



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

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**Date:** December 23, 2010  
**To:** Interested Person  
**From:** Rachel Whiteside, Land Use Services  
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## **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 10-183543 EN**

### **GENERAL INFORMATION**

**Applicant/Owner:** Tom Costello,  
Portland Audubon Society  
5151 NW Cornell Rd  
Portland, OR 97210

**Owner:** City of Portland (Parks)  
1120 SW 5<sup>th</sup> Ave #1205  
Portland, OR 97204

**Site Address:** 5151 NW CORNELL RD

**Legal Description:** TL 200 42.40 ACRES SPLIT MAP R316746 (R941321330), SECTION 31 1N 1E; TL 100 22.20 ACRES, SECTION 31 1N 1E; TL 600 0.36 ACRES, SECTION 31 1N 1E

**Tax Account No.:** R941310010, R941310170, R941310570

**State ID No.:** 1N1E31A 00200, 1N1E31AC 00100, 1N1E31AC 00600

**Quarter Section:** 2924

**Neighborhood:** Forest Park, contact Jim Emerson at 503-283-4096.

**Business District:** None

**District Coalition:** Neighbors West/Northwest, contact Mark Sieber at 503-823-4212.

**Plan District:** Northwest Hills – Balch Creek and Skyline Subdistricts

**Other Designations:** Forest Park Natural Resources Management Plan (NRMP)

**Zoning:** OSc,f,p,s – Open Space Zone with Environmental Conservation (c), Future Urban (f), Environmental Protection (p), and Scenic Resource Protection (s) Overlay Zones

**Case Type:** EN – Environmental Review

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

**Proposal:**

On September 13, 2010, the City Sanitarian issued an On-Site Sewage Disposal Permit (10-166208 SP) for emergency repairs and replacement drainfield for the Portland Audubon Society facility located along NW Cornell Road due to the public health hazard present with the failing septic system. Prior to October 1, 2010, the deadline for soil disturbing activities within the Balch Creek Subdistrict, the applicant installed an additional drainfield, 3 additional septic tanks, 3 advanced treatment units, and an additional dosing tank to pre-treat effluent. These repairs were determined to be the minimum requirements to satisfy the City and County sanitation standards for the Audubon offices, visitor center, and wildlife hospital.

The project disturbed a total of 6,000 square feet of ground, however all permanent development is subsurface so no additional impervious surface was created. The replacement drainfield is located east of the existing drainfield in a grassy field adjacent to a parking area in Macleay Park. The work on Portland Parks property was allowed via Non Parks Use Permit #2010-30. The tank and treatment unit are located within the footprint of an existing animal enclosure so no native vegetation was removed. One, four-inch maple tree and 10 large sword ferns had to be removed for the access path to the tank area. All water, effluent, and electric lines connecting the repairs were bored underground at a minimum depth of three feet to avoid any disturbance to trees and vegetation.

The applicant proposes to replant all temporary disturbance areas with a mix of native plants, with the exception of the drainfield area on Parks' property where Parks has requested replanting with their own shade mix grass seed.

A Type II Environmental Review is required under the Forest Park NRMP for minor amendments to the Plan.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria. The relevant criteria are found in the **Forest Park NRMP on Page 217, Approval Criteria for Minor Amendments.**

**SITE INFORMATION**

**Description of the site:** The Audubon Society of Portland is located on NW Cornell Road between Upper Macleay Park and NW 53<sup>rd</sup> Drive. The site abuts Forest and Macleay Parks; trails at Audubon connect with trails in both parks. Audubon maintains a 12,000 square foot facility, distributed among three structures, which serve as offices, visitor center, and a wildlife hospital. The existing septic drainfield is located in Macleay Park adjacent to an existing disturbed area west of the trailhead parking lot. The grassy field where development is proposed is lined on the south side a row of Dawn Redwood trees that were recently nominated to be on the heritage tree inventory.

The predominant zoning surrounding the site is open space (OS). South of NW Cornell Road, the zoning is low-density single-dwelling residential (RF) and OS.

**Infrastructure:** There is no public sanitary sewer serving this site. A water line in the vicinity of the replacement drainfield was relocated further north on the Parks property. NW Cornell Road is a Neighborhood Collector, Community Transit Street, City Bikeway, and City Walkway the through street in the immediate area.

**Environmental Resources:** Environmental overlay zones 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 be sensitive to the site's protected resources. They protect the most important environmental features and resources while allowing

environmentally sensitive urban development where resources are less sensitive. The purpose of this land use review is to ensure compliance with the regulations of the environmental zones.

The subject property is identified as part of Resource Sites 74 and 75 of the *Balch Creek Watershed Protection Plan*. Assessment scores for these sites are 90-95, designating their high significance. Both sites are classified as Mixed First and Second Growth Conifer Forest. The types of resources found include wildlife habitat, rare flora and plant communities, historic, open space, scenic, recreational, and educational. NW Cornell Road is within the Scenic Resource Zone and has a scenic corridor designation.

**Zoning:** OSfps [Open Space (OS) with the Future Urban (f), Environmental Protection (p), and Scenic (s) Overlay Zones. According to the Northwest Hills Plan District Map 563-1, the subject site is located in the Balch Creek Subdistrict of the Northwest Hills Plan District.

The Open Space (OS) base zone is intended to preserve public and private open and natural areas to provide opportunities for outdoor recreation and a contrast to the built environment, preserve scenic qualities and the capacity and water quality of the stormwater drainage system, and to protect sensitive or fragile environmental areas. In this case, no new uses are proposed within the OS zone so the provisions of the zone do not apply to the proposal.

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

The Future Urban (f) overlay zone limits development in future urban areas. Future urban areas are (1) all areas beyond Metro's Urban Growth Boundary (UGB), and (2) areas within the UGB to which the extension of full urban services would not be cost effective or would cause unacceptable harm to the environment. In this case, the f overlay provisions do not apply to the proposal.

The Scenic (s) overlay zone is intended to protect Portland's significant scenic resources. In this case, the proposed development is so far from the s overlay zone that the s overlay zone provisions do not apply to the proposal.

The Northwest Hills Plan District protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park Subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. These regulations provide the higher level of protection necessary for the plan district area.

