



City of Portland  
**Bureau of Development Services**  
Land Use Services Division

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**Date:** May 16, 2008  
**To:** Interested Person  
**From:** Kate Green, Land Use Services  
503-823-5868

**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 07-157912 PV**  
**UNINCORPORATED MULTNOMAH COUNTY**

**GENERAL INFORMATION**

**Applicant:** Hugh and Joyce Womack  
8200 SE 162nd Avenue  
Portland, OR 97236-4832

**Owner:** Timothy and Beverlee Max  
16655 SE Baxter Road  
Gresham, OR 97080

**Representative:** Jeremy Totten, All County Surveyors and Planners 503-668-3151  
PO Box 955  
Sandy, OR 97055

**Site Address:** 16655 SE Baxter Road

**Legal Description:** SECTION 19 1 S 3 E; TL 100  
**State ID No.:** 1S3E19CC 100  
**Tax Account No.:** R340595  
**Quarter Section:** 3847

**Neighborhood:** Pleasant Valley, contact Linda Bauer at 503-761-2941

**Business District:** None

**District Coalition:** East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550

**Plan District:** Pleasant Valley

**Other Designations:** Unincorporated Multnomah County, Mitchell Creek and Floodplain

**Zoning:** RFv (R7) – Residential Farm/Forest base zone with Comprehensive Plan Designation of Medium Density Single Dwelling (R7). A portion of the site is within the Pleasant Valley Natural Resources (v) Overlay Zone

**Case Type:** PV – Pleasant Valley Resource Review

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

**Proposal:** The applicant proposes to install a public storm sewer and outfall within the Pleasant Valley Natural Resources (v) Overlay Zone. The storm sewer will convey stormwater overflow from facilities to be constructed as part of an eleven-lot subdivision proposed west of this site to an outfall adjacent to Mitchell Creek. The related subdivision proposed at 8200 SE 162<sup>nd</sup> Avenue is currently under review with land use case file LU 07-139413 LDS AD. Mitigation plantings are proposed along Mitchell Creek across from the proposed outfall location. The storm sewer and outfall will be located within an easement granted to the City of Portland. This proposal does not comply with development standards of Zoning Code Chapter 33.465, so a **Pleasant Valley Resource Review** is required.

**Relevant Approval Criteria:**

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

- 33.465.250.C, Other development in the Pleasant Valley Resources overlay zone

**ANALYSIS**

**Site and Vicinity:** The site is a 1.9 acre residential lot, which is developed with a single family house, detached garage, and outbuildings. The site does not have street frontage; however, a driveway connection is provided across the neighboring lot, which fronts onto SE Baxter Road. The site slopes down from the west to the east toward a small watercourse called Mitchell Creek.

Approximately two-thirds of the site is within the v-overlay, including the banks and channel of Mitchell Creek, which traverses the eastside of the property and is a tributary to nearby Kelley Creek. The area of the site within the v-overlay currently has limited native vegetation and the creek channel has been altered with concrete retaining walls, culverts, and ornamental plantings along the bank. Several alder trees border the creek, and a row of conifer trees (including pines and western red cedar), and several clumps of bamboo are established along the north lot line, in and adjacent to the utility line easement.

The site is located within an area of Multnomah County that is under the jurisdiction of the City of Portland for land use issues. The abutting properties are similar or larger in size, and most are developed with single family houses and detached outbuildings or garages. Those to the north, west, and south are also in the v-overlay, and those to the east do not have this zoning designation and remain under the jurisdiction of Multnomah County.

On the adjacent lots, the understory along the Mitchell Creek corridor are dominated by non-native, ornamental, and in some cases nuisance plants, though a number of large alder trees also border the creek. Several private bridge and culvert crossings have also altered the banks. Though the stream corridor is not in pristine condition in the immediate vicinity, the creek and adjacent lands provide significant functional values, as outlined in detail below.

**Environmental Resources:** The application of the Pleasant Valley Natural Resources (v) overlay zone is based on the *Pleasant Valley Natural Resources Protection Plan*. The City's policy objectives for this plan are described in the report. The report includes an inventory of the significant natural resources identified within the Pleasant Valley study area and describes the functional values, or benefits, of the resources.

The site is located within the Mitchell Creek subarea. Mitchell Creek flows north to Kelley Creek, and the Mitchell Creek subarea contains the largest tributary of Kelley Creek. The basin is 561 acres in size (206 acres within the site) and extends into Happy Valley, Portland, and Clackamas County. Mitchell Creek is approximately 16,425 lineal feet with a forested riparian corridor along much of its length. The basin contains significant habitat for wildlife, and supports state-listed sensitive fish and amphibian populations. Habitat types include conifer and mixed forests (103.83 acres), shrub (3.71 acres), meadow (13.70 acres), and wetland (2.92 acres).

Resources and functional values located on this site include: Water quality; channel dynamics and morphology; water quantity: stream flow, sources, and storage; microclimate; fish and aquatic habitat; organic inputs; riparian and upland wildlife habitat quality; upland sensitive species; and upland interior habitat.

**Zoning:** The site is zoned RF(R7)v. The RF zone is a Residential Farm and Forest base zone. The site has a Comprehensive Plan designation of R7 base zone, which is a medium density single dwelling zone. The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing.

The site also has the Pleasant Valley Natural Resource (v) overlay zone. The purpose of the overlay zone is to: Protect and conserve significant natural resources in Pleasant Valley, recognizing that existing houses and other existing uses will continue and limited new development will occur in the zone; facilitate restoration and enhancement of stream corridors, wetlands, and forests within Pleasant Valley; maintain streams and riparian areas as a natural area amenity for the community of Pleasant Valley; protect existing floodplains and wetlands, and restore these areas for improved hydrology, flood protection, aquifer recharge, and habitat functions; protect upland habitats and enhance connections between upland and riparian habitats within Pleasant Valley and between Pleasant Valley and the nearby habitats of Powell and Clatsop Buttes and Butler Ridge; maintain and enhance water quality and control erosion and sedimentation through revegetation of disturbed sites and through limits on construction, impervious surfaces, and pollutant discharges in the zone; and conserve the scenic, recreational, and educational values of significant natural resources in the zone. The purpose of this land use review is to ensure compliance with the regulations of the overlay zone.

The site is also located within the Pleasant Valley Plan District. The Pleasant Valley Plan District implements the Comprehensive Plan's goals, policies and action measures for Pleasant Valley; creates an urban community as defined by the Comprehensive Plan; and, furthers the Pleasant Valley vision to integrate land use, transportation, and natural resources. Pleasant Valley as a whole is intended to be a community made up of neighborhoods, a town center, neighborhood centers, employment districts, parks and schools, open spaces and trails, a range of transportation choices, and extensive protection, restoration and enhancement of the natural resources. Portions of the Pleasant Valley area will be in the City of Portland and portions will be in the City of Gresham. The purpose of the Pleasant Valley Plan District includes integrating the significant natural resources into a new, urban community.

