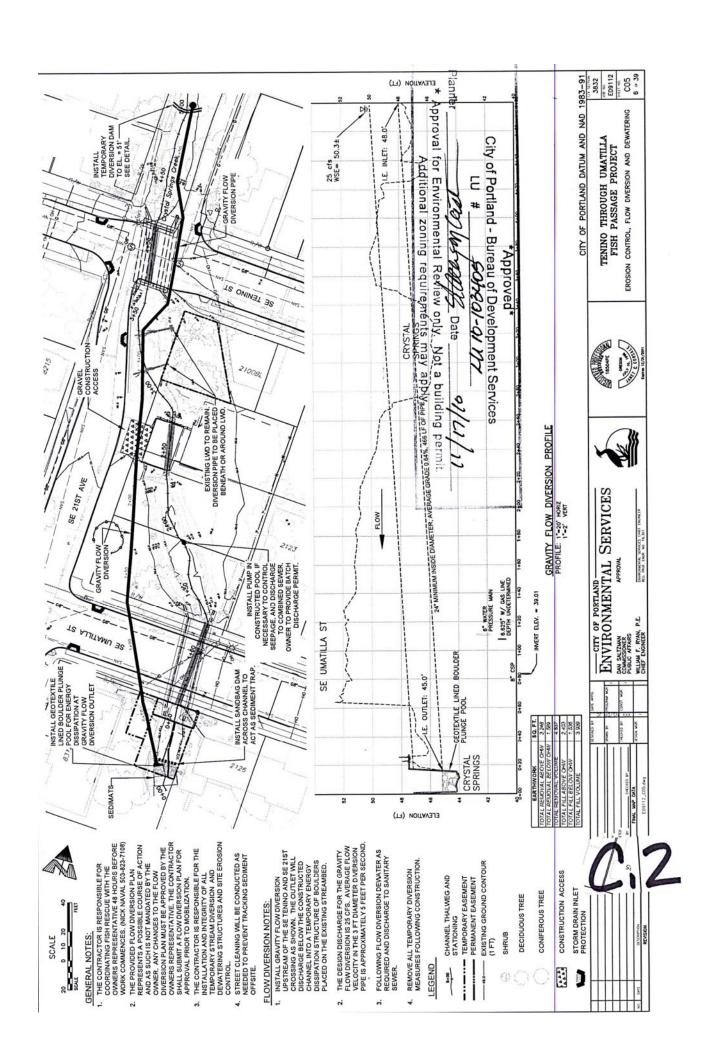
WATER LINE

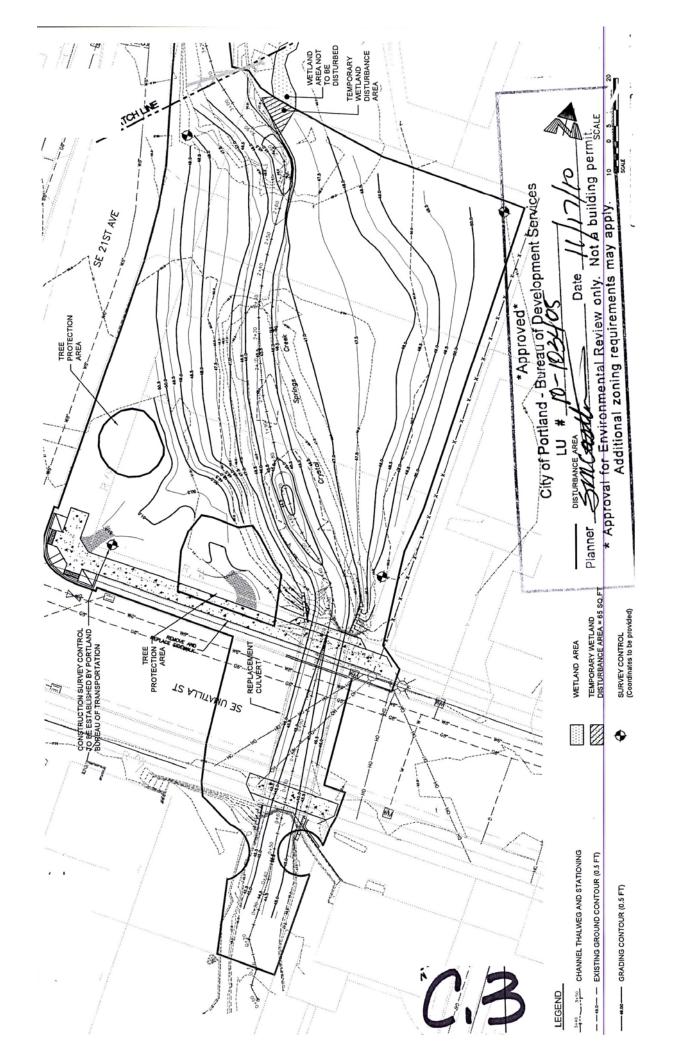
CAS LINE

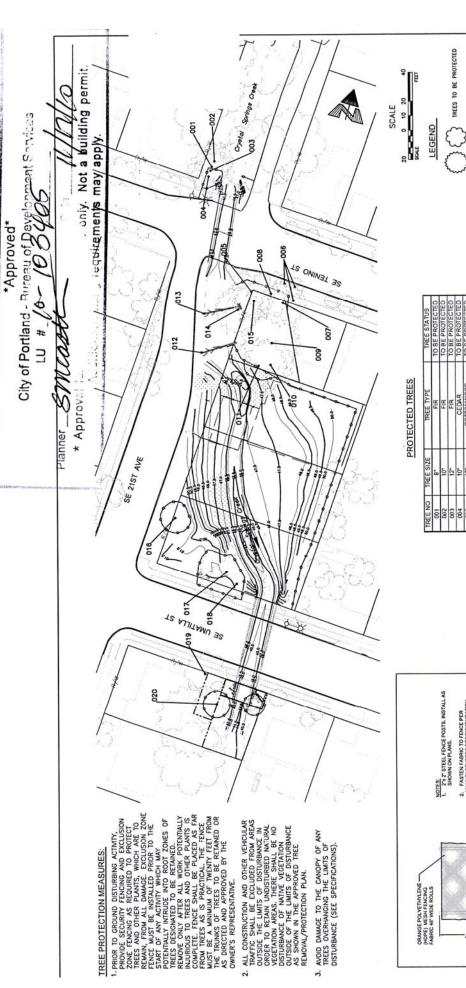
G

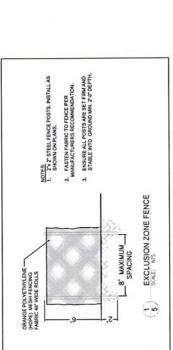


PROJECT AREA









|   | CLED      | CTED        | CTED              | CLED   | CTED   | CTED   | CTED  | CTED   | CTED  | CTED   | CTED  | CTED   |   | CTED   | CTED   | CTED               | CTED  | CTED<br>CTED<br>CTED |
|---|-----------|-------------|-------------------|--|--|--|---|--|---|--|---|--|---|--|--|--------------------|---|----------------------|
|   | TOBEPROT  | TO BE PROTE | TO BE PROTE       | TO BE PROTE  | TO BE PROTE  | TO BE PROTE  | TO BE PROTE   | TO BE PROTE  | TO BE PROTE   | TO BE PROTE  | TO BE PROTE   | TO SE PROTE  | TO BE PROTE   | IO BE PROIS  | TANGE SANATA   | TO BE PROTE        | TO BE PROTE   | TO BE PROTE          |
|   | SILK TREE | BIRD CHERRY | WESTERN RED CEDAR | WESTERN RED CEDAR  | BLUE SPRUCE  | CEDAR  | CEDAR   | OREGON ASH   | PACIFIC WILLOW (TOPPED)   | CEDAR  | CEDAR   | CEDAR  | DOUGLAS FIR   | PINE   | PONDEROSA PINE   | COTTONWOOD         |   | CEDAR                |