**Land Use History:** City records indicate that prior land use reviews include the following: PC 5117, CU 76-68, VZ 220-84, VZ 85-89, and V 68-66. More recent land use reviews include: LUR 91-00076 LA; LUR 91-00857 CU EN AD; LUR 96-00515 EN; LUR 00-00298 EN; and LU 04-027613 EN. The current proposed development is not affected by these prior land use cases.

## PUBLIC REVIEW COMMENTS

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was mailed on October 25, 2010.

**1. Agency Review:** Several Bureaus and agencies have responded to this proposal. The Bureau of Environmental Services, Bureau of Transportation, Fire Bureau, Urban Forestry

Division of Parks Bureau, and Life Safety Section of BDS responded with no concerns. The Water Bureau responded that as-built plans are required documenting that an existing 2-inch water line is not in the location of the new drainfield. The Site Development Section of BDS responded that a permit was issued for the emergency repair work and that as-built drawings are required prior to final inspection. Mitigation work will require a separate Zoning Permit. Exhibits E contain additional details.

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

## PROJECT ANALYSIS

**Impact Analysis and Mitigation Plan:** The applicant provided a full description of the proposal as summarized on page 1 of this report. The following discusses alternatives other than the one proposed, that were considered by the applicant. The following additionally describes the construction management, mitigation, and monitoring strategy, as proposed by the applicant. These are described in detail in the applicant's narrative (Exhibits A.1 and A.2 in the Application Case File).

Development Alternatives: The applicant described the following alternatives, as required by FPNRMP approval criterion C:

The project design, in terms of linear feet of drainfield, number of holding tanks, and advance treatment units, is determined by the City/County sanitary code based upon actual usage data taken from the existing septic system over a two-year period. The proposed repairs have been determined to be the minimum requirements to satisfy the City/County sanitation standards.

The site is 99.5% mature second growth forest on slopes that average 20% or greater. Drainfield cells must be located in relatively flat, open areas. The existing buildings, parking lot, and landscaped areas constitute approximately half an acre of the 250-acre park. The existing grassy field adjacent to the Macleay Park parking lot and the existing drainfield is the only location that can accommodate the new drainfield cells without requiring tree removal and/or grading.

An existing animal enclosure will be removed to have room for the new holding tanks and treatment units. Since this area was already disturbed, there will be no net gain in developed footprint. Again, no other area existed on the site that would not require tree removal to accommodate the necessary equipment.

Proposed Construction Management Plan (CMP): The applicant proposes placement of silt fence and chain link tree protection fencing around the perimeters of the drainfield construction area and along the path between the drainfield and new tanks prior to the commencement of construction activities. The sediment and tree protection fences will remain in place until all the above mentioned construction activities are completed. To the extent practical, all existing vegetation outside the limit of disturbance will be protected. The project arborist has identified low-hanging limbs on a few maple trees that will need to be pruned. Low-hanging limbs on the dawn redwoods adjacent to the work area will be tied-up temporarily during construction.

The construction access for the tank replacement by the Audubon administration building passes very near a giant Sequoia and there is no alternative route due to existing structures and steep slopes. The project arborist has recommended this tree to be wrapped in protective covering during construction to avoid equipment rubbing off the bark of the tree. The equipment carrying the new tank through this area will make one trip into the area; complete the work and then make one trip back with the old tank to limit impacts.

Applicant-Identified Development Impacts: The new drainfield and tank area will require no removal of native vegetation as these areas are already disturbed with structures or non-native grasses. The access path for the tank placement will require the removal of one four-inch maple tree and 8-10 large sword ferns. Some additional native vegetation will be temporarily impacted by the tank replacement near the administration building.

Proposed Mitigation: The applicant's proposed mitigation plan includes three parts:

- 1) Planting 126 native shrub and ground cover plants over the new septic and dosing tanks. This area was existing disturbance area covered by a raccoon enclosure.
- 2) Planting 18 arborescent shrubs and 69 additional native shrubs and 102 groundcovers where disturbance occurred from the construction access for the new tanks.
- 3) Reseeding over the new drainfield with a Portland Parks seed mixture approved for the area.

The mitigation plan and planting schedule are provided in the application as Exhibits C.4-6. All planting will be done by hand by Audubon volunteers and staff.

Proposed Monitoring Plan for Mitigation: The applicant did not propose a specific monitoring plan.

## **ZONING CODE APPROVAL CRITERIA**

### **Environmental Review Approval Criteria**

**Staff comment:** The criteria for approval of a minor amendment in the *Forest Park Natural Resources Management Plan* supercede the approval criteria of Section 33.430.250 (Section 33.430.060).

### **Forest Park Natural Resources Management Plan (FPNRMP) Approval Criteria for Minor Amendments.**

**Staff comment:** The proposed project is on city-owned property within the *Forest Park Natural Resources Management Plan (FPNRMP)* located within the environmental zone. In accordance with Chapter 8, "Implementation Procedures," of the *FPNRMP*, all projects on publicly-owned property subject to Environmental Review are required to meet the approval criteria found on pages 215-217 of the *FPNRMP*. The proposed project is subject to a Type II Environmental Review because it is listed under the "Uses Needing Further Evaluation" of the *FPNRMP*. Therefore, the approval criteria for a minor amendment are addressed below. Pursuant to Section 33.430.060 of the Portland Zoning Code, the project is not subject to the approval criteria found in Section 33.430.250.

#### **A. There is a demonstrated need for the proposal.**

**Finding:** The existing septic system has shown signs of occasional failure, including puddling of effluent in the drainfield. The City Sanitarian has deemed this situation an environmental and human health hazard and issued an emergency permit for the repair work. Given that the existing system was in failure mode, there is no alternative to repairing the system. *This criterion is met.*

#### **B. The proposed action is consistent with the *Forest Park Natural Resources Management Plan* Goals and Strategies.**

**Finding:** The *Forest Park Natural Resource Management Plan* identifies four goals and ten strategies. There are two Conservation Goals and two Recreational and Educational Goals. Balancing goals is discussed in the *FPNRMP* because there is an existing gradation of recreational use that results in a gradation of user impacts. The management units were

created so that each unit could be treated individually, helping the park retain or improve its most valuable natural resources, retain important values, and reduce conflicts.