**Land Use History:** City records indicate there are no prior land use reviews for this site. The proposed outfall is intended to provide the required stormwater system for an eleven-lot subdivision and new public street on an adjacent site (pending land division application LU 07-139413 LDS AD), which is outside both the Pleasant Valley Plan District and the Pleasant Valley Natural Resource overlay zone.

**Agency and Neighborhood Review:** A Notice of Proposal in your Neighborhood was initially mailed on **October 4, 2007**. Subsequently, the location for the proposed stormwater line and outfall shifted to another property, so a revised notice was mailed on **March 28, 2008**.

**Agency Review:** The following agencies responded to this proposal.

*Life Safety, Portland Transportation, Urban Forestry, Water Bureau, and Fire Bureau* noted no concerns. (Exhibit E.1)

*Site Development Section of BDS* (Exhibit E.2): A Site Development permit is not required because the work is shown on plans and specifications that will be approved by the BES Chief Engineer (pursuant to Title 24, Sections 24.10.030 and 24.10.070.A). The Bureau of Environmental Services will be responsible for erosion and sediment control for this project, in accordance with Title 10, Section 10.10.030 A. Please consult the BES response for comments regarding erosion and sediment control. Site Development recommends a condition to require a Zoning Permit for inspection of mitigation plantings.

*Bureau of Environmental Services* (Exhibit E.3): The proposed public storm sewer and outfall to Mitchell's Creek is an offsite stormwater disposal conveyance system exclusively for the benefit of the proposed Tacoma Terrance subdivision. (LU 07- 139413 LDS). Any future adjacent development within the Pleasant Valley Plan district must meet the stormwater standards for that plan district. The applicant shall meet BES requirements for extending a public sewer and constructing a public outfall. A Public Works Permit will be required for any public sewer extension and/or stormwater outfall. All plantings shall be from the Portland Native Plant list.

**Neighborhood Review:** No written responses have been received.

## ZONING CODE APPROVAL CRITERIA

### 33.465.250 Pleasant Valley Approval Criteria

A Pleasant Valley resource 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 Pleasant Valley resource review is required because a proposal does not meet one or more of the development standards, the approval criteria will be applied only to the aspect of the proposal that does not meet the development standard or standards.

**Findings:** The following standards are applicable to the proposed stormwater conveyance and outfall facility:

#### 33.465.155 Standards for Utility Lines

*The following standards apply within the Pleasant Valley Natural Resources overlay zone to new utility lines, including stormwater conveyance facilities and outfalls, private connections to existing or new utility lines, and upgrades of existing utility lines. All of the standards must be met. Modification of any of these standards requires approval through Pleasant Valley resource review.*

- A.** *The disturbance area for private connections to utility lines is no greater than 10 feet wide;*
- B.** *The disturbance area for the upgrade of existing utility lines is no greater than 15 feet wide;*
- C.** *New utility lines, including stormwater conveyance facilities and outfalls, must be within a right-of-way;*
- D.** *No fill or excavation is allowed below the ordinary high water mark of a stream;*
- E.** *The Division of State Lands has approved any work that requires excavation or fill in a wetland;*
- F.** *Native trees more than 10 inches in diameter may not be removed;*
- G.** *Each 6- to 10-inch diameter native tree cut must be replaced at a ratio of three trees for each one removed. The replacement trees must be a minimum ½-inch diameter and selected from the Portland Plant List. All trees must be planted on the applicant's site. Where a utility line is approximately parallel with the stream channel, at least half of the replacement trees must be planted between the utility line and the street channel; and*
- H.** *Mitigation is required as specified in Section 33.465.180.*

#### 33.465.180 Standards for Mitigation

*The following standards apply to required mitigation. All of the standards must be met. Modification of these standards requires approval through Pleasant Valley resource review.*

- A. Size of mitigation area.** *Mitigation must occur at a 2:1 ratio of mitigation area to proposed disturbance area;*
- B. Location of mitigation area.**
  - 1. Generally. Mitigation must occur in the Pleasant Valley Natural Resources overlay zone on the site where the disturbance occurs, except as allowed by B.2, below;*
  - 2. Rights-of-way and utilities in the right-of-way. If the disturbance is associated with a right-of-way or utility in the right-of-way, the mitigation must occur in the Kelley Creek watershed.*
- C. Invasive vegetation.** *Invasive vegetation must be removed within the mitigation area;*
- D. Required plants and planting densities.** *One tree, three shrubs, and four other plants are required to be planted for every 100 square feet of mitigation area. Plants must be selected from the Portland Plant List;*
- E. Plant diversity.** *If more than 10 trees, shrubs or groundcover plants are used to meet the above standard, then no more than 50 percent of the trees, shrubs or groundcover plants may be of the same genus. If more than 40 trees, shrubs or groundcover plants are used, then no more than 25 percent of the plants may be of the same genus;*
- F. Plant size.** *Trees must be a minimum ½-inch caliper or bareroot unless they are oak or madrone which may be one gallon size. No more than ten percent of the trees may be oak or madrone. Shrubs must be a minimum of one gallon size or bareroot. All other species must be a minimum of four-inch pots; and*
- G.** *The requirements of Section 33.248.090, Mitigation and Restoration Planting must be met.*

The project does not comply with standards A, C, D, E, or F for Utility Lines, so the project must meet the Pleasant Valley Resource Review approval criteria in order to be approved. The applicant intends to meet the noted Mitigation standards, and other mitigation issues are addressed in more detail in the findings below.

**C. Other development in the Pleasant Valley Natural Resources overlay zone. Development within the Pleasant Valley Natural Resources overlay zone will be approved if the applicant's impact evaluation demonstrates that all of the following are met:**

- 1. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the Pleasant Valley Natural Resources overlay zone;**

**Findings:** Fundamentally, the applicant's goal is to satisfy the city's *Stormwater Management Manual* requirements for a subdivision on the neighboring lot. Those requirements, which must be met at the time of development, require that new development has a method of cleaning (water quality treatment), detention (delayed release), and disposal of stormwater. The City's policy is to ensure that runoff leaving the post-development site:

- Does not exceed the capacity of the receiving conveyance facility or water body.
- Does not increase the potential for stream bank and stream channel erosion.
- Does not add significant volume to an existing closed depression.
- Does not create or increase any upstream or downstream flooding problems.
- Does not create or increase the occurrence of CSOs or basement sewer backups.

The stormwater plan submitted with the subdivision application proposes to collect storm runoff from the new streets and treat it in flow-through vegetated swales. Stormwater from the new individual lots will be collected and treated in flow-through planters. Flow-through planters are structural landscaped reservoirs used to collect and filter stormwater runoff, allowing pollutants to settle and filter out as the water percolates through the planter soil. In addition to providing pollution reduction, flow rates and volumes can also be managed with flow-through planters. Overflow from these systems is to be conveyed to an allowed discharge point.

To meet this criterion, the applicant must demonstrate that different storm water treatment systems and locations were considered during the design process, and that there are no practicable alternatives that would be less detrimental to the identified resources and functional values. The applicant provided an Alternatives Analysis (Exhibit A.2), which is summarized below.