|   | -01       | .91         | 30.               | 30*  | 15*  | .6   | 13.   | 12.  | 30.   | 18,  | 26*   | 32.  | 1.  | 12.  | 3.   | 13:                |   | 10.                  |
|   | 020       | 610         | 018               | 210  | 016  | 015  | 014   | 013  | 012   | 011  | 010   | 600  | 800   | 200  | 900  | 900                | 600   |                      |
| - |           | 15 SIK REE  | 15* BIRO CHERRY   | 30 WESTERN RED CELOR<br>16" BIRD CHERRY<br>16" SILK TREE | 30" WESTERN RED CECAR<br>30" WESTERN RED CECAR<br>15" BIRO CHERKY<br>15" SILK TREE | 15' RE BLUE SPRUCE<br>30' WESTERN RED CEGAR<br>16' BIRD CHERRY<br>16' BIRD CHERRY<br>16' SILK TREE | 9* GEOAR<br>15* BLUE SPRUCE<br>30* WESTERN RED CECAR<br>15* SILK TREE | 13 CEGNR 9 CEGNR 15 NES INTERE 30 WES INTERE 16 SIK TREE | 12" OREGON ASH 15" BLUE SPRUCG: 30" WESTERN RED CECAR 15" BIND ONESWY 16" BIND ONESWY 16" SILK TREE | 30" PACJEC WILLOW (TOPPED)  12" OREGON ASH 15" CEGNA 19" CEGNA 19" WE SITEM RED GEGNA 30" WE SITEM RED GEGNA 15" SILK TREE | 18" PAGE C WILOW (109 PED) 12" OREGONI ASH 13" CEBNR 14" CEBNR 15" NE SHEN RED CENR 15" WE SHEN RED CENR 16" SHA TREE | 26" CEGAR 18" PACIFIC WILOW (TOPED) 30" PACIFIC WILOW (TOPED) 17" OFFIAN 19" CEGAR 19" ELUE SPRUCE 30" WESTERN