The strategies were developed to help reach the goals. They are:

1. Implement Sustainable Resources Program
2. Divide Forest Park into Management Units
3. Acquire and Protect Additional Land
4. Manage Recreation to Protect Natural Resources
5. Improve interpretive, educational and research opportunities
6. Improve Public Access
7. Improve Park Safety
8. Develop Recreational Opportunities at Other Sites
9. Improve Park Staffing and Funding
10. Continue Public Involvement

**Findings:** Strategies 1, 2, 3, 4, 6, 8 and 9 do not directly apply to the proposal because no new programs are proposed, there are no change to management units, no new land will be acquired, no recreational activities are proposed on or off site, there will be no change to Forest Park access, nor will there be a change to Park staffing or funding. The Recreation and Education Goals 1 & 2 and Conservation Goals 1 & 2 represent broader management goals that do not specifically apply to the proposal. While these goals are not specifically applicable, the design, implementation and management of the proposed project is consistent with these broader goals.

Strategies 5, 7, and 10 directly apply to the proposal and are discussed in more detail below:

**Strategy 5. Improve interpretive, educational, and research opportunities:** Forest Park is a unique resource located close to residential and educational facilities in the metropolitan area. This presents many opportunities to educate citizens about the natural resources in their backyards.

**Findings:** This project allows the Audubon Society to continue their work providing interpretive, educational, and research opportunities for Portland residents.

**Strategy 7. Improve Park Safety:** Although Forest park is generally safe for recreational use, there are areas that can be improved. Public information, user education, and enforcement programs can reduce unwanted and illegal use.

**Findings:** As part of this project, Audubon voluntarily demolished the abandoned restrooms adjacent to the Macleay Park parking lot. The structures had been locked, but were frequently broken-into and subject to illegal uses. Removing the abandoned structures eliminates an ongoing enforcement problem and reduces areas available for illegal activities.

**Strategy 10. Continue Public Involvement:** Public interest and involvement has driven the protection of resources critical to the health of Forest Park, funded acquisition of land, provided resources for restoration projects, and raised awareness of the park in the community. Neighborhood associations, organized user groups, individual citizens and local businesses continue to be involved with Forest Park in a variety of ways.

**Findings:** The Audubon Society was able to call upon their collection of dedicated volunteers to assist with the mitigation plantings, actively engaging park users in support of the park environment.

**SUMMARY FINDINGS for Criterion B - Greenway FPNRMP Goals and Strategies:** Based on the foregoing, Strategies 1, 2, 3, 4, 6, 8 and 9 do not directly apply to the proposal. The project directly supports Strategies 5, 7, and 10. This project is consistent with the larger goals of the Forest Park NRMP. Accordingly, *this criterion is met.*

**C. Alternative locations and design modifications were evaluated to show that the proposal has the least significant detrimental environmental impact of the practicable alternatives.**

**Finding:** On page 4 of this report, alternative locations considered by the applicant for the drainfield and tanks were summarized. Given that the existing septic system was in failure mode, the existing public health hazard did not allow for an alternative to repairing/replacing the system.

The applicant's proposal to locate all new drainfield cells, holding tanks, and treatment units in areas with existing disturbance requires the least amount of tree removal and grading. All underground utility connections will be made by means of subsurface boring, below tree root level, which will further reduce impacts to surrounding trees and native plants. *This criterion is satisfied.*

**D. A construction management plan and a mitigation plan will minimize impacts on resources and restore adjacent disturbed areas.**

**Finding:** The applicant's proposed construction management plan (CMP) and mitigation plan are described on page 4 of this report. Construction methods will be confined to the footprint of development and the majority of access will be over existing pathways. The CMP will be effective because it provides clearly defined limits to disturbance (e.g., metal construction fencing, a workable erosion control plan, and tree protection) and it is apparent that the applicant has carefully thought through the potential impacts of construction activities on the property. The emergency repair work was all completed prior to the October 1<sup>st</sup> deadline for ground-disturbing activities. A minimum of a 200-foot buffer exists between all work areas and Balch Creek. For these reasons, the proposed CMP will provide protection for the resources and values in areas designated to be left undisturbed.

The Mitigation Plan will be successful for two reasons: First, the plan will mitigate for the loss of resource that may be permanently damaged by the construction activities. Secondly, the Mitigation Plan proposes to enhance the functional value of the forest resource by planting 18 arborescent shrubs, 93 shrubs, and 102 ground cover plants.

The mitigation plan will compensate for impacts at the site for the following reasons:

- All disturbance areas will be planted with native vegetation.
- Native vegetation will replace an animal enclosure.
- The plantings will provide assistance with pollution and nutrient retention and removal, sediment trapping and erosion control.

Mitigation plantings should be installed during the rainy season to avoid mortality of new plantings associated with Portland's summer drought climate. The site has a low instance of invasives (such as Himalayan blackberry and English ivy), but should they be present within the areas to be planted, they must be removed to prevent competition for light and water, with new native plantings. A Zoning Permit is required to ensure mitigation plantings are installed as proposed.

Plantings on the proposed Mitigation Plan are to be installed and maintained under the regulations outlined in Section 33.248.090.A-E (Mitigation and Restoration Plantings). The applicant has not proposed a monitoring plan, however a one-year monitoring report is required by Standard E to document survival of proposed mitigation plantings. Therefore, with conditions for a Zoning Permit, submittal of the monitoring reports to City staff, to plant during Portland's rainy season, and to remove invasive weeds near mitigation plantings, *this criterion is met.*

**Additional criteria required by Plan Districts****Balch Creek Subdistrict**

**33.563.120 Additional Approval Criterion.** In addition to the applicable approval criteria of Section 33.430.250, an environmental review application will be approved if the review body finds that the location, quantity, and quality of forest and contiguous forest cover will be sufficient to provide habitat for deer and elk and to provide for the passage of deer and elk between Forest Park and Pittock Acres Park.

**Findings:** The replacement drainfield is located below an existing grassy field. Only one tree, which is less than six inches in diameter, will be removed for construction and No trees or portions of tree will be removed. The proposed walkway will not alter the existing situation of the location, quantity, and quality of forest and contiguous forest cover.

**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.

**33.563 Northwest Hills Plan District**

**33.563.100 Prohibitions,** The following items are prohibited in the Balch Creek Subdistrict:

- A. Activities which expose soil to direct contact with stormwater between October 1 and April 30 are prohibited. An exception to this prohibition is planting of native plants with hand-held equipment and emergency repair of existing structures; and**
- B. In commercial zones with an environmental overlay zone, residential uses are prohibited.**

Standard A was met for the installation of the drainfield, septic tanks, and dosing unit as the work was completed prior to October 1. Planting native plants to comply with the Mitigation Plan is exempt. Standard B does not apply to this project.