Location and Design: The following alternatives were considered for the storm sewer line and outfall.

- **Outside the Pleasant Valley Natural Resources zone.** The topography of the subdivision site slopes down hill from the street frontage, so it is not possible to provide a gravity system to route water into the new storm sewer line in SE 162<sup>nd</sup> Avenue (which is being built by a nearby subdivision). To provide a gravity system, the storm sewer and outfall must be located down hill of the subdivision site, and discharge to Mitchell Creek. On all of the abutting downhill properties, Mitchell Creek is within the Pleasant Valley Natural Resources zone, so it is not feasible to provide a gravity system outside the overlay zone.
- **On-site Infiltration.** According to the *Site Development Section of Bureau of Development Services* response to the subdivision application, infiltration is not approvable at this site due to soil conditions. Therefore, on-site infiltration is not feasible and instead the water must be directed to an approvable discharge point.
- **Existing ditch (neighboring lot to the north).** An existing ditch on the neighboring lot could be used to convey stormwater from the subdivision site, since it would allow water to continue to flow in the direction of existing surface flows. However, this alternative was not acceptable to the *Bureau of Environmental Services* because of water quality concerns resulting from the continued use of that property as farm and pastureland. Therefore, this alternative is not feasible.

- **Piped storm sewer line, outfall, and vegetated swale.** This alternative would convey the stormwater from the subdivision through a new 12-inch storm line and discharge the water through a new outfall, rock check dam, and vegetated swale on the west bank of Mitchell Creek. An approximately 200 foot long segment of this proposed storm system is within the Pleasant Valley Natural Resources zone. The *Bureau of Environmental Services* (BES) has approved the stormwater plan for the subdivision, contingent upon approval of an appropriate discharge point that minimizes impacts to Mitchell Creek. This alternative reflects revisions made in response to the design issues (orientation and separation of outfall above Mitchell Creek, vegetated bank treatment to dissipate stormwater flows entering the creek, etc) noted in the initial comments from BES (Exhibit E.3). Subsequent BES comments indicate that the revised plan will have less impact to resources and functional values than the original design, and is consistent with the applicable provisions of the *Stormwater Management Manual*. BES notes that conditions for an easement and a Public Works Permit must be met prior to final plat approval of the subdivision, which is to be served by the stormwater facility. BES notes that the proposed system is exclusively for the benefits of the proposed subdivision (LU 07-139413 LDS AD), and any future development within the Pleasant Valley Plan District must meet the stormwater standards for that plan district.

This alternative necessitates construction and a new stormwater facility within an area that has been previously altered and is planted with ornamental trees and groundcover. The removal of vegetation in this area will result in some reduction in the water quality functions (interception and filtration of rain water before it flows into the stream); however, the overall water quality functions and habitat values of the creek and banks will be improved with the removal of nuisance plants and the installation of native species.

The applicant has proposed the following construction methods to ensure impacts from this alternative are minimized to the greatest extent possible:

Construction Methods: Within the v-overlay, a work area (disturbance area) of approximately 2,300 square feet is identified for the construction of the pipeline, outfall, check dam, and swale. The perimeter of the work area is to be delineated with construction fencing, and all equipment (including trucks, track-mounted hoes, and hand-operated devices) is to be confined to this designated work zone. The applicant has indicated that the work equipment will be stored and all staging and storage of materials will be confined to the neighboring property, which is outside of the v-overlay. In addition, all construction is to occur above the ordinary high water mark of Mitchell Creek, and erosion control measures will be installed in accordance with the provisions of the *Erosion Control Manual*.

Within the construction area, four trees with diameters greater than 6-inches are noted for removal (Exhibit C.1), three pines, and one western red cedar. Mitigation for the removal of the 6 and 10 inch trees is to meet Standard 33.465.155.G, noted above, and the removal of the two trees that are greater than 10-inches is to be mitigated with 5 replacement trees for each tree removed. Just south of the proposed swale, and outside of the construction limits, there is a 16-inch diameter tree and, given the size of the tree, the construction work will occur within its root protection zone. To ensure this tree is adequately protected, a tree preservation plan must be provided in accordance with the requirements of Sections 33.248.065, Tree Preservation Plans, and 33.248.068, Tree Protection Requirements. In addition, plantings within the swale must comply with the *Stormwater Management Manual* provisions for a vegetated swale. Overall, to meet the 2:1 mitigation to disturbance area ratio, a 4,600 square foot mitigation area is to be planted with native vegetation on the opposite side of Mitchell Creek. All plantings must be native species, and the plants are to be maintained to assure the health and success of the mitigation efforts.

With conditions regarding mitigation and maintenance requirements to compensate for tree removal, and tree protection measures to avoid additional impacts, the proposed storm line, outfall, and vegetated swale will have the least significant detrimental impact than other practicable alternatives. As such, this criterion will be met.

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

**Findings:** This approval criterion requires the protection of resources outside of the proposed disturbance area to prevent impacts from the project, such as damage to vegetation, erosion of soils off the site, and increased stormwater runoff.

The resources and functional values for this site are described above in the Environmental Resources Section. As noted in the findings for Criterion E.1, a designated work area will be established at the site; and all equipment and work activities are to be confined to this area. In addition, erosion controls and tree protection measures will be provided. Each of these efforts will ensure impacts are localized, and resources and functional values across the balance of the site area within the v-overlay will remain undisturbed. As such, with the implementation of these measures, this criterion will be met.

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

**Findings:** The applicant proposes to meet the mitigation standards (33.465.180) outlined in the Pleasant Valley Natural Resources overlay zone, as listed in the findings for Criterion C.1. In addition, the applicant will provide mitigation for the trees removed within the easement, and for the ground disturbance within the easement and outfall work areas.

With the implementation of the mitigation standards and with the additional mitigation measures for the tree removal and ground disturbance, invasive vegetation will be removed and replaced with a diverse native plant community. The mitigation area will include the banks along and within the Mitchell Creek floodplain, as shown on the Mitigation Plan (Exhibit C.1). Additional native plantings will be installed within the vegetated stormwater swale, within the stormwater easement, along the north lot line.

All the plantings must be continuously maintained in a healthy manner, and monitored, in accordance with Section 33.248.090, Mitigation and Restoration Plantings. This section requires that plantings be watered as needed to sustain growth. Plants that die must be replaced in kind. Within one year after the plantings are completed, documentation of the status of the mitigation plantings must be provided to BDS.

**4. There will be no detrimental impact to the migration, rearing, feeding or spawning of fish.**

**Findings:** At this location Mitchell Creek provides limited fish habitat, due to fish passage barriers at NE 162<sup>nd</sup> Avenue. Nevertheless, to ensure the outfall project will not create detrimental impacts to fish, the applicant has re-designed the outfall and swale within the parameters prescribed by the *Stormwater Management Manual*, and the construction will be conducted to isolate the work area and utilize erosion controls to protect the creek and surrounding areas. Furthermore, nuisance vegetation will be removed and replaced with native plantings, which should help to enhance the habitat functions along and within the creek. With the implementation of the aforementioned measures, 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.