RED CEGAR 16" SILA TREE | 22 CCBAR 187 CCBAR 187 CCBAR 307 PACFFO WILOW (TOPED) 17 OREGOLA ASH 17 CEDAR 19 CEDAR 19 WE SHEW RED CEDAR 19 WE SHEW RED CEDAR 16 SHOOTHERE | 7. DOUGUAS FIR<br>267 CEGAR<br>187 CEGAR<br>187 CEGAR<br>187 CEGAR<br>187 CEGAR<br>187 REUE SPRUCE<br>187 WESTERN REDGEAR<br>187 WESTERN REDGEAR<br>187 WESTERN REDGEAR<br>187 SILK TREE | 12" DOUGLAS FIRE 26" CECAR 26" CECAR 27" CECAR 28" CECAR 30" PACE CULLOW (TOPPED) 31" CECAR 32" CECAR 34" CECAR 35" WE STEWN RED CECAR 36" WE STEWN RED CECAR 36" WE STEWN RED CECAR 37" WE STEWN RED CECAR 38" WE STEWN RED CECAR 38" WE STEWN RED CECAR 39" WE STEWN RED CECAR 36" STEWN RED CECAR 37" WE STEWN RED CECAR 38" WE STEWN RED CECAR 38" STEWN RED CECAR 39" WE STEWN RED CECAR 39" WE STEWN RED CECAR 30" WE STEWN RED CECAR | 3"   POWEROAS PINE | 13" COTTONWOOD  3" POWEGROSA PRIE  12" DEUGLAS FIR  33" CEGAR  30" PACIFIC WILLOW (TOPPED)  30" PACIFIC WILLOW (TOPPED)  30" GEGAR  11" GEGAR  14" GELAR  30" WESTERN RED GEGAR  30" WESTERN RED GEGAR  16" SILK TREE | 10                   |

TEMPORARY TYPE ORANGE PLASTIC MESH FABRIC (EXCLUSION ZONE FENCE) PROPOSED CONTOUR LINES

BAMBOO REMOVAL AREA



3832 Ae W. E09112 C04 5 o 39