**33.563.110 Additional Development Standards**

**All development must meet the following standards. Adjustment of these standards or modification of these standards through environmental review is prohibited. The development standards of this Section apply in addition to the standards of Sections 33.430.110 through .190.**

- A. Stormwater runoff.** Post-development stormwater flows from a site must not exceed pre-development stormwater flows from that site. Stormwater systems shall meet Bureau of Environmental Services and BDS design and construction standards.
- B. Soil erosion.**
  - 1. All cleared areas which are not within a building footprint or a graveled entranceway must be covered with mulch, matting, or other effective erosion control features within 15 days of the initial clearing.**
  - 2. Temporary erosion control features must be removed by October 1 of the same year the development was begun; and**
  - 3. All permanent vegetation must be seeded or planted by October 1 of the same year the development was begun, and all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 of the same year the development was begun.**

BDS Site Development and Bureau of Environmental Services have reviewed this project and have no concerns. No change was made to the amount of impervious surface on the site and all permanent vegetation is in place. These standards are met.



- C. Forest cover. Ninety percent of the portion of the site in the environmental zones must be retained or established in closed canopy forest with the following exceptions:**
- 1. Sites less than 30,000 square feet in area may have up to 3,000 square feet of unforested area.**
  - 2. Parks and Open Areas and Agriculture uses are exempt from this standard.**
- D. Land divisions. All required closed canopy forest areas in land divisions and Planned Developments must be within an environmental resource tract.**

The drainfield is located below an open grassy area within Macleay Park. There is no change to the existing Park use. This proposal does not include a land division. For these reasons, these standards do not apply.

## CONCLUSIONS

The applicant proposes to repair their failing septic system by installing additional drainfield cells, three additional septic tanks, three advanced treatment tanks, and a pre-treatment dosing tank all within the Environmental Protection and Conservation overlay zones. The applicant will minimize impacts on environmental resources by utilizing existing disturbance areas, accessing construction sites via existing pathways, and boring connections between underground facilities. The impacts will be mitigated by replanting the area with 18 arborescent shrubs, 93 shrubs, and 102 native ground cover plants. The applicant has shown that the proposal meets the applicable approval criteria of the Forest Park NRMP. Therefore, this proposal should be approved, subject to the following conditions.

## ADMINISTRATIVE DECISION

**Approval** of an Environmental Review for:

- Installation of a new septic drainfield, three septic tanks, three advanced treatment tanks, and a pre-treatment tank;
- Replacement of one existing tank;
- Relocation of a water line;
- Installation of associated pipe connections; and
- Installation of mitigation plantings

all within the Environmental Conservation and Protection overlay zones, and in substantial conformance with Exhibits C.2, C.3, C.4, C.5, and C.6, as modified, signed, and dated by the City of Portland Bureau of Development Services on December 21, 2010. Approval is subject to the following conditions:

**NOTE:** Activities which expose soil to direct contact with stormwater between October 1 and April 30 are prohibited.

- A. All permits:** Copies of the stamped Exhibits C.2 through C.6 from LU 10-183543 EN and Conditions of Approval listed below, shall be included within all plan sets submitted for permits (building, grading, Site Development, erosion control, etc.). 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.6."***
- B. A Zoning Permit** in substantial conformance with Exhibits C.4-6, Mitigation and Planting Plans, must be obtained prior to installation of the plantings.
1. A total of 18 arborescent shrubs, 93 shrubs, and 102 native ground covers, selected from the Portland Plant List, shall be planted, in substantial conformance with Exhibits C.4-6 Mitigation and Planting Plans.

2. Plantings shall be installed between October 1 and March 31 (the planting season).
3. 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.
4. After installing the required mitigation plantings, the applicant must request a final inspection of the Zoning Permit by the Bureau of Development Services, who will confirm that all required mitigation plantings have been installed.

**C. The applicant shall monitor the required plantings** for one year to ensure survival and replacement as described below. The applicant is responsible for ongoing survival of required plantings beyond the designated one-year monitoring period. The applicant shall:


1. Provide a letter (to serve as monitoring and maintenance reports) to the Forest Park Neighborhood Association, and to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 10-183543 EN) containing the monitoring information described below. Submit the letter within 12 months following approval of the Permanent Erosion Control Inspection of the required mitigation plantings. The letter shall contain the following information:
  - a. A count of the number of planted trees that have died. One replacement tree must be planted for each dead tree (replacement must occur within one planting season).
  - b. 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).
  - c. A list of replacement plants that were installed.
  - d. Photographs of the mitigation area and a site plan, in conformance with approved Exhibits C.4-6 Proposed Mitigation Plan, showing the location and direction of photos.
  - 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.

**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: Rachel Whiteside**

**Decision rendered by:**  **on December 21, 2010.**  
By authority of the Director of the Bureau of Development Services

**Decision mailed: December 23, 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 October 12, 2010, and was determined to be complete on October 21, 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 October 12, 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 requested that the 120-day review period be extended by 35 days, as stated with Exhibit A.3. Unless further extended by the applicant, **the 120 days will expire on: March 25, 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 January 6, 2011** 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 [www.portlandonline.com](http://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 **January 7, 2011 – the 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.