## **CONCLUSIONS**

As part of a stormwater system for an eleven-lot subdivision on a neighboring lot, the applicant proposes to install a pipeline, outfall, and swale to Mitchell Creek. A portion of the pipeline and the outfall and swale are within the Pleasant Valley Natural Resources (v) overlay zone, and the proposed development does not conform to the Standards for Utility Lines, so these features are subject to Pleasant Valley Resource Review.

While the pipe alignment and outfall location will result in some impacts to existing vegetation, the facility has been designed, and will be constructed, to limit disturbance and to minimize impacts, and to compensate for unavoidable impacts. With provisions for tree protection and tree mitigation, construction isolation and erosion control measures, and monitoring of mitigation plantings, the project will meet the applicable approval criteria. In addition, the project must comply with the Standards for Mitigation, which require native plantings to be installed in an area twice the size of the area disturbed for the construction and development of the proposed pipe and outfall. Based on the foregoing, the proposal should be approved.

## ADMINISTRATIVE DECISION

**Approval** of a Pleasant Valley Natural Resource Review for:

- Construction of a pipeline, outfall, and vegetated swale to Mitchell Creek to provide a discharge point for stormwater from an eleven-lot subdivision at 8200 SE 162<sup>nd</sup> Avenue (LU 07-139413 LDS AD), including the following activities:
  - Install perimeter construction boundary and erosion controls, and tree protection
  - Remove up to 4 trees within the designated construction area
  - Excavate and grade for stormwater outfall and vegetated swale and place rock within swale
  - Remove invasive species
  - Remove temporary construction and erosion controls
  - Install native plantings to meet planting requirements (including temporary/permanent erosion control and mitigation plantings)
  - Maintain and monitor project and plantings

All work within the Pleasant Valley Natural Resources (v) overlay zone, must be in substantial conformance with Exhibits C.1, C.2, and C.3, as modified, signed, and dated by the City of Portland Bureau of Development Services on **May 14, 2008**. This approval is subject to the following conditions:

1. Prior to final plat approval for the subdivision (Tacoma Terrace, LU 07-139413 LDS AD), which is to be served by the stormwater system, the applicant must meet the *Bureau of Environmental Services* requirements to initiate a **Public Works Permit** for the stormwater system, including submittal of engineered plans, performance guarantees, and fees. The following conditions must be met as part of that permit. These requirements must be graphically represented on the site plan, landscape plan, or other required plans and must be labeled "REQUIRED".
  - A. A 15-foot wide sewer easement must be granted to the City of Portland for the off-site sewer system serving the subdivision (Tacoma Terrace), including the portion within the Pleasant Valley Natural Resource (v) overlay.
  - B. Temporary construction fencing (at least 4-feet in height) must be placed around the *Limits of Construction Disturbance* for the approved development, as depicted on Exhibit C.2, or as required by inspection staff during the plan review and/or inspection stages.
  - C. A tree preservation plan must be provided for the 16-inch western red cedar, just to the south of the swale, in accordance with the requirements of Sections 33.248.065, Tree Preservation Plans, and 33.248.068, Tree Protection Requirements. The approved tree preservation measures must be implemented prior to any ground disturbing activities.
  - D. No mechanized construction vehicles are permitted outside of the approved *Limits of Construction Disturbance* delineated by the temporary construction fence. All planting work, invasive vegetation removal, and other work to be done outside the *Limits of Construction Disturbance*, shall be conducted using hand held equipment.



- E. All plants (seed, plugs, cuttings, container, etc) installed within the stormwater easement, for temporary or permanent erosion control or for stormwater planting requirements, must be native species from the *Portland Plant List*.
2. Prior to final plat approval for the subdivision (LU 07-139413 LDS AD), which will be served by the stormwater system, a **Zoning Permit** must be obtained and finalized for the mitigation plantings, and the following conditions must be met as part of that permit. These requirements must be graphically represented on the site plan, landscape plan, or other required plans and must be labeled "REQUIRED".
- F. A minimum 4,552 square foot mitigation area must be planted with at least 46 trees, 137 shrubs, and 182 ground cover plants. Also, a minimum of 16 additional trees must be planted to mitigate for the removal of 4 trees. All plantings must be selected from the *Portland Plant List*, and be in substantial conformance with Exhibits C.2, Mitigation Plan.
1. Plantings must be installed between October 1 and March 31 (the planting season).
  2. Prior to installing required mitigation plantings, non-native invasive plants must be removed from all areas within 10 feet of mitigation plantings. All planting work, invasive vegetation removal, and other work within the mitigation planting areas must be conducted using hand held equipment.
  3. All mitigation shrubs and trees must be marked in the field by a tag attached to the top of the plant for easy identification by the Landscape Professional/City Inspector. All tape shall be a contrasting color that is easily seen and identified.
  4. The applicant must have a registered landscape architect, a registered landscape contractor, or the designer of record certify that all the required mitigation plantings were installed as required. After installation, the applicant must submit a Landscape Certification Form to this effect, signed by the registered landscape professional. The signed Landscape Certification Form must be submitted to the Bureau of Development Services, confirming that all required mitigation plantings have been installed in accordance with these conditions of approval.
- G. The landscape professional or designer of record must monitor the required mitigation plantings for two years to ensure survival and replacement as described below. The land owner is responsible for ongoing survival of required plantings beyond the designated two-year monitoring period. The landscape professional must:
1. Provide a minimum of two letters (to serve as monitoring and maintenance reports) to the *Pleasant Valley Neighborhood Association*, and to the Land Use Services Division of the Bureau of Development Services (Attention: Environmental Review LU 07-157912 PV) containing the monitoring information described below. Submit the first letter within 12 months following approval of the Zoning Permit Inspection of the required mitigation plantings. Submit subsequent letters every 12 months following the date of the first monitoring letter. All letters must 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 Exhibit C.1, Mitigation Plan, showing the location and direction of photos.
    - e. A description of the method used and the frequency for watering mitigation trees, shrubs, and groundcovers for the first two summers after planting. All irrigation systems must be temporary and above-ground.

- f. 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.
- H. 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 Pleasant Valley Resource regulations. Activities which the City regulates through PCC 33.465 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.

**Decision rendered by:** Michael Nayak on May 14, 2008  
By authority of the Director of the Bureau of Development Services

**Decision mailed: May 16, 2008**

**Staff Planner: Kate Green**

**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 August 27, 2007, and was determined to be complete on October 3, 2007.

*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 August 27, 2007.

*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 suspended between November 19, 2007 and May 8, 2008 (Exhibit G.6).

**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 May 30, 2008** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails.

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

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.portlandonline.com](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 more 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 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 **May 31, 2008.**
- 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:

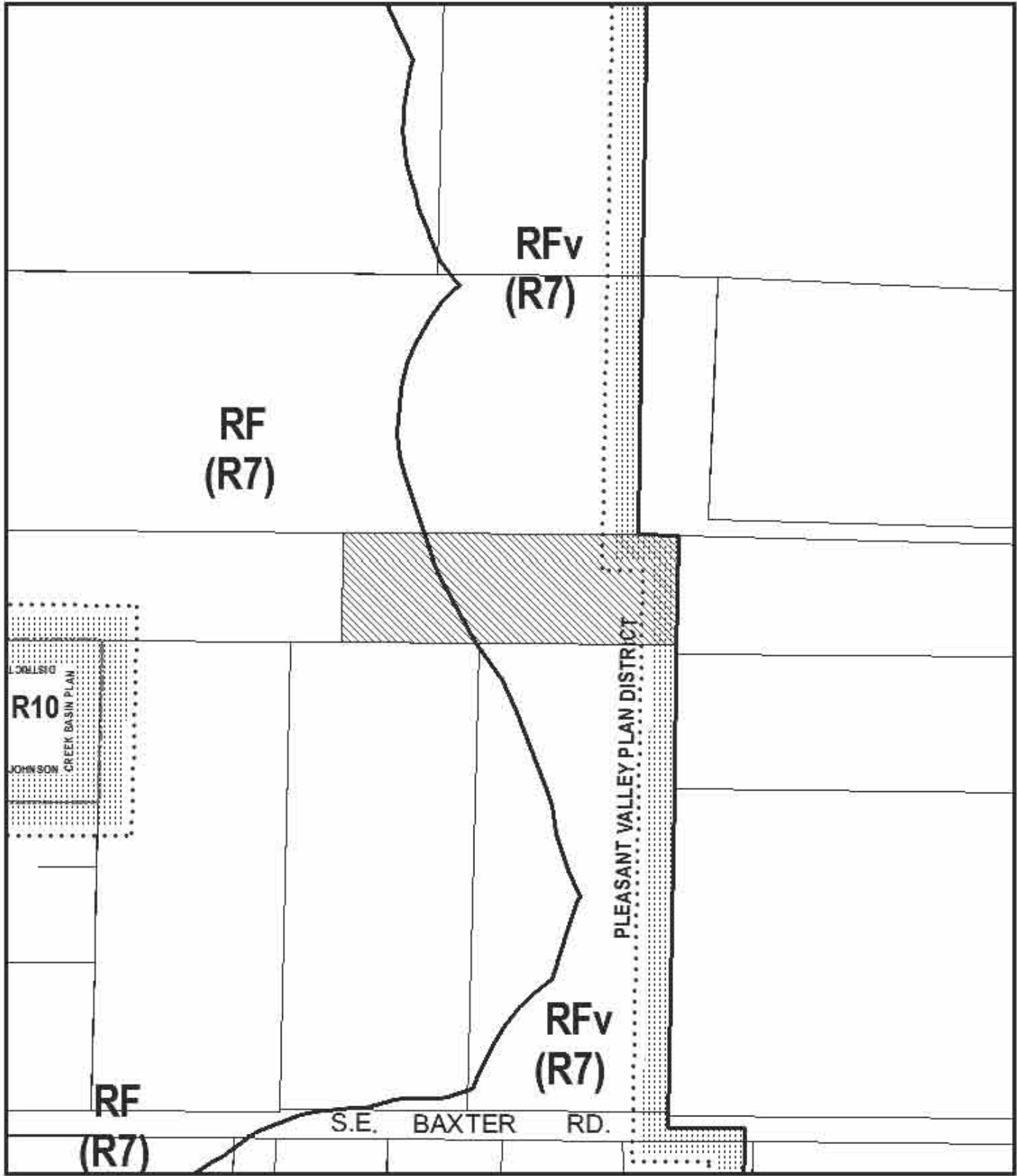
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations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

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).**

#### EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
  1. Revised Narrative, August 27, 2007
  2. Supplemental Narrative, September 28, 2007
  3. Modified Proposal Narrative, March 24, 2008
  4. Stormwater Calculations, May 8, 2008
  5. Revised Narrative, May 12, 2008
- B. Zoning Map (attached)
- C. Plans/Drawings:
  1. Storm Plan, May 12, 2008 (attached)
  2. Mitigation Plan, May 12, 2008 (attached)
  3. Pipe and Creek Cross Sections, May 12, 2008 (attached)
  4. Full size Plan Set, May 12, 2008
  5. Plan Set, May 8, 2008
  6. Plan Set, September 28, 2007
  7. Initial Plan Set, August 27, 2007
- D. Notification information:
  1. Initial Mailing list
  2. Initial Mailed notice
  3. Revised Mailing list
  4. Revised Mailed notice
- E. Agency Responses:
  1. Life Safety, Portland Transportation, Urban Forestry, Water Bureau, and Fire Bureau
  2. Site Development Review Section of BDS
  3. Bureau of Environmental Services
- F. Correspondence: (none received)
- G. Other:
  1. Original LU Application
  2. Site History Research
  3. Easement Agreement
  4. Letter to applicant re: incomplete application
  5. Letters/emails to/from applicant re: project revisions
  6. Letters/emails to/from applicant re: review timeline extensions
  7. Wetland Land Use Notification to Department of State Lands
  8. Site Photos



# ZONING

 Site

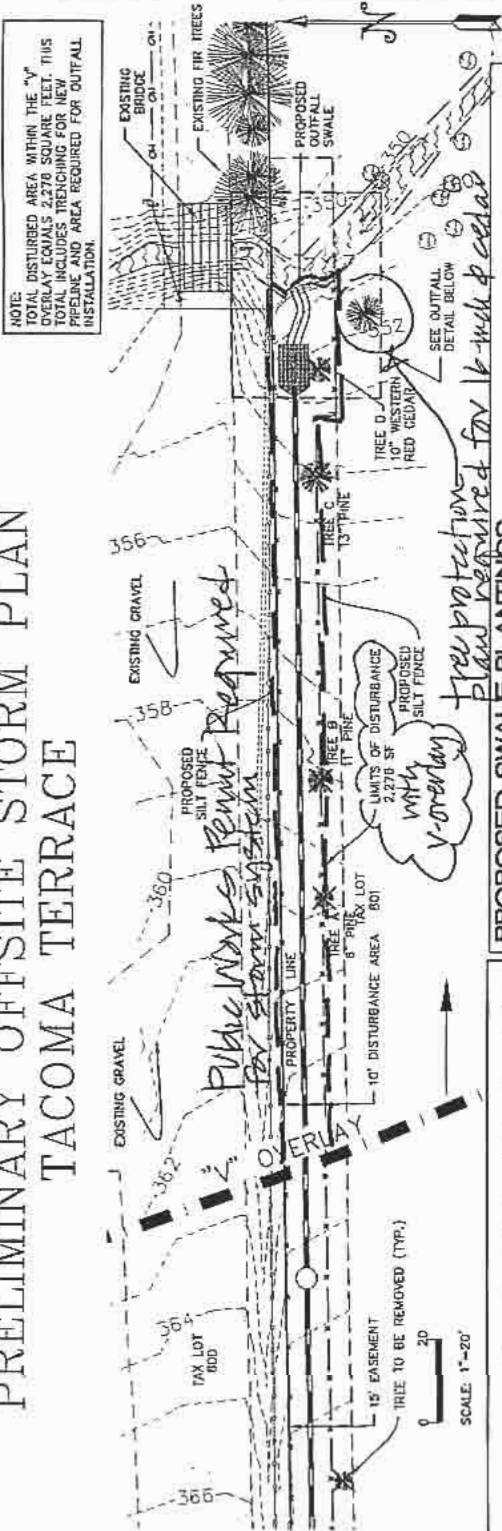


File No. LU 07-157912 PV  
 1/4 Section 3847  
 Scale 1 inch = 200 feet  
 State\_Id 1S3E19CC 100  
 Exhibit B (Mar 26, 2008)