**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;

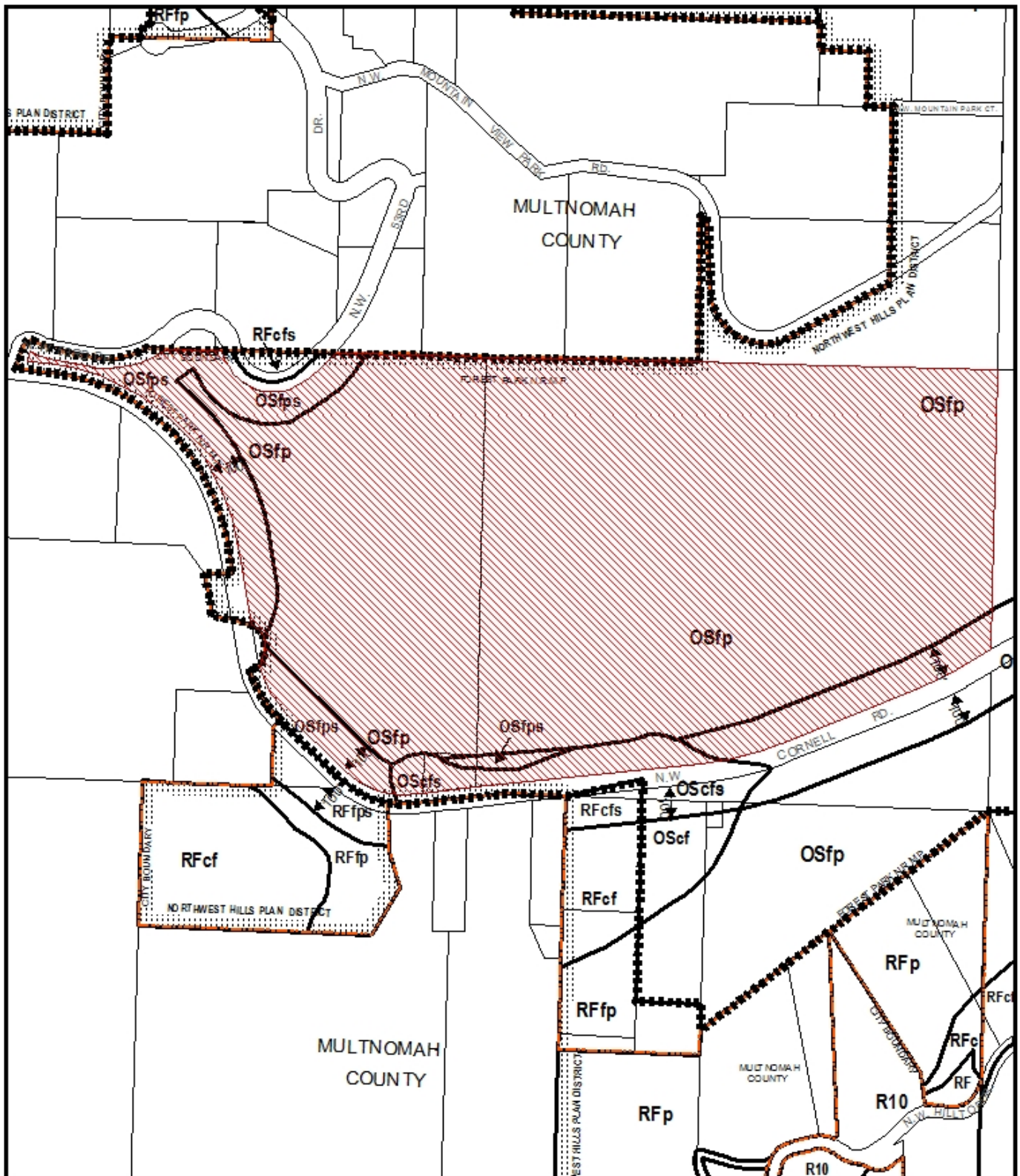
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

### **EXHIBITS**

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
  - 1. Narrative
  - 2. Tree Protection & Construction Management Plan
  - 3. Extension of the 120-day review period
- B. Zoning Map (attached)
- C. Plans/Drawings:
  - 1. Existing Conditions Plan
  - 2. Proposed Development Plan
  - 3. Construction Management Plan
  - 4. Mitigation Plan
  - 5. Planting Plan for Site A
  - 6. Planting Plan for Site B
- 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. Fire Bureau
  - 5. Site Development Review Section of BDS
  - 6. Bureau of Parks, Forestry Division
  - 7. Life Safety Review Section of BDS
  - 8. Revised Water Bureau response, received 12/21/10
- F. Correspondence: None
- 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

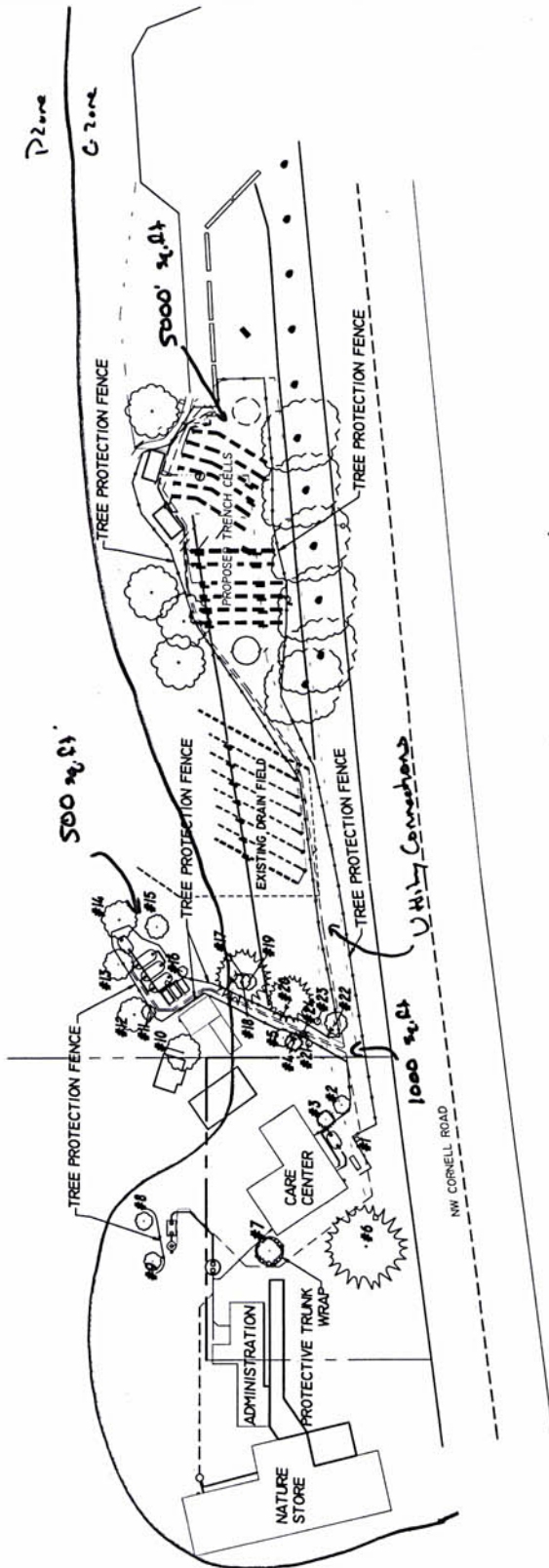
 Site



File No.	<u>LU 10-183543 EN</u>
1/4 Section	<u>2923,2924,2925</u>
Scale	<u>1 inch = 400 feet</u>
State_Id	<u>1N1E31A 200</u>
Exhibit	<u>B (Oct 14,2010)</u>