# PRELIMINARY OFFSITE STORM PLAN TACOMA TERRACE

**CONSTRUCTION METHODS:** EXCAVATION THE PROJECT SURVEYOR WILL LOCATE IN THE FIELD THE DISTURBANCE AREA LIMITS AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL INSTALL SILT FENCES ON BOTH SIDES OF THE DISTURBANCE AREA AS SHOWN ON THE PLAN AND STAKED IN THE FIELD.

THE CONTRACTOR SHALL NOT DISTURB ANY AREA OUTSIDE OF THE DELINEATED DISTURBANCE AREA WITHIN THE "V" OVERLAY. THE CONTRACTOR SHALL MAINTAIN THE EXISTING EASEMENT. ALL MATERIAL DISTURBED SHALL BE RELOCATED WITHIN THE "V" OVERLAY. WHEN EXCAVATING, THE CONTRACTOR SHALL USE AN EXCAVATOR OR EQUIVALENT TO CONSTRUCT THE SWALE TO THE PROPOSED EASEMENT AND THE GRASSING RELATED TO THE OUTFALL SWALE. THE CONTRACTOR SHALL NOT DISTURB ANY AREA BELOW THE DELINEATED HIGH WATER MARK OF MITCHELL CREEK.



**NOTE:** TOTAL DISTURBED AREA WITHIN THE "V" OVERLAY EQUALS 2,270 SQUARE FEET. THIS TOTAL INCLUDES TRENCHING FOR NEW PIPELINE AND AREA REQUIRED FOR OUTFALL INSTALLATION.

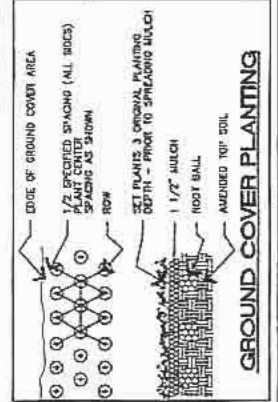
Planner: *[Signature]* Date: 19 May 2006  
City of Portland - Bureau of Development Services  
Approved: *[Signature]*  
\*This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

## PROPOSED SWALE PLANTINGS

PLANT ZONE	AREA	VEGETATION GROUP	BOTANICAL NAME	COMMON NAME	SIZE AND QUANTITY
ZONE A	40 SF.	GRASS	LIRIOPE MUISSONII 'TWO BLUE'	DOG BLUE LILY TURF	100% OF SWALE AREA TO BE PLANTED
		SHRUB	JUNCOE PATENSIS	SPREADING RUSH	1 GALLON 10
ZONE B	100 SF.	SHRUB	ARCTOSTAPHYLOS UVA-URSI	KNIGHTSHRUB	1 GALLON 8
		SHRUB	COMUS SERICEA VAR. KELSEYI	DWARF REDTIGER DOGWOOD	1 GALLON 8
		GROUND COVER	MAHONIA NEROSA	LOW BRIGHT GRAPE	4" CONTAINER 10

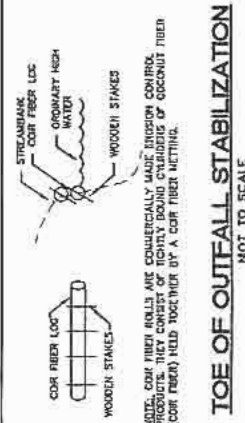
## PLANTING NOTES:

SHRUB PLANTINGS SHALL HAVE 2 TO 3 FEET OF SEPARATION BETWEEN OTHER SHRUBS. GROUND COVER SHALL BE PLANTED ON A TRIANGULAR SPACING AT 12" O.C. VEGETATION TO BE MANUALLY IRRIGATED AS REQUIRED DURING ESTABLISHMENT PERIOD.



## SHRUB PLANTING DETAIL

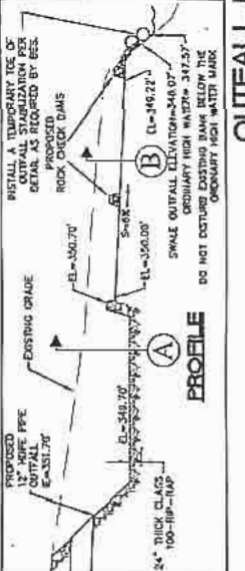
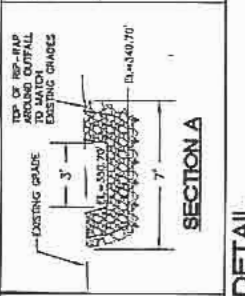
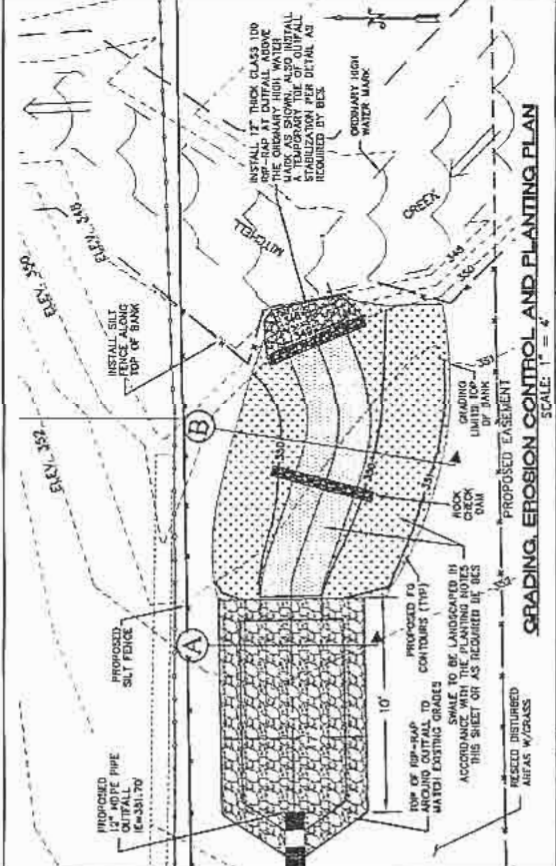
SET TOP OF GROW AT FINISH GRADE  
1 1/2\"/>



## TOE OF OUTFALL STABILIZATION

NOT TO SCALE

## GRADING, EROSION CONTROL AND PLANTING PLAN



## OUTFALL DETAIL

SCALE: NTS

received 5/12/2008  
reduced copy not to scale

LU 07 157912 PV  
Exhibit C.1

to maintain existing swales



CLIENT: HUGH WOMACK  
Surveying, Planning and Engineering  
Surveys & Planners, Inc.  
P.O. Box 955 Sandy, OR 97055  
Phone: (503) 668-3101  
Fax: (503) 668-4230  
DRAWING: 06-217-PLANNING.dwg  
DATE OF PLOT: 5-9-2008  
DRAFTED BY: JOT SHEET 1 OF 2

**LEGEND**

- EXISTING CONIFEROUS TREE
- EXISTING DECIDUOUS TREE
- PROPOSED SHRUB PLANTINGS
- PROPOSED SMALL PLANTINGS

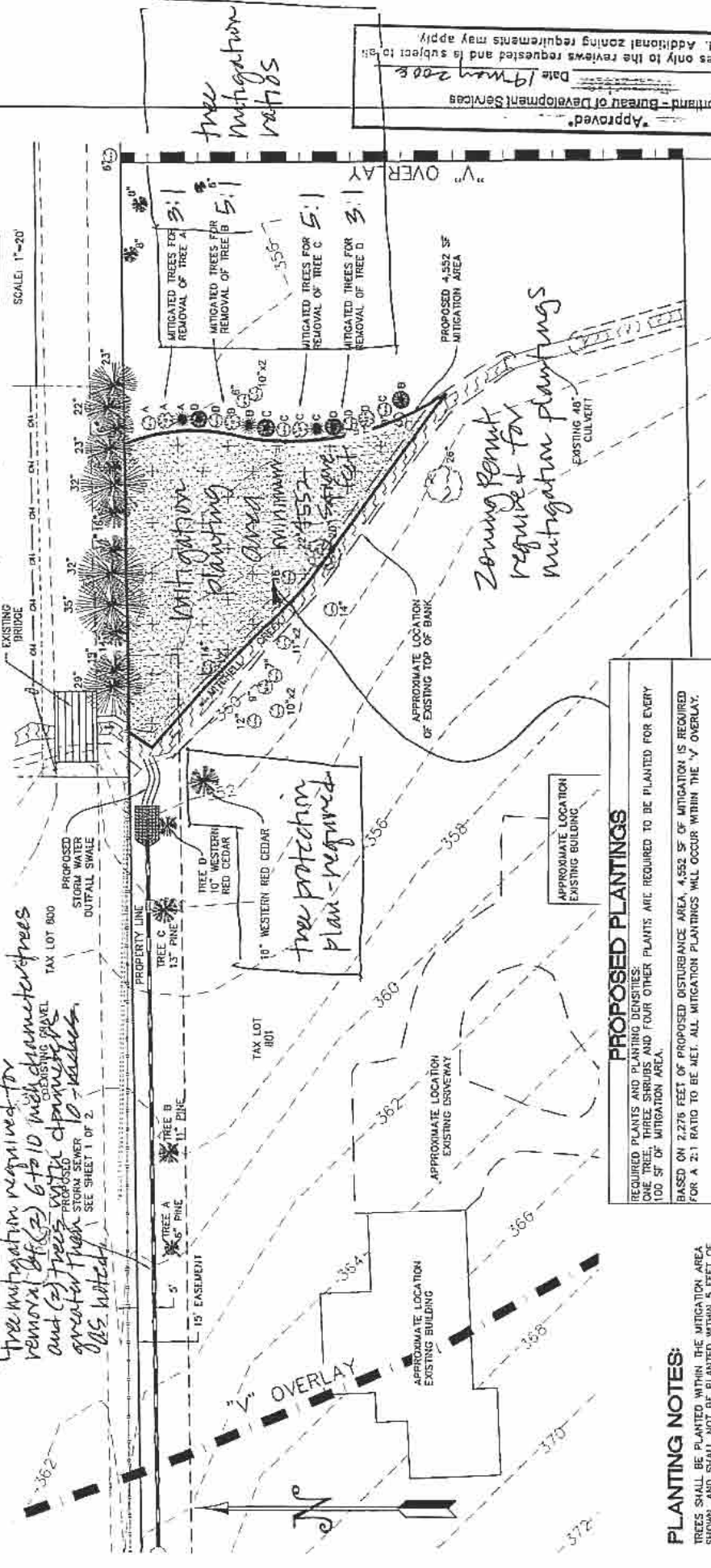
**MITIGATION PLAN W/EXISTING FEATURES TACOMA TERRACE**

- PROPOSED 1/2" MAPLE TREE
- PROPOSED 1/2" WESTERN RED CEDAR TREE
- PROPOSED 1/2" WESTERN HEMLOCK TREE
- PROPOSED 1/2" RED ALDER TREE

tree mitigation required for removal of (2) 6 to 10 inch diameter trees and (2) trees with diameter greater than 10 inches. See sheet 1 of 2.

All plantings must be native species as identified in the Portland Plant List

Minimum 16 trees must be installed



tree protection plan - required

Young permit required for mitigation plantings

tree mitigation ratios

**PROPOSED PLANTINGS**

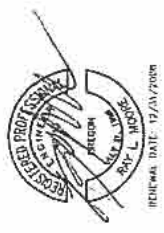
REQUIRED PLANTS AND PLANTING DENSITIES:  
 ONE TREE, THREE SHRUBS AND FOUR OTHER PLANTS ARE REQUIRED TO BE PLANTED FOR EVERY 100 SF OF MITIGATION AREA.  
 BASED ON 2.278 FEET OF PROPOSED DISTURBANCE AREA, 4,552 SF OF MITIGATION IS REQUIRED FOR A 2:1 RATIO TO BE MET. ALL MITIGATION PLANTINGS WILL OCCUR WITHIN THE 'V' OVERLAY.

VEGETATION GROUP	QUANTITY REQ. PER 100 SF MITIGATION AREA	SPECIES	SIZE	QUANTITY
TREES	46 TOTAL	BIG LEAF MAPLE	1/2" +	12
		RED ALDER	1/2" +	12
		WESTERN RED CEDAR	1/2" +	11
		WESTERN HEMLOCK	1/2" +	11
SHRUBS	137 TOTAL	RED ELDERBERRY	1 GAL	35
		SALMONBERRY	1 GAL	34
		BLACK THIMBLEBERRY	1 GAL	34
		PACIFIC HONEYSUCKLE	1 GAL	34
SMALL PLANTS	182 TOTAL	WOOD SORREL	1 GAL	48
		FRINGE DOP	1 GAL	48
		SLOUGH SEDGE	10" PLG	45
		BLEEDING HEART	1 GAL	45

**PLANTING NOTES:**

- TREES SHALL BE PLANTED WITHIN THE MITIGATION AREA SHOWN, AND SHALL NOT BE PLANTED WITHIN 5 FEET OF ANY OTHER NEW TREE OR EXISTING TREE.
- SHRUB PLANTINGS SHALL BE SPACED WITH A MINIMUM OF 5 FEET SEPARATION BETWEEN OTHER SHRUBS, NEW TREES AND EXISTING TREES.
- REQUIRED SMALL PLANTS MUST BE PLACED IN AVAILABLE OPEN SPACE BETWEEN NEW AND EXISTING VEGETATION AND NO CLOSER THAN 2 FEET TO EITHER.
- ALL NUISANCE AND INVASIVE WEEDS WITHIN THE MITIGATION PLANTING AREAS MUST BE REMOVED PRIOR TO NEW VEGETATION INSTALLATION.
- VEGETATION TO BE MANUALLY IRRIGATED AS REQUIRED DURING REQUIRED SURVIVAL PERIOD.
- ON ANY SURVIVAL.