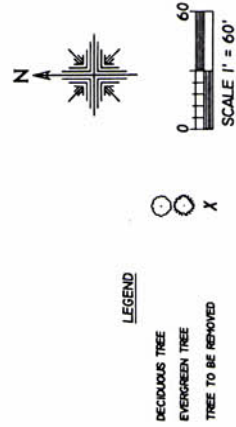
# Proposed Development Plan



TREE INVENTORY

TREE NO.	COMMON NAME	BOTANICAL NAME	DBH
1	European Mountain Ash	Sorbus aucuparia	3
2	Bigleaf Maple (8 stems)	Acer macrophyllum	8" stems
3	Western Red Cedar	Thuja plicata	13
4	Western Red Cedar	Thuja plicata	12
5	Bigleaf Maple	Acer macrophyllum	12
6	Giant Sequoia	Sequoiadendron giganteum	102
7	Giant Sequoia	Sequoiadendron giganteum	33
8	Sweet Cherry	Prunus avium	8
9	Sweet Cherry	Prunus avium	14
10	Bigleaf Maple	Acer macrophyllum	30
11	Sweet Cherry	Prunus avium	8
12	Sweet Cherry	Prunus avium	19
13	Bigleaf Maple	Acer macrophyllum	17
14	Bigleaf Maple	Acer macrophyllum	24
15	Bigleaf Maple	Acer macrophyllum	13
16	Bigleaf Maple	Acer macrophyllum	6
17	Western Red Cedar	Thuja plicata	31
18	Bigleaf Maple	Acer macrophyllum	9
19	Bigleaf Maple	Acer macrophyllum	13
20	Western Red Cedar	Thuja plicata	25
21	Bigleaf Maple	Acer macrophyllum	4
22	Bigleaf Maple	Acer macrophyllum	13
23	Bigleaf Maple	Acer macrophyllum	4
24	Bigleaf Maple	Acer macrophyllum	4

- \* No changes to grade or contour
- \* All disturbance to occur within tree protection fencing
- \* Underground Utility Connections indicated by dotted lines



\* Approved \*

City of Portland - Bureau of Development Services

LU # 10-183543 EN

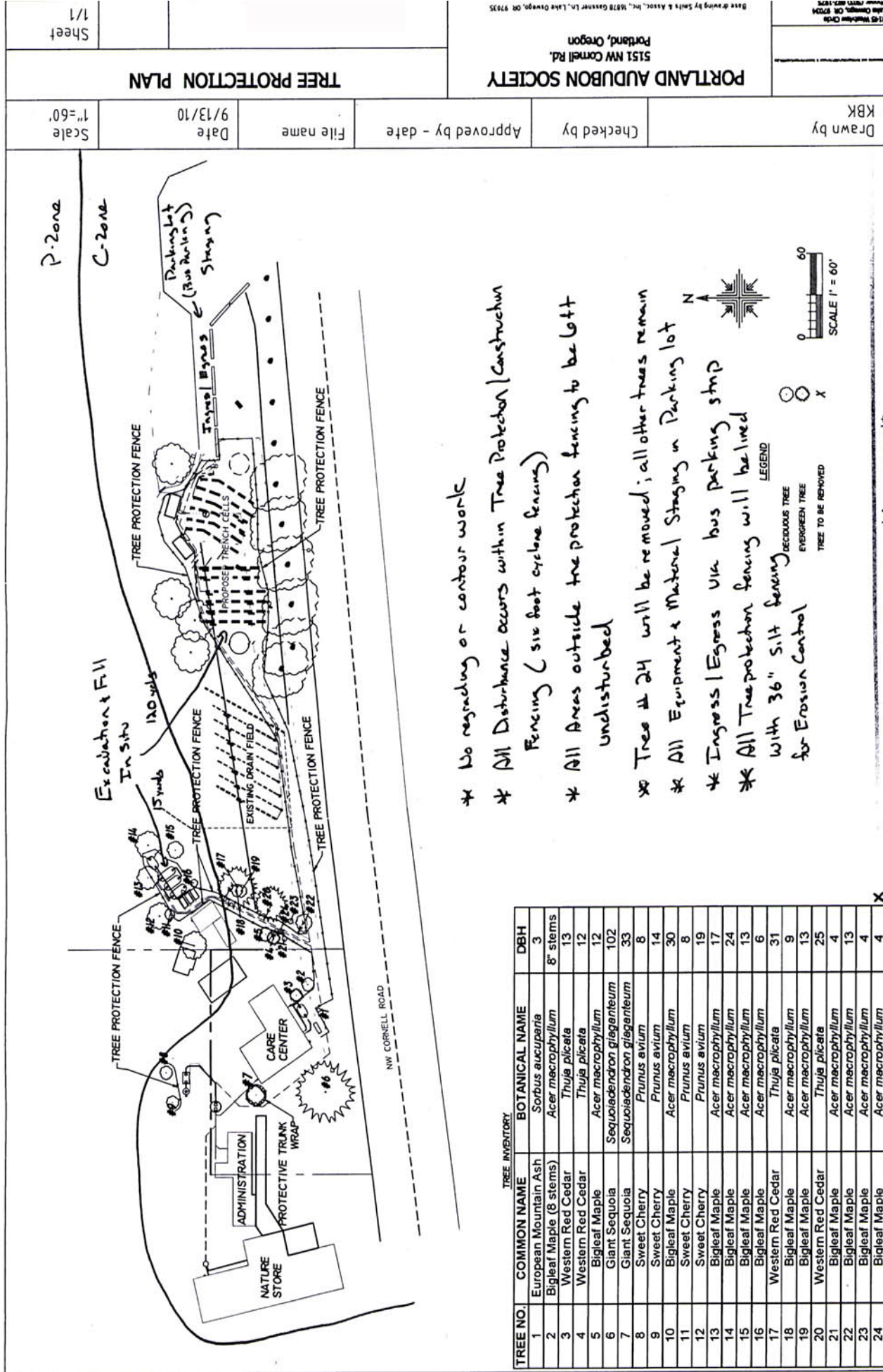
Planner P. White

Date 12/21/10

\* Approval for Environmental Review only. Not a building permit.

LU 10-183543 EN  
Exhibit C.2

# Construction Management Site Plan



- \* No regrading or contour work
- \* All Disturbance occurs within Tree Protection Construction Fencing (six foot cyclone fencing)
- \* All Areas outside the protection fencing to be left undisturbed
- \* Trees at 24 will be removed; all other trees remain
- \* All Equipment & Material Staging in Parking lot
- \* Ingress/Egress via bus parking strip
- \* All Tree protection fencing will be lined with 36" silt fencing for Erosion Control

TREE NO.	COMMON NAME	BOTANICAL NAME	DBH
1	European Mountain Ash	Sorbus aucuparia	3
2	Bigleaf Maple (8 stems)	Acer macrophyllum	8" stems
3	Western Red Cedar	Thuja plicata	13
4	Western Red Cedar	Thuja plicata	12
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7	Giant Sequoia	Sequoiadendron giganteum	33
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15	Bigleaf Maple	Acer macrophyllum	13
16	Bigleaf Maple	Acer macrophyllum	6
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18	Bigleaf Maple	Acer macrophyllum	9
19	Bigleaf Maple	Acer macrophyllum	13
20	Western Red Cedar	Thuja plicata	25
21	Bigleaf Maple	Acer macrophyllum	4
22	Bigleaf Maple	Acer macrophyllum	13
23	Bigleaf Maple	Acer macrophyllum	4
24	Bigleaf Maple	Acer macrophyllum	4

\* Approved \*

City of Portland - Bureau of Development Services

LU # 10-183543 EN

Planner R Whiteside Date 12/21/10

\* Approval for Environmental Review only. Not a building permit. Additional zoning requirements may apply.

LU 10-183543 EN

Exhibit C.3



# Mitigation Site Plan P-1

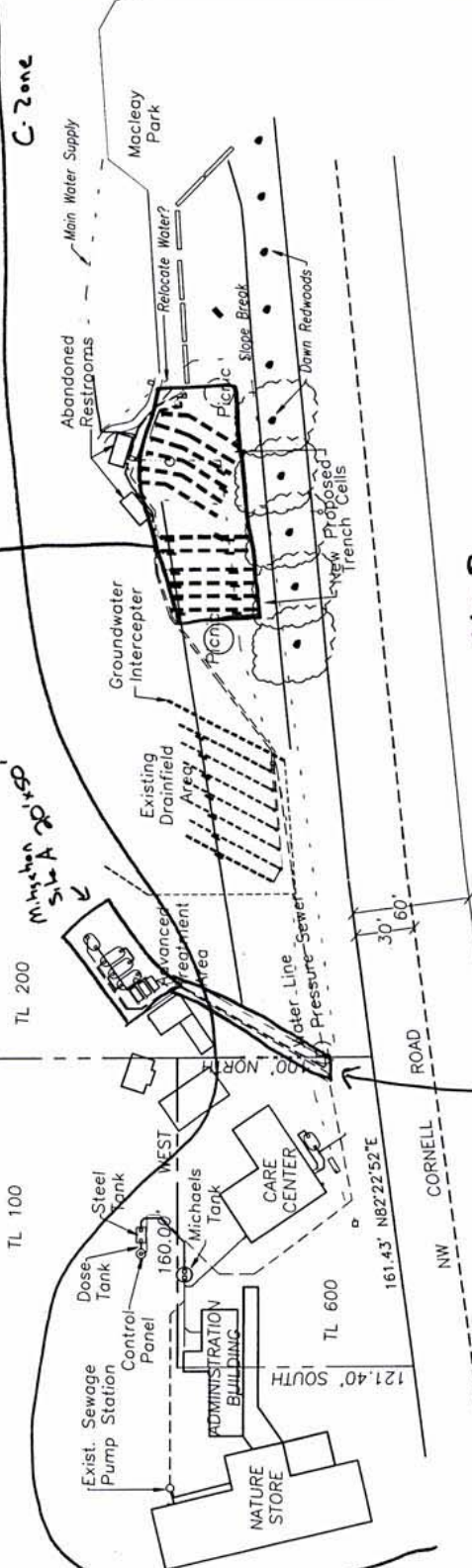
## Site A

- 64 Sword Fern 1 gallon
- 35 Dull Oregon Grape 1 gallon
- 27 Salmonberry 1 gallon

Mitigation Area C: 50' x 100'  
to be reseeded with Portland  
Park's Shrub Mix Grass Seed

P-Zone

C-Zone



## Site B

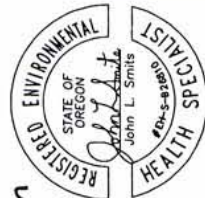
- 18 Vine Maple 3 gallon
- 7 Indian Plum 5 gallon
- 38 Sword Fern 1 gallon
- 24 Dull Oregon Grape 1 gallon

Mitigation Site B  
10' x 100'

\* All Improvements shown are subsurface

\* Planting plans & tables on accompanying sheets P.2 & P.3

LU 10-183543 EN  
Exhibit C.4



RENEWAL DATE  
12/31/10

\*Approved\*

City of Portland - Bureau of Development Services

LU # 10-183543 EN

Planner R. White Date 12/21/10

\* Approval for Environmental Review only. Not a building permit.  
Additional zoning requirements may apply.

Smits & Associates, Inc.

Environmental Consultants • Designers  
16878 S. W. Cassner Lane  
Lake Oswego, OR 97035-4524  
John L. Smith, REHS  
P# (503) 699-2696  
Fax (503) 699-2876  
Email: jsmith@aol.com

THE AUDUBON SOCIETY  
5151 NW Cornell Road  
T.1N., R.1E., Sec. 31 TL 100, 600  
Multnomah County

SITE AT 1" = 60'

SHEET

San 2

of 14

July 30, 2010

Mitigation Site Plan P-2  
Planting Plan for Site A

1" = 5'  
T - Access for subsurface  
ATX treatment units  
A - Access for subsurface  
septic tanks & pumps



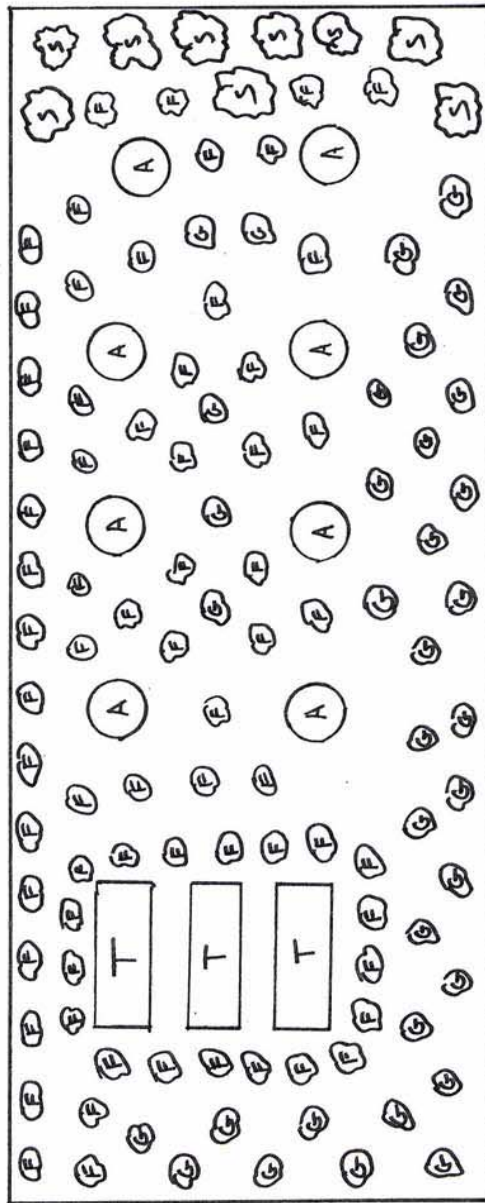
Planting Notes

\* No trees in this area - due to subsurface utilities

F - Sword Fern - *Polystichum munitum*  
1 gallon - 641 count total

G - Dull Oregon Grape - *Machonia nervosa*  
1 gallon - 35 count total

S - Salmonberry - *Rubus spectabilis*  
1 gallon in clumps of 3  
↳ 27 count total



CASE NO. \_\_\_\_\_  
EXHIBIT C.5

\*Approved\*

City of Portland - Bureau of Development Services

LU # 16-183543 EN

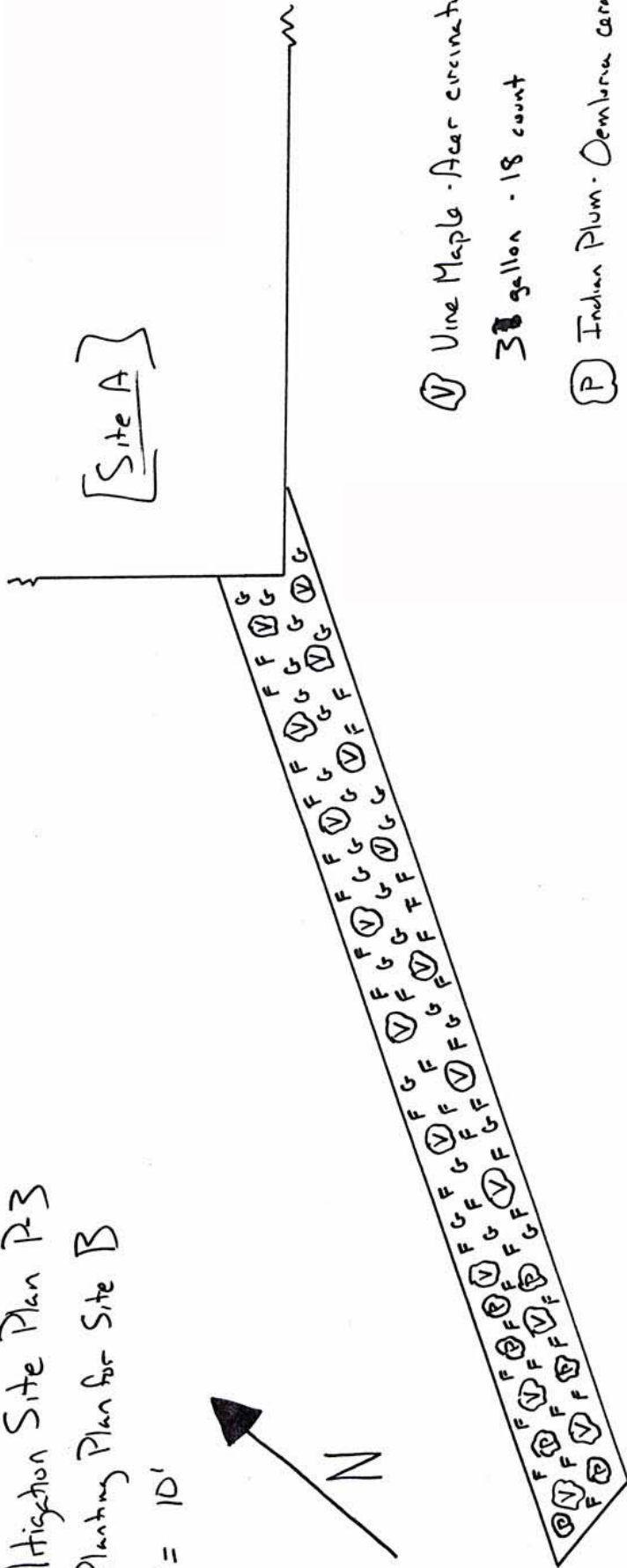
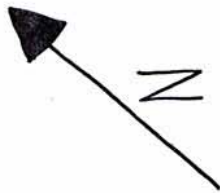
Planner R. Whiteside

Date 12/2/16

\* Approval for Environmental Review only. Not a building permit.  
Additional zoning requirements may apply.

# Mitigation Site Plan R-3 Planting Plan for Site B

1" = 10'



(V) Vine Maple - Acer circinnatum

38 gallon - 18 count

(P) Indian Plum - Oemleria cerasifera

58 gallon - 7 count

F Sword Fern - Polystichum munitum

1 gallon - 38 count

G Dull Oregon Grape - Mahonia Nervosa

1 gallon - 24 count

CASE NO. \_\_\_\_\_  
EXHIBIT C.6

\*Approved\*

City of Portland - Bureau of Development Services

LU # 10-183543 ELU

Planner R. W. White

Date 12/21/10

\* Approval for Environmental Review only. Not a building permit.  
Additional zoning requirements may apply.