CLIENT: HUGH WOLKOFF  
 Surveyors & Planners, Inc.  
 Civil Engineering  
 P.O. Box 918, Sandy, OR 97055  
 Phone: (503) 664-5151  
 Fax: (503) 608-4750



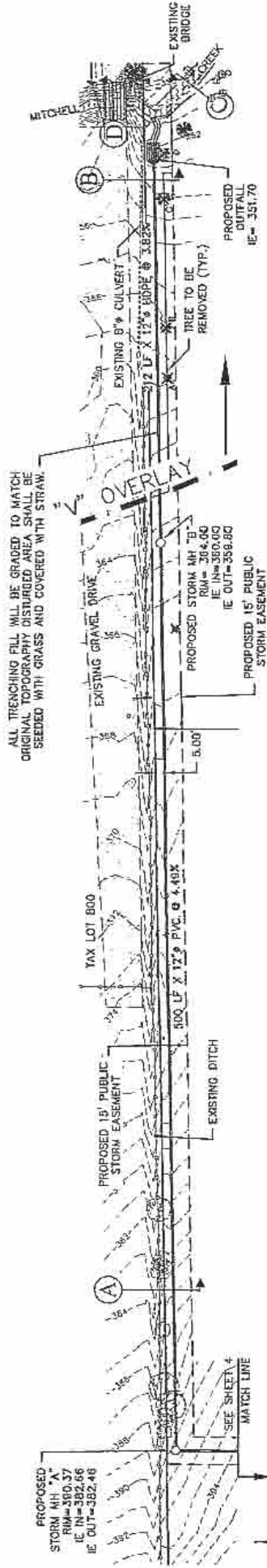
DRAWING: 06-217-PLANNING.dwg  
 DATE OF PLOT: 5-4-2008  
 SHEET 2 OF 2

City of Portland - Bureau of Development Services  
 Date: 19 March 2008  
 Approved  
 \* This approval applies only to the reviews requested and is subject to conditions of approval. Additional zoning requirements may apply.

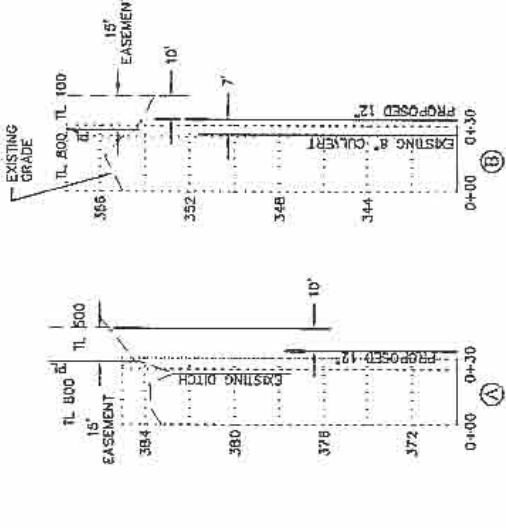
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LU 07.157912 PV  
 Exhibit C.2

# PRELIMINARY OFFSITE STORM PLAN TACOMA TERRACE

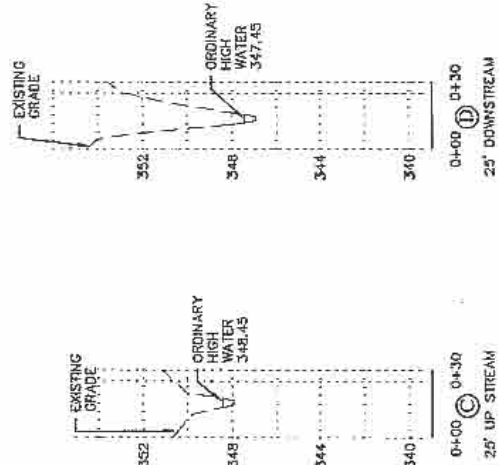


ALL TRENCHING FILL WILL BE GRADED TO MATCH ORIGINAL TOPOGRAPHY. DISTURBED AREA SHALL BE SEEDDED WITH GRASS AND COVERED WITH STRAW.



**PROPOSED PIPE CROSS SECTIONS**

SCALE  
HORIZONTAL: 1"=40'  
VERTICAL: 1"=4'



**MITCHELL CREEK CROSS SECTIONS**

SCALE  
HORIZONTAL: 1"=40'  
VERTICAL: 1"=4'

CONSTRUCTION METHOD: PRIOR TO BEGINNING EXCAVATION THE PROJECT SURVEYOR WILL LOCATE IN THE FIELD THE DISTURBANCE AREA LIMITS AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL INSTALL SILT FENCES ON BOTH SIDES OF THE DISTURBANCE AREA AS SHOWN ON THE PLAN AND STAKED IN THE FIELD.

THE CONTRACTOR SHALL NOT DISTURB ANY AREA OUTSIDE OF THE DELINEATED DISTURBANCE AREA WITHIN THE 'V' OVERLAY. ALL CONSTRUCTION EQUIPMENT SHALL ENTER DISTURBANCE AREA FROM THE WEST ALONG THE EXISTING EASEMENT. ALL MATERIAL STOCKPILES SHALL BE LOCATED WITHIN THE DISTURBANCE AREA OR EXPORTED WEST OUT OF THE 'V' OVERLAY. MINI EXCAVATORS SHALL BE USED THAT FIT WITHIN THE 10' DISTURBANCE AREA.

THE CONTRACTOR SHALL USE A MINI EXCAVATOR OR EQUAL TO CONSTRUCT THE RIP-RAP OUTFALL AT THE END OF THE PIPE AND THE GRADING RELATED TO THE OUTFALL SWALE. THE CONTRACTOR SHALL NOT DISTURB AREA OUTSIDE OF THE DELINEATED DISTURBANCE AREA OR BELOW THE ORDINARY HIGH WATER MARK OF MITCHELL CREEK.



RENEWAL DATE: 12/31/2009

CLIENT: HIGH WORMACK

County  
**Surveyors & Planners, Inc.**  
Surveying, Planning and Civil Engineering  
P.O. Box 555 Smyth, OH 43065  
Phone: (603) 864-1151  
Fax: (603) 868-4730

THESE PLANS ARE PRELIMINARY ONLY & ARE NOT TO BE USED FOR CONSTRUCTION PURPOSES.

DRAWING: 06-217-PLANNING.dwg  
DATE OF PLOT: 5-9-2008  
DRAFTED BY: JDT

received 5/2/2008  
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LW 07-159 912 PV  
Exhibit C